Disclaimer
This document is not a stand-alone document and does not contain the entirety of Disability Employment Services Programme Providers’ obligations. It should be read in conjunction with the Disability Employment Services Deed and any relevant Guidelines or reference material issued by the Department of Social Services under or in connection with Disability Employment Services Deed.
# Table of Contents

Background 5  
Disability Employment Services Deed Clauses: 6  
Reference documents relevant to these Guidelines: 6  
Explanatory Note: 6  
Outcome Fees: 7  
Attachment A – Employment Benchmarks 19  
  Summary 19  
  Full Outcomes and Pathway Outcomes based on hours worked 19  
  Change in Employment Benchmark during a Period of Service 20  
  Employment Outcomes for Participants Commenced in DES while in Pre-Existing Employment 20  
  Employment Outcomes for Participants with an Employment Benchmark of 0 21  
  Employment Outcomes for Participants with an Employment Benchmark showing as ‘Not Determined’ 21  
Attachment B – Claiming a Bonus 22  
  Summary 22  
  Claiming a Bonus for an Apprenticeship (including a Traineeship) 23  
  Flow Chart – Claiming a Bonus for an Apprenticeship (including a Traineeship): 23  
  Claiming a Bonus for an Apprenticeship (including an Traineeship) 24  
  Claiming a Bonus for Directly Related Employment 25  
  Qualifying Training Course 25  
  Directly Related Employment 25  
  Flow Chart - Process for Claiming an Outcome Fee with a Bonus for Directly Related Employment: 26  
Attachment C - Permissible Break in an Employment activity during a 13 Week Period or a 26 Week Period 29  
  Summary 29  
  Flow Chart - Example of process for claiming an Outcome Fee where a Permissible Break has occurred: 30  
  Permissible Breaks: 31  
Attachment D – ‘Break in Employment’ breaks for Participants who lose their Employment during the 13 Week Period or 26 Week Period 35  
Attachment E – ‘Change in Employment’ Suspensions for Participants who voluntarily change Employment during a 13 Week Period or 26 Week Period 40  
  Change in Employment: 42  
Attachment F – Non-Payable Outcomes 44
## Outcome Guidelines

### Document Change History:

<table>
<thead>
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<th>Version</th>
<th>Start Date</th>
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<tr>
<td>4.6</td>
<td>4 Nov 15</td>
<td>1 Jan 2016</td>
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<td><strong>Policy:</strong> Introduction of 23-hour Employment benchmark from 1 January 2016. Clarification that NEIS Allowance is not treated as income for a self-employment Placement.</td>
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<td>4.5</td>
<td>16 Jan 15</td>
<td>2 Feb 15</td>
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<td><strong>Policy:</strong> Clarification of the definition of Open Employment and in Attachment F.</td>
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<td>4.4</td>
<td>25 Jul 14</td>
<td>25 Aug 14</td>
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<td><strong>Policy:</strong> Document has been streamlined, including the insertion of policy advice previously contained in associated documentation. Minor policy clarification regarding Directly Related Employment (p.22).</td>
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<td>4.3</td>
<td>14 Apr 14</td>
<td>14 Apr 14</td>
<td>24 Aug 14</td>
<td><strong>Policy:</strong> Clarification of the definition of Unsubsidised Self-Employment (p.12). Clarification that NEIS is treated as Unsubsidised Self-Employment in DES (p.12). Clarification regarding a Provider’s eligibility for Outcome Fees during a Participant’s Period of Service (p.14). Clarification that short-term large in-take pattern placements could be considered contrived employment (p.41). Clarification regarding the definition of non-ongoing employment (p.42-43). <strong>Formatting:</strong> Update system references to refer to the Department’s IT System.</td>
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<td>4.2</td>
<td>23 Jan 14</td>
<td>23 Jan 14</td>
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<td><strong>Policy:</strong> Change time in which an Outcome Fee may be claimed from 28 days to 56 days (Section 10, pg 13). <strong>Formatting:</strong> Update references to the Department administering the DES programme. Update system references to refer to the Employment IT System.</td>
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<td>4.1</td>
<td>1 July 13</td>
<td>1 July 13</td>
<td>23 Jan 14</td>
<td><strong>Formatting:</strong> Updated name of the Disability Employment Services Deed. <strong>Policy:</strong> Removal of references to remote outcomes due to the commencement of Remote Jobs and Communities Program. Insertion of additional Permissible Break example relating to school students under 18 years of age in Attachment C (p.26) Clarification of when an Outcome can be claimed when a Participant is undertaking Part-Time Study (Section 7, p.11) Clarification of ongoing employment requirements at Attachment F (p.39) Clarification of Open Employment conditions in Attachment F (p.41) Clarification of additional Non-Payable Outcome conditions for Recurring employment, Pre-existing employment, Own Organisation/Related Entity employment, Qualifying Education Course and Inappropriate work (Attachment F).</td>
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<td>4.0</td>
<td>30 May 12</td>
<td>01 Jul 12</td>
<td>1 Jul 13</td>
<td><strong>Policy:</strong> Insertion of Attachment F – Non-Payable Outcomes (p40-44). Insertion of reference to the Minimum Wage Advice, and requirement that Participants in Employment must be paid the minimum wage to which they are entitled (Section 5, p9). Clarification of when an Outcome can be claimed when a Participant receives a Commission (Section 7,</td>
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<td>3.0</td>
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| **Formatting:** The 'Break in Employment' – Claiming Outcomes for Participants who lose their Employment during the 13 Week Period or 26 Week Period Guidelines and the elements of the 'Change in Employment' – Participants who voluntarily change Employment Guidelines which apply to the Post Placement Support phase have been incorporated into these Guidelines (Attachment D – p29, Attachment E – p34).  
**Process:** Clarification that the Anchor Date cannot predate the Job Placement Start Date (p7).  
**Policy:** Clarification of Outcome Fees claimable for Participants with an Employment Benchmark of 0 (p15). Clarification that only one Bonus Fee is payable for each 13 Week Period or 26 Week Period (p17). Incorporation of new Employer initiated Christmas shutdown Permissible Breaks for Principal Carer Parents (p24, 26-27). Incorporation of the new Pathway Outcome for accumulated Employment where the Participant lives in a Remote ESA (Effective from 1 July 2011) (p11-12).  
**Narrative:** Clarification that only one 13 Week Outcome Fee is claimable per Participant (p12). Clarification of Fees payable where a Participant’s Employment Benchmark increases during an Outcome period (p16). Clarification that a Permissible Break need not be entered where a Participant is on paid leave (p26). New step to clarify requirement to end a Placement where Employment or Education ceases (Step 9 – p4, Section 9 – p13). New step to clarify requirement to either move a Participant into Ongoing Support or Exit the Participant once a 26 Week Outcome has been achieved (Step 11 – p4, Sect. 11 – p14).  

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<th>2.1</th>
<th>6 Jul 10</th>
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| **Process:** Clarification of anchoring an Education Placement (p4, Process 6-7)  

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<th>29 Jun 10</th>
<th>1 Jul 10</th>
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| **Policy:** Additional Outcomes (p6-7), and Permissible Break (p20) - new arrangements for Principal Carer Parents.  

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<th>1.0</th>
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Background

These Guidelines provide information about a Disability Employment Services (DES) Programme Provider’s (hereon referred to as ‘DES provider’) responsibilities and required actions when claiming Outcome Fees under the Disability Employment Services Deed (the Deed) in relation to Full Outcomes and Pathway Outcomes for Employment and Education activities.

References to ‘the Department’ in these Guidelines refer to The Department of Social Services.

Note: Information on Job in Jeopardy Outcomes is available in the separate Job in Jeopardy Assistance Guidelines.
Disability Employment Services Deed Clauses:
Clause 123 – Outcome Fees
Annexure A – Definitions
Annexure B1 – Disability Employment Services – Disability Management Services Fees
Annexure B2 – Disability Employment Services – Employment Support Services Fees

Reference documents relevant to these Guidelines:
Documentary Evidence for Claims for Payment Guidelines
Exits Guidelines
Job Placement and Job Placement Fee Guidelines
Ongoing Support Guidelines

Explanatory Note:
1. All capitalised terms have the same meaning as in Disability Employment Services Deed.
2. References in this document to ‘Apprenticeships’ include Traineeships.
3. In this document, ‘must’ means that compliance is mandatory and ‘should’ means that compliance represents best practice.
4. Shaded areas in the flow charts denote activities that are undertaken by the Participant, the Department or Centrelink.
**Outcome Fees:**

<table>
<thead>
<tr>
<th>Who is Responsible:</th>
<th>What is Required:</th>
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<tbody>
<tr>
<td><strong>1. The DES provider</strong></td>
<td>If the Participant is in Employment or Unsubsidised Self-Employment or an Apprenticeship or Traineeship (an Employment activity) that, if completed, meet the requirements for an Outcome:</td>
</tr>
<tr>
<td>The DES provider confirms the Job Placement or enters the Education details.</td>
<td>• In accordance with the Job Placement and Job Placement Fee Guidelines, the DES provider confirms the Job Placement.</td>
</tr>
<tr>
<td>For further information on Job Placement Fees requirements please refer to the: Job Placement and Job Placement Fee Guidelines</td>
<td>If the Participant commences in an Education activity that, if completed, meets the requirements for an Outcome:</td>
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<tr>
<td></td>
<td>• The DES provider must enter the Education activity details into the Department’s IT System. The details can be entered at any time until 28 days after commencement in the Education activity.</td>
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<td></td>
<td>If the Participant commences in an Education activity and an Employment activity (combination of Education and Employment), that if completed meets the requirements for an Outcome, both activities must be entered in the Department’s IT System.</td>
</tr>
<tr>
<td></td>
<td>➢ If the Participant has commenced in an Employment activity only, Proceed to Step 2.</td>
</tr>
<tr>
<td></td>
<td>➢ If the Participant has commenced in an Education activity or a combination of Education and Employment, Proceed to Step 3.</td>
</tr>
<tr>
<td><strong>2. The DES provider</strong></td>
<td>When a Participant has been placed into an Employment activity, the DES provider may select a date to anchor the Job Placement at any time after commencement in the activity. A Job Placement is anchored by setting the Anchor Date by moving a Participant into the Post Placement Support phase of DES. The DES provider should select the Employment anchor type. The date that the DES provider moves a Participant into Post Placement Support on the Department’s IT System is the start date (Anchor Date) of the 13 Week Period.</td>
</tr>
<tr>
<td>Anchor the Job Placement in the Department’s IT System</td>
<td>The Anchor Date may be the same date as the Job Placement Start Date or any date thereafter, once the DES provider has determined that the Participant is likely to meet the requirements of an Outcome. This would include where a Participant undertakes Employment, Unsubsidised</td>
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<td>Who is Responsible:</td>
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<tr>
<td>Self-Employment, an Apprenticeship or Traineeship which would:</td>
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<td>• generate sufficient income to cause their basic rate of Income Support Payment to cease; or</td>
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<tr>
<td>• result in the Participant working the required number of hours, on average, each week over the 13 Week Period or 26 Week Period to meet the requirements for an Outcome.</td>
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<tr>
<td>The Anchor Date for an Employment activity can be reset (re-anchored) at any time. For example, if the DES provider sets the Anchor Date for an Employment activity while a Participant was tracking towards a Pathway Outcome, and the Participant’s hours of work increased, the DES provider could re-anchor the Job Placement in order to achieve a Full Outcome. A Job Placement can be re-anchored by returning the Participant to Employment Assistance, then returning the Participant to Post Placement Support.</td>
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<tr>
<td>Where a Participant is employed in more than one job, the Job Placement should only be anchored once the combined total of hours worked is likely to lead to an Employment Outcome.</td>
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<tr>
<td>See Attachment A for information about Employment Benchmarks.</td>
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<tr>
<td>Note:</td>
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<tr>
<td>• The Anchor Date must not be earlier than the Job Placement Start Date, or an Outcome Fee will not be able to be claimed.</td>
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<td>• Anchor Dates cannot be backdated.</td>
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<tr>
<td>➢ Proceed to Step 4.</td>
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### 3. The DES provider

Anchor the Education Placement or combined Employment/Education Placement in the Department’s IT System

*Disability Employment Services Deed Clause References:*  
• Clause 123

When a Participant has been placed into an Education activity, the DES provider must anchor the Education Placement by moving the Participant into Post Placement Support in the Department’s IT System within 28 days of the start date of the Education activity. The start date of the Education Placement is the Anchor Date. An Education Placement cannot be re-anchored.

Where a Participant is undertaking an Outcome based on a combination of Education and Employment (in accordance with clauses (c) (ii), (f) or (h) of the definition of a Full Outcome in the DES Deed), the Anchor Date for the 13 Week Period is the Anchor Date of the Education component. The
### Who is Responsible:

- Annexure A – Definitions

### What is Required:

DES provider must move the Participant to Post Placement Support to anchor the Placement within 28 days of the start of the Education activity.

The DES provider should select the appropriate anchor type, depending on whether the Participant is working towards an Education Outcome or an Outcome based on a combination of Education and Employment. An Outcome based on a combination of Education and Employment cannot be re-anchored.

**Note:** Before setting the Anchor Date for a DES Participant, the DES provider must check that the Employment and/or Education activities undertaken by the Participant is not a Non-Payable Outcome as set out in Annexure A of the Deed. See Attachment F for more detail on Non-Payable Outcomes.

**Note:** For an Outcome based on a combination of Education and Employment, the Anchor Date must not be earlier than the Job Placement Start Date, or an Outcome Fee will not be able to be claimed.

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<th>4. The DES provider</th>
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<tr>
<td>Provide Post Placement Support to the Participant as required during the 13 Week Period or 26 Week Period</td>
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**Disability Employment Services Deed Clause Reference:**
- Clause 91.3

During the 13 Week Period or 26 Week Period DES providers must continue to offer appropriate Post Placement Support services to the Participant. This would include supporting the Participant to settle into the Placement, and addressing any issues that may arise.

When a Participant is placed into a job, the types of assistance that a DES provider may deliver during Post Placement Support include:

- assistance with job design, or assistance to adjust to duties or learn new skills;
- organising workplace assessments and modifications, including through liaison with the JobAccess provider;
- providing assistance and information for Employers and staff to support Participants in the workplace;
- continuing to support the Participant and the Employer throughout any wage subsidy placement as outlined in the DES Wage Subsidy Guidelines, and the Wage Subsidy Agreement, as applicable;
- where appropriate, considering eligibility for the Supported Wage System; or
- arranging access to Work Based Personal Assistance.

**Change in Circumstances of a Principal Carer during the 13 Week or 26 Week Period**
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<th><strong>Who is Responsible:</strong></th>
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<tr>
<td>If due to unforeseen circumstances the Participant loses their principal carer status during the 13 Week Period or 26 Week Period, the Participant can still be eligible for Outcomes under clause (e), (f), (g) or (h) of the definition of a Full Outcome. The requirements that were applicable to the Participant at the start of the relevant 13 Week Period or 26 Week Period must be met.</td>
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<td>If the status of a Principal Carer changes due to the Participant’s youngest child turning 16 during the 13/26 Week Period, a DES provider can still claim the 13/26 Week Full Outcome. The requirements that were relevant to the Participant at the time of the start of the relevant period must be met.</td>
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<tr>
<td>If the Participant’s status as a Principal Carer changed during the 13 Week Period, the 26 Week Full Outcome under clause (e), (f), (g) or (h) is not available to be claimed by the DES provider.</td>
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### 5. The DES provider

Claim Outcome Fees for Employment or Education activities

**Disability Employment Services Deed Clause References:**
- Subclause 16.6
- Subclause 16.7
- Clause 123
- Definition of ‘Full Outcome’
- Definition of ‘Pathway Outcome’
- Definition of ‘Bonus’
- Definition of ‘Qualifying Education Course’

When a Participant is placed into an Employment activity, the Participant must be paid at least the minimum wage to which the Participant is entitled in respect of that Employment, unless there is a Supported Wage System wage assessment agreement in place, as set out in the Supporting Document for Outcomes.

**When an Outcome is achieved based on reduction in Income Support Payment**

DES providers may use the *Job Seeker Rate Reduction Result* (JRRR) and *Job Seeker Employment Hours Result* (JEHR) tools to monitor a Participant’s earnings progress and hours worked as declared to Centrelink. DES providers may use these tools any time from 27 days after the day on which the Participant starts in the Employment activity that, if completed, satisfies the requirements for an Outcome.

Further, where a DES provider holds Documentary Evidence that a Participant is working a different number of hours or earning a different amount through his or her Employment activity than is being declared to Centrelink, the DES provider must enter the relevant hours and earnings information into the Department’s IT System within five working days. This information will then be sent to Centrelink automatically through the Department’s IT System.
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<th>Who is Responsible:</th>
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<tr>
<td><strong>Where an Outcome is achieved based on hours worked relative to a Participant’s Employment Benchmark</strong></td>
<td>Where a DES provider is claiming a Full Outcome or Pathway Outcome based on hours worked over a 13 Week Period or 26 Week Period, and where the DES provider chooses not to use the JRRR or JEHR, the DES provider must enter the required information into Department’s IT System and have appropriate Documentary Evidence for the claim, as set out in the <em>Documentary Evidence for Claims for Payment Guidelines</em>. Although a Participant may have worked the required hours during the 13 Week Period or 26 Week Period, the Participant must also have remained employed for the whole 13 Week Period or 26 Week Period. For example, if a Participant with an Employment Benchmark of 15 hours worked 195 hours in 10 Consecutive Weeks from the Anchor Date but lost their Employment before the completion of the 13 Week Period, an Outcome would not be payable.</td>
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| **Claiming a Bonus** | Bonuses are available where a Participant completes a Full Outcome or a Pathway Outcome for a Job Placement that is:  
- an Apprenticeship (including a Traineeship); or 
- Directly Related Employment – that is, Employment that is directly related to a field of study that the Participant has previously completed in a Qualifying Training Course. Further information is available in Attachment B – Claiming a Bonus. |
| **Claiming an Outcome Fee which includes a break in the 13 Week Period and/or 26 Week Period** | DES providers may claim an Outcome Fee for a Full Outcome or a Pathway Outcome where there is one or more:  
- Permissible Breaks – where there is a break in a Participant’s Employment for reasons beyond the Participant’s or DES Provider’s control, and where the Participant returns to the same Employment (generally up to a maximum of 4 weeks or 28 calendar days) in total in each of the 13 Week Period and 26 Week Period – refer to Attachment C;  
- 'Break in Employment' breaks – where a Participant loses their Employment (up to a maximum of 4 weeks or 20 business days) in total in each of the 13 Week Period and 26 Week Period – refer to Attachment D); and/or  
- 'Change in Employment' breaks – where a Participant voluntarily changes Employment (up to a maximum of... |
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<td><strong>5 Business Days</strong> for each loss of job – refer to Attachment E) in a Participant’s Employment activity.</td>
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**Claiming an Outcome with Pre-Existing Employment**
For Outcome claims for a Participant who was commenced in DES while in Pre-Existing Employment, refer to Attachment A.

**Claiming an Outcome based on Unsubsidised Self-Employment**
Unsubsidised Self-Employment means self-employment where a Participant does not receive a personal income subsidy of any kind. Income Support Payments are not considered a personal income subsidy.

DES providers can claim an Outcome based on Unsubsidised Self-Employment for NEIS Participants, where all requirements for an Outcome are met. NEIS Assistance is not considered a personal income subsidy. For the avoidance of doubt, NEIS Allowance must not be included in any calculations of income earned for a self-employment Placement.

Where a Participant who is in Unsubsidised Self-Employment earns enough income to cause the Participant’s Basic Rate of Income Support to cease, and all other requirements of a Full Outcome are met, a Full Outcome Fee may be claimed.

Where an Outcome Fee is being claimed on the basis of hours worked, the Participant must work the required number of hours relative to their Employment Benchmark, on average, each week of the 13 Week Period or 26 Week Period for the relevant Outcome Fee to be payable. A Participant in Unsubsidised Self-Employment may be in receipt of some Centrelink Income Support during the 13 Week Period and/or 26 Week Period, and still meet the requirements of an Outcome Fee based on self-employment, provided that all other requirements for the Fee have been met (for example, that the self-employment is not subsidised, and that the wage the Participant is entitled to has been achieved).

**Claiming an Outcome where the Participant receives commission**
An Outcome Fee may be claimed where a DES provider places a Participant into an Employment activity where a commission is paid in addition to the minimum ordinary terms and conditions of employment made under the
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<td>relevant workplace laws. However, if the Employment activity pays commission as either part of, or as the entire remuneration, an Outcome Fee cannot be claimed.</td>
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**Where an Outcome is achieved based on a Qualifying Education Course**

To be eligible for an Outcome Fee for an Education activity, the course must meet all the requirements of a Qualifying Education Course in the Deed, unless the Participant meets the requirements for Outcome in accordance with clauses (c) (ii), (f) and (h) of the definition of a Full Outcome. DES providers must obtain the appropriate Documentary Evidence from the educational institution of the Participant’s satisfactory attendance at the course. It is not a requirement that the Participant pass the course. Please refer to the Documentary Evidence for Claims for Payment Guidelines for a list of all required documentary evidence.

A Semester of a Qualifying Education Course must be at least 13 weeks and normally no more than 26 weeks of Full-Time Study.

Where the definition of the course as Full-Time Study is based on the educational institution’s determination of course load, under clause (c) of the ‘Full-Time Study’ definition, the course must have weekly contact hours similar to those set out in clause (a) and/or (b). If weekly contact hours are not similar to those clauses, prior approval to anchor a Participant in an Education Placement must be sought from the Department.

There is no minimum or maximum certificate or qualification level for a course to meet the requirements of a Qualifying Education Course. The course may be related to any vocational or non-vocational field.

**Claiming a Full Outcome based on an Education activity.**

Full Outcomes based on an Education activity are available for:

- Principal Carers, for Education activities of 30 or more hours per fortnight that are anchored on or after 1 July 2010; and
- Participants who have not completed Year 12 and are either an Aboriginal or Torres Strait Islander or 15 to 21 years of age.

**Notes:**

- Participants who have previously completed Year 12 and received some recognition of achievement by a State or
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<td>Territory board but who have <em>not</em> been awarded a Year 12 certificate may also be eligible to claim a Full Outcome if they meet the Full Outcome requirements.</td>
<td>Full Outcomes are available at the completion of the first AND second Semesters of the Qualifying Education Course (not at the end of 13 and 26 weeks of study).</td>
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- Principal Carers can qualify for a Full Outcome by studying less than Full-Time.

**Claiming a Pathway Outcome based on an Education activity**
Pathway Outcomes based on an Education activity are available for:
- Participants who are aged 22 years or more; and
- Participants who have completed Year 12 and are between 15 and 21 years old.

DES providers can only claim a 13 Week Pathway Outcome at the completion of the first Semester of a Qualifying Education Course. Claims for a 26 Week Pathway Outcome at the completion of the second Semester are precluded under subclause 123.3 of the Deed.

**Claiming a Full Outcome based on a combination of an Education activity and Employment activity.**
DES providers may claim Full Outcomes Fees for a combination of Education and part-time Employment or Unsubsidised Self-Employment or an Apprenticeship or Traineeship for:
- Principal Carers in receipt of a Parenting Payment, Newstart Allowance, Youth Allowance (other) or Special Benefit, for Education and Employment activities anchored on or after 1 July 2010 (see (f) and (h) of the definition of Full Outcome in the Deed); and
- Participants who have not completed Year 12 (or equivalent) and are either an Aboriginal and Torres Strait Islander person or 15 to 21 years of age (see (c)(ii) of the definition of Full Outcome in the Deed) where all Deed requirements for both the study and part-time Employment activity are met.

The requirements for a Principal Carer include:
- The Participant must work at least 20 hours per fortnight;
- The Participant must complete one Semester of a course which meets the clause (a) and (b) of the definition of a Qualifying Education Course; and
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<td>• The total amount spent by the Participant in paid Employment and study (contact and non-contact hours) is not less than 30 hours each fortnight.</td>
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The requirements for other eligible Participants other than Principal Carers include:
• The Education activity is on a part-time basis (as defined by the training institution).
• The Participant must complete one Semester of a single qualification course of two or more Semesters in duration.
• The part-time Employment must be for an average of 8, 10, 15 or 20 hours per week averaged over the Semester, for Participants with an Employment benchmark of 8, 15, 23 and 30 hours respectively.

The Full Outcome Fee can only be claimed at the end of the Semester against the Education activity. The Anchor Date of the Education activity must always be the actual Semester Start Date and cannot be re-anchored.

**Claiming an Outcome where the Participant has transferred DES providers during the 13 Week Period or 26 Week Period.**

Where a Participant transfers during Post Placement Support, the Outcome Fee is only available to the DES provider with whom the Participant is commenced at the time the Outcome Fee becomes claimable. The DES provider must have documentary evidence that demonstrates they assisted the Participant to maintain the Employment activity, Education activity or combination Education/Employment activity.

**Note:** Only one Outcome Fee for a 13 Week Period can be claimed by a DES provider per Participant during a Period of Service. Any subsequent claim for an Outcome Fee for a 13 Week Period will be generated in the amount of $0.00 by the Department’s IT System. DES providers are still eligible to claim an Outcome Fee for a 13 Week Period if a Participant’s previous DES provider claimed an Outcome Fee for a 13 Week Period in the same Period of Service.

• If the Participant achieves a Full Outcome of any type for a 13 Week Period, or achieves a Pathway Outcome for an Employment activity for a 13 Week Period, **Proceed to Step 6.**
• If the Participant does not achieve an Outcome for the 13
<table>
<thead>
<tr>
<th><strong>Who is Responsible:</strong></th>
<th><strong>What is Required:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>6. The Department</strong></td>
<td>Week Period, or achieves a Pathway Outcome for Education for a 13 Week Period, <strong>Proceed to Step 7.</strong></td>
</tr>
<tr>
<td>The day after the 13 Week Period concludes the 26 Week Period commences</td>
<td>The day after the 13 Week Period concludes, the 26 Week Period will commence. The Department’s IT System will automatically record the Participant’s details on this day for use in determining eligibility for an Outcome Fee at the end of the 26 Week Period. DES providers are not required to enter any of this information into the Department’s IT System.</td>
</tr>
<tr>
<td><strong>Disability Employment Services Deed Clause References:</strong></td>
<td>➢ If the Participant achieves an Outcome for a 26 Week Period, <strong>Proceed to Step 8.</strong> ➢ If the Participant does not achieve an Outcome for a 26 Week Period, <strong>Proceed to Step 7.</strong></td>
</tr>
<tr>
<td>• Definition of ‘13 Week Period’</td>
<td></td>
</tr>
<tr>
<td>• Definition of ‘26 Week Period’</td>
<td></td>
</tr>
<tr>
<td><strong>7. The DES provider</strong></td>
<td>If the Participant does not meet the requirements of an Outcome (for example, the Participant is no longer working the required number of hours, or withdraws from their Education activity), the DES provider must return the Participant to the Employment Assistance phase of DES using an appropriate Anchor End reason.</td>
</tr>
<tr>
<td>End the Job/ Education Placement/Combination Education and Employment activity</td>
<td>A Participant that achieves a Pathway Outcome for a 13 Week Period for Education must also be returned to Employment Assistance. The DES provider should continue to assist the Participant to find Employment if the Participant is:</td>
</tr>
<tr>
<td></td>
<td>• Activity-Tested and is not meeting participation requirements or wants to look for Employment; or</td>
</tr>
<tr>
<td></td>
<td>• Non-Activity Tested and wishes to look for Employment.</td>
</tr>
<tr>
<td></td>
<td><strong>Note:</strong> If a Participant loses their Employment and the DES provider believes there is any prospect of securing alternative Employment for the Participant within 20 Business Days, the Participant should remain in the Post Placement Support phase of DES. The DES provider should extend the claim period by entering the number of days of 'Break in Employment' break. If alternative Employment for the Participant was not able to be found within 20 Business Days, the Participant should then be returned to the Employment Assistance phase using the Break in Employment Anchor End Reason (refer to <strong>Attachment D</strong>).</td>
</tr>
<tr>
<td></td>
<td>➢ <strong>End of process.</strong></td>
</tr>
<tr>
<td>Who is Responsible:</td>
<td>What is Required:</td>
</tr>
<tr>
<td>---------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td><strong>8. The Department</strong></td>
<td>DES providers must render a Tax Invoice for the Outcome Fee to the Department within 56 days of the payment being available at the end of the 13 Week Period and the 26 Week Period. Payment will then be transferred to the DES provider through the Department’s IT System on acceptance of the Tax Invoice.</td>
</tr>
<tr>
<td><strong>Disability Employment Services Deed Clause Reference:</strong></td>
<td>The Department monitors the appropriateness of claims for Outcomes Fees through normal DES programme assurance activities including desktop monitoring, provider visits and audits and Participant feedback.</td>
</tr>
<tr>
<td><strong>Submitting a special claim</strong></td>
<td>If the Department’s IT System does not make available a claim that the DES provider believes satisfies the requirements of an Outcome, the DES provider is able to submit a special claim or an Automated Special Claim. The Automated Special Claim process can also be used to downgrade an outcome, e.g. the Department’s IT Systems have calculated a Full Outcome however the DES provider believes that only a Pathway Outcome can be justified.</td>
</tr>
<tr>
<td>Automated Special Claims cannot be used for:</td>
<td>The Department will monitor the use of Automated Special Claims. If a DES provider uses the facility in a manner that is assessed by the Department as high risk or fraudulent, their access to the process may be removed.</td>
</tr>
<tr>
<td>• Outcomes claims outside of the 56 day claim period;</td>
<td>➢ If the Participant has achieved a 26 Week Outcome for Education, the Participant will be automatically Exited by the Department’s IT System, <strong>End of Process.</strong></td>
</tr>
<tr>
<td>• Outcome claims for Participants transferred to a different DES provider;</td>
<td>➢ If the Participant has achieved a 26 Week Outcome for Employment, or for a combined Education/Employment Placement, <strong>Proceed to Step 9.</strong></td>
</tr>
<tr>
<td>• Full Outcomes based a combination of Education and Employment activity; and</td>
<td></td>
</tr>
<tr>
<td>• Education Outcomes</td>
<td></td>
</tr>
<tr>
<td><strong>9. The DES provider</strong></td>
<td>Once a Participant has achieved an Outcome Fee for a 26 Week Period, the DES provider must make an assessment of whether or not the Participant requires any Ongoing Support</td>
</tr>
<tr>
<td><strong>Move Participant to</strong></td>
<td></td>
</tr>
<tr>
<td>Who is Responsible:</td>
<td>What is Required:</td>
</tr>
<tr>
<td>---------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>Ongoing Support phase, or Exit as an Independent Worker</td>
<td>to maintain their Employment activity, in accordance with the Ongoing Support Guidelines.</td>
</tr>
<tr>
<td><em>Disability Employment Services Deed Clause Reference:</em></td>
<td>If the Participant requires Ongoing Support, the Participant should be moved to the Ongoing Support phase of DES. If no Ongoing Support is required, the Participant should be Exited as an Independent Worker with the reasons entered into the Department’s IT Systems.</td>
</tr>
<tr>
<td>• Clause 103</td>
<td></td>
</tr>
<tr>
<td><em>For further information on Ongoing Support requirements please refer to the:</em></td>
<td></td>
</tr>
<tr>
<td>• Ongoing Support Guidelines</td>
<td></td>
</tr>
</tbody>
</table>

**Notes:**
- A Participant cannot be Exited while there is an Outcome Fee claim with a ‘pending’ status. The Exit will be able to be actioned once the claim has a status of ‘approved’.
- Should a Participant lose their Employment shortly after achieving an Outcome for a 26 Week Period, the DES provider must not change the Participant’s phase back to ‘Employment Assistance.’ Rather, DES providers must Exit the Participant in accordance with clause 103.4 of the Deed.

➢ **End of process.**
Attachment A – Employment Benchmarks

Summary

Each Participant will have an Employment Benchmark identified on the Department’s IT System. The Employment Benchmark gives the number of hours that a Participant must work each week, on average, to achieve a Full Outcome. Participants will have an Employment Benchmark of either 8, 15, 23 or 30 hours per week. The Employment Benchmark is generally based on a Participant’s future work capacity as assessed through a Job Capacity Assessment.

<table>
<thead>
<tr>
<th>Participant</th>
<th>Employment Benchmark</th>
</tr>
</thead>
<tbody>
<tr>
<td>Future work capacity of 0-7 hours per week</td>
<td>0</td>
</tr>
<tr>
<td>Future work capacity of 8-14 or 8+ hours per week</td>
<td>8</td>
</tr>
<tr>
<td>Future work capacity of 15-22 hours per week</td>
<td>15</td>
</tr>
<tr>
<td>Future work capacity of 23-29 hours per week</td>
<td>23</td>
</tr>
<tr>
<td>Future work capacity of 30+ hours per week</td>
<td>30</td>
</tr>
<tr>
<td>Special Class Clients (Disability Management Service only)</td>
<td>8</td>
</tr>
<tr>
<td>Eligible School Leavers who are directly registered</td>
<td>8</td>
</tr>
<tr>
<td>Principal Carer Parents, or recipients of Parenting Payment without participation requirements</td>
<td>15</td>
</tr>
<tr>
<td>Carer Payment recipients who choose to work reduced hours due to caring responsibilities</td>
<td>15</td>
</tr>
</tbody>
</table>

23-hour Employment Benchmark (commencing 1 January 2016) and grandfathering rules

From 1 January 2016, Placements for Participants with a 23-hour Employment benchmark that are anchored from 1 January 2016, will need to satisfy the new requirements. That is, to be eligible for a Full Employment Outcome a Participant will need to work a minimum of 299 hours in 13 Consecutive Weeks or 598 hours in 26 Consecutive Weeks (which averages to 23 hours per week over the period/s).

Note: Participants with a 23-hour Employment Benchmark who have been anchored into a job prior to 1 January 2016, will be eligible to meet the requirements for a Full Outcome and Pathway that was effective at the Placement’s Anchor Date. That is, these Participants will need to satisfy the requirements set out for a Participant with an Employment Benchmark of 15 hours.

Full Outcomes and Pathway Outcomes based on hours worked

Fees for Full Outcomes based on hours worked (see definition of ‘Full Outcome’ (b)) will be payable where the Participant works a minimum of their Employment Benchmark hours, on average, each week for 13 or 26 Consecutive Weeks.

Fees for Pathway Outcomes based on hours worked (see definition of ‘Pathway Outcome’ (a)) will be payable where a Participant:

- With a 15 hour Employment Benchmark works at least 10 but less than 15 hours per week, on average, each week for 13 or 26 Consecutive Weeks; or
• With a 23 hour Employment Benchmark works at least 15 but less than 23 hours per week, on average, each week for 13 or 26 Consecutive Weeks; or
• With a 30 hour Employment Benchmark works at least 20 but less than 30 hours per week, on average, each week for 13 or 26 Consecutive Weeks.

A Full Outcome based on a combination of Employment and Education (see definition of ‘Full Outcome’ (c) (ii), (f) and (h)) will be payable where a Participant meets the requirements of the Education component, and works on average for the duration of the Semester:
• 8 hours per week where a Participant has an Employment benchmark of 8 hours;
• 10 hours per week where a Participant has an Employment benchmark of 15 hours;
• 15 hours per week where a Participant has an Employment benchmark of 23 hours;
• 20 hours per week where a Participant has an Employment benchmark of 30 hours;
• 20 hours per fortnight where a Participant is a Principal Carer.

Change in Employment Benchmark during a Period of Service
A Participant’s Employment Benchmark may change following an Employment Services Assessment or Job Capacity Assessment which assesses the Participant with a different work capacity, or if the Participant changes Income Support Payment.

The new Employment Benchmark will apply for any subsequent Job Placements anchored into Post Placement Support.

If a Participant has already been anchored in a Job Placement and their Employment Benchmark subsequently reduces, the DES provider is eligible to claim an Outcome based on the lower Employment Benchmark. In these cases, the Outcome Fee will need to be processed as a special claim.

If a Participant has already been anchored in a Job Placement and their Employment Benchmark subsequently increases, the DES provider is eligible to claim Outcome Fees for both the 13 Week Period and the 26 Week Period based on the Employment Benchmark that applied at the Anchor Date. The claim for Outcome Fee for the 13 Week Period can be claimed normally, however the claim for the Outcome Fee for the 26 Week Period will need to be processed as a special claim if the Employment Benchmark increased before the Outcome claim for the 13 Week Period.

Employment Outcomes for Participants Commenced in DES while in Pre-Existing Employment
A DES provider may be eligible to claim an Outcome Fee for Participants who were working in Pre-Existing Employment for fewer hours per week on average than their Employment Benchmark at the time of their Commencement, where the Participant’s hours of Employment increase to meet the requirements of an Outcome.
<table>
<thead>
<tr>
<th>Participant’s Employment Benchmark</th>
<th>Hours worked per week at Commencement</th>
<th>Potential eligibility for an Outcome Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>Less than 8</td>
<td>Full Outcome</td>
</tr>
<tr>
<td>15</td>
<td>Less than 10</td>
<td>Pathway Outcome or Full Outcome</td>
</tr>
<tr>
<td>15</td>
<td>10 to less than 15</td>
<td>Full Outcome</td>
</tr>
<tr>
<td>23</td>
<td>Less than 15</td>
<td>Pathway Outcome or Full Outcome</td>
</tr>
<tr>
<td>23</td>
<td>15 to less than 23</td>
<td>Full Outcome</td>
</tr>
<tr>
<td>30</td>
<td>Less than 20</td>
<td>Pathway Outcome or Full Outcome</td>
</tr>
<tr>
<td>30</td>
<td>20 to less than 30</td>
<td>Full Outcome</td>
</tr>
</tbody>
</table>

**Employment Outcomes for Participants with an Employment Benchmark of 0**

Participants with a future work capacity of 0-7 hours per week will be assigned an Employment Benchmark of 0 by the Department’s IT System. Generally, Participants with an assessed future work capacity of 0-7 hours per week must be Exited (see Exits Guidelines). Where a Participant with a future work capacity of 0-7 is not required to be Exited, Outcome Fees may be payable for Participants with an Employment Benchmark of 0 where the requirements of an Outcome Fee based on an 8 hour Employment Benchmark are met. To Claim an Outcome, the Participant’s Employment Benchmark on the Department’s IT Systems will need to be updated to 8 hours.

**Employment Outcomes for Participants with an Employment Benchmark showing as ‘Not Determined’**

A small number of DES participants have their Employment Benchmark in Department’s IT System appearing as ‘Not Determined.’ Outcome Fees will not automatically generate while a DES participant has an Employment Benchmark showing as ‘Not Determined’. Until a system change is implemented, a manual fix is needed to restore the Participant’s Employment Benchmark in order for DES providers to claim eligible fees. Please refer to the Outcomes Supporting Document for information regarding the manual fix.
Attachment B – Claiming a Bonus

Summary
A ‘Bonus’ is an additional Fee that is payable to the DES provider if the Participant achieves a Full Outcome or a Pathway Outcome by undertaking either:

(a) an Apprenticeship (including a Traineeship); or
(b) paid Employment which is Directly Related Employment and the DES provider has recorded any information required to be recorded on the Department’s IT System, as specified in any Guidelines.

A Bonus is payable for a Full Outcome or a Pathway Outcome at the 13 Week Period, and also at the 26 Week Period. DES providers cannot submit multiple Bonus payments for a Participant, and only one Bonus can be claimed during each of the 13 Week Period and 26 Week Period.
Claiming a Bonus for an Apprenticeship (including a Traineeship)

A Bonus may be paid for an Outcome that is achieved through an Apprenticeship or Traineeship.

To be eligible for this type of Bonus, the Participant’s Employment activity must be undertaken through an Apprenticeship or Traineeship, as defined in the Deed.

Flow Chart – Claiming a Bonus for an Apprenticeship (including a Traineeship):

1. Create a Vacancy

The DES Provider creates an Apprenticeship or Traineeship Vacancy in the Department’s IT System.

2. DES provider enters a Job Placement Start Date and places the Participant into Post Placement Support

The Participant commences in the Apprenticeship or Traineeship Vacancy which is recorded in the Department’s IT System. DES provider enters a Job Placement Start Date and moves the Participant into Post Placement Support which sets the Anchor Date for the Placement. This sets up a potential Outcome Fee with a Bonus.

3. Participant remains in Apprenticeship

The Participant remains in the Apprenticeship or Traineeship and meets all Outcome requirements for the 13 Week Period or 26 Week Period.

4. Claim the Outcome Fee with a Bonus

The Provider submits the Outcome Fee claim through the Department’s IT System. If the job is an Apprenticeship or Traineeship, the Bonus will be displayed as available to claim.

Note: This should not be read as a stand-alone document, please refer to the Disability Employment Services Deed.
## Claiming a Bonus for an Apprenticeship (including an Traineeship)

<table>
<thead>
<tr>
<th>Who is Responsible:</th>
<th>What is Required:</th>
</tr>
</thead>
</table>
| **1. The DES provider**  
  Creating a Vacancy for an Apprenticeship or Traineeship | DES Provider places an Apprenticeship or Traineeship Vacancy in the Department’s IT System. |
| **2. The DES provider**  
  Entering a Job Placement Start Date and anchoring the Apprenticeship | The DES provider enters a Job Placement Start Date and moves the Participant into Post Placement Support, which will set an Anchor Date for the Apprenticeship or Traineeship in the Department’s IT System.  
This will flag a potential Outcome Fee with a Bonus. |
| **3. Participant**  
  The Participant remains in an Apprenticeship and meets the requirements for a Full Outcome or Pathway Outcome | For a DES provider to be eligible for the Bonus the Participant must meet all the requirements for an Outcome.  
The Participant must remain in the Apprenticeship or Traineeship for the entire 13 Week Period and/or 26 Week Period to be eligible for a Bonus Fee. Should the start date of a Participant’s Apprenticeship or Traineeship be after the Anchor Date of the 13 Week Period, no Bonus Fee would be payable on the Outcome Fee for the 13 Week Period, however the DES provider may claim a Bonus on the Outcome Fee for a 26 Week Period by lodging a special claim. |
| **4. The DES provider**  
  Claiming an Outcome Fee with an Apprenticeship Bonus | Outcome Fees with a Bonus for undertaking an Apprenticeship or Traineeship are claimed by the DES provider in exactly the same way as other Outcome Fees. DES providers will submit the Tax Invoice through the Department’s IT System. Once the Outcome Fee has been claimed in the Department’s IT System, the Bonus will be calculated and the DES provider can then claim the Bonus Fee  
★ End of process. |
Claiming a Bonus for Directly Related Employment
A Bonus may be paid for an Outcome that is Directly Related Employment.

To be eligible for this type of Bonus, the Participant’s Employment activity must be:
- preceded by a Qualifying Training Course; and
- Employment in a core field of study undertaken in the Qualifying Training Course directly related to the Employment activity.
- The Employment activity must also meet all the requirements for an Outcome Fee and the training must meet the requirements of a Qualifying Training Course, as defined in the Deed.

Qualifying Training Course
A Qualifying Training Course (QTC) must be:
- Certificate II level or above.
- Successfully completed so that the Participant receives the relevant qualification.

The training course:
- must commence before the Anchor Date for the Directly Related Employment; and
- may have commenced before the start of the Participant’s current Period of Unemployment.

The training course must be completed:
- after the start of the Participant’s current Period of Unemployment;
- not more than 12 months before the Anchor Date for any Directly Related Employment; and
- before or during the 13 Week Period or 26 Week Period relating to the Directly Related Employment.

Directly Related Employment
To be eligible for the Bonus, the Employment activity must be in an occupation directly related to the field of study of the Qualifying Training Course. Generic modules within a Qualifying Training Course, such as general hygiene or safety modules, will not be considered for a Directly Related Employment Bonus.

Examples of this are a Certificate III in Business Administration which included the unit ‘Deliver and Monitor Service to Customers’ leading to a position as a Call Centre Operator, or a Certificate III in Investigative Services which included the unit ‘Store and protect information’ leading to a position as a Records Management Officer.
Flow Chart - Process for Claiming an Outcome Fee with a Bonus for Directly Related Employment:

1. Participant commences in a Qualifying Training Course

The Participant commences in a Qualifying Training Course which is recorded on the Department’s IT System.

2. Participant commences in Employment

The Participant commences an Employment activity which is recorded on Department’s IT System and that is related to the Qualifying Training Course.

3. Participant completes the Qualifying Training Course

The Participant completes the Qualifying Training Course during or before the 13 Week Period or 26 Week Period.

NOTE: The Participant may complete the course up to 12 months before the date the Participant commences in the Directly Related Employment.

4. Participant remains in Employment

The Participant remains Employed in the Directly Related Employment and all requirements for Outcome are met for the 13 Week Period or 25 Week Period.

5. Claim the Outcome Fee with a Directly Related Employment Bonus

The provider submits the Outcome Fee claim with the claim for a Bonus through the Department’s IT System declaring that the Qualifying Training Course is directly related to the Employment.

Note: This should not be read as a stand-alone document, please refer to the Disability Employment Services Deed.
Directly Related Employment:

<table>
<thead>
<tr>
<th>Who is Responsible:</th>
<th>What is Required:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. The DES provider</strong></td>
<td></td>
</tr>
</tbody>
</table>
The Participant commences in a Qualifying Training Course (QTC) and the DES provider enters the details in the Employment IT System |

*Disability Employment Services Deed Clause References:*
- Definition of ‘Qualifying Education Course’
- Definition of ‘Qualifying Training Course’

Where a Participant has commenced a QTC, details of the activity must be entered into the Department’s IT System. This allows the Department’s IT System to check the dates, and a Bonus will be automatically available for eligible Outcomes.

The Participant may have commenced in a QTC at any time prior to the Anchor Date of the Directly Related Employment, including courses that were commenced:
- prior to 1 March 2010; or
- before the current Period of Unemployment.

A QTC must be completed:
- no more than 12 months before the Anchor Date for the Directly Related Employment; and
- before, or during, the 13 Week Period or 26 Week Period relating to the Directly Related Employment.

If the course was commenced before the current Period of Unemployment the DES provider must enter the details of the course into the Department’s IT System immediately after the Participant Comences in DES.

| **2. The Department** |
The Participant commences in an Employment activity that is related to the Qualifying Training Course |

At the time when the Participant is placed in the Employment activity, the Department’s IT System will perform a check to determine if the Participant has commenced or completed a QTC within all the required time frames. If the system detects an eligible QTC a potential Bonus flag will be created on the potential Outcome payments record. DES providers do not have to perform any further action at this time.

| **3. Participant** |
The Participant completes the QTC before or during the 13 Week Period or 26 Week Period |

The Participant must complete the QTC which results in the attainment of a qualification of not less than Certificate 2 level. Participation in the QTC is not sufficient to meet the requirements for a Bonus.

| **4. Participant** |
The Participant meets all requirements for a Full Outcome or a Pathway Outcome in Directly Related |

The Participant must continue in the Employment activity that is the Directly Related Employment and meet all the requirements of an Outcome.
<table>
<thead>
<tr>
<th><strong>Who is Responsible:</strong></th>
<th><strong>What is Required:</strong></th>
</tr>
</thead>
</table>
| Employment for the 13 Week Period or 26 Week Period | Outcome Fees with a Directly Related Employment Bonus are claimed by DES provider in exactly the same way as other Outcome Fees. The DES provider must declare that the QTC is directly related to the Employment.  
For auto claims, DES providers will submit the Tax Invoice for the Outcome Fee the Department’s IT System. Once the Outcome Fee has been claimed in the Department’s IT System, the Bonus will be calculated and the DES provider can then claim the Bonus Fee.  
➢ **End of process.** |
| 5. The DES provider  
The DES provider submits the Outcome Fee claim through the Department’s IT System |  

Attachment C - Permissible Break in an Employment activity during a 13 Week Period or a 26 Week Period

Summary
The Disability Employment Services Deed requires that for an Employment Outcome to be payable, a Participant must remain in an Employment activity ‘each week’ or ‘each fortnight’ for the duration of the 13 Week Period and the 26 Week Period.

The Department recognises that some situations may arise that are beyond the control of the Participant or the DES provider and that interfere with a person’s capacity to continue in an Employment activity without a break. Accordingly, DES providers may claim an Outcome Fee for a Full Outcome or a Pathway Outcome where there is a break or breaks up to a maximum of 4 weeks (or 28 calendar days) in total in each of the 13 Week Period and 26 Week Period in a Participant’s Employment activity.

Outcome Fee claims incorporating a 13 Week Period and/or 26 Week Period which includes one or more Permissible Breaks are available for both Full Outcomes and Pathway Outcomes. Principal Carer Parents are entitled to an additional Permissible Break of up to a maximum of eight weeks for an Employer initiated shutdown over the Christmas period, providing that the Participant will resume their Employment in the New Year.

It is up to the DES provider to decide whether or not to enter a Permissible Break for some or all of a Participant’s period of absence from the relevant Employment activity. If a Participant meets the requirements for an Outcome for a 13 Week Period and/or 26 Week Period that includes the period the Participant was absent, the DES provider does not need to enter the Permissible Break.
Flow Chart - Example of process for claiming an Outcome Fee where a Permissible Break has occurred:

1. Participant has a break in Employment during the 13 Week Period and/or 26 Week Period
   For example, if after ten weeks the Participant is forced to miss work for three weeks due to caring responsibilities.

2. DES provider records a Permissible Break
   DES provider records details of the Permissible Break in the Department’s IT System.

3. Participant returns to Employment
   After three weeks the Participant returns to the same Employer and continues in the same Employment activity held directly prior to the break.

4. Participant remains in Employment
   The Participant remains in the Employment activity for a further three weeks (16 weeks after commencement).

5. Claim the Outcome with a Permissible Break
   The Provider submits the Outcome Fee claim through the Department’s IT System.

Note: This should not be read as a stand-alone document, please refer to the Disability Employment Services Deed.
### Permissible Breaks:

<table>
<thead>
<tr>
<th>Who is Responsible:</th>
<th>What is Required:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Participant</td>
<td>A Permissible Break may be used only where:</td>
</tr>
<tr>
<td></td>
<td>• there is a break in the Participant’s continuous attendance in an Employment activity and the activity, if completed, satisfies the requirements for an Outcome; and</td>
</tr>
<tr>
<td></td>
<td>• the break is outside the control of the DES provider or the Participant; and</td>
</tr>
<tr>
<td></td>
<td>• after the break, the Participant returns to the same Employment activity with the same Employer; and</td>
</tr>
<tr>
<td></td>
<td>• the Permissible Break reason is acceptable to the Department.</td>
</tr>
</tbody>
</table>

Multiple breaks may be accepted during the 13 Week Period and the 26 Week Period up to a maximum of four (4) weeks (or 28 calendar days) in total (in each of the 13 Week Period and 26 Week Period) as long as the Participant returns to their original Employment activity and meets the requirements for an Outcome.

While the following list is not exhaustive, some examples of Permissible Breaks that are outside a DES provider’s or Participant’s control include:

- Christmas breaks and shutdowns;
- breaks due to illness or major personal crisis, e.g. bereavement in the family;
- child care or carer emergencies;
- declared natural disasters, e.g. a state of emergency due to natural disasters or a major disaster (as declared by the relevant Federal or State Minister);
- rain or weather interrupting harvest in the case of seasonal Employment;
- culturally significant events for Aboriginal and Torres Strait Islander peoples, e.g. death of a family/community member and ceremonial activities; and;
- significant industrial accident affecting the business, e.g. gas disaster and fire; and
- for Participants under the age of 18 only, where the parent or legal guardian travels away from the family home and there is not parent or legal guardian available to maintain supervision of the Participant at home.

Examples of breaks that are not Permissible Breaks include:
<table>
<thead>
<tr>
<th><strong>Who is Responsible:</strong></th>
<th><strong>What is Required:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• if work simply runs out, e.g. due to a business downturn;</td>
</tr>
<tr>
<td></td>
<td>• breaks between different jobs;</td>
</tr>
<tr>
<td></td>
<td>• Participant leaving a job voluntarily;</td>
</tr>
<tr>
<td></td>
<td>• unapproved leave as well as unpaid recreational leave; and</td>
</tr>
<tr>
<td></td>
<td>• Participant travelling overseas for any reason other than those listed above as examples of a Permissible Break.</td>
</tr>
</tbody>
</table>

A Permissible Break is not required to be entered where a Participant is on paid leave. The Participant’s normal work hours and paid income during the period of leave can be counted as part of their income or hours during the 13 Week Period and/or the 26 Week Period.

**Additional Employer Initiated Christmas Shutdown Period Permissible Break for Principal Carers**

Principal Carers are entitled to an additional Permissible Break of up to a maximum of eight weeks for an Employer initiated shutdown over the Christmas period, providing the job seeker will resume their Employment activity in the New Year.

The Principal Carer is still permitted to utilise the usual Permissible Breaks of up to a maximum of four weeks in either or both the 13 Week Period and the 26 Week Period, in addition to the Employer initiated Christmas shutdown period.

This means that in rare or unusual circumstances a Principal Carer may be entitled to a maximum of 16 weeks of Permissible Breaks over a 26 Week Period, if they are eligible for an Employer initiated Christmas shutdown period break.

For a 13 Week Period or 26 Week Period which includes an Employer initiated Christmas shutdown period Permissible Break, the DES provider would need to submit the Full Outcome Fee claim through the Special Claim process in the Department’s IT System.

**Breaks on loss of job or voluntary change of job**

Permissible breaks only apply where a Participant returns to the same Employer at the conclusion of the break. Separate Guidelines apply where a Participant:

• changes jobs voluntarily during a 13 Week or 26 Week Period;
<table>
<thead>
<tr>
<th>Who is Responsible:</th>
<th>What is Required:</th>
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</thead>
<tbody>
<tr>
<td><strong>Who is Responsible:</strong></td>
<td><strong>What is Required:</strong></td>
</tr>
<tr>
<td>Period (refer to Attachment E), or</td>
<td>Period (refer to Attachment E), or</td>
</tr>
<tr>
<td>- loses their Employment activity or is made redundant during a 13 Week or 26 Week Period (refer to Attachment D).</td>
<td>- loses their Employment activity or is made redundant during a 13 Week or 26 Week Period (refer to Attachment D).</td>
</tr>
<tr>
<td><strong>2. The DES provider</strong></td>
<td><strong>If the break in an Employment activity meets the requirements for a Permissible Break then a DES provider needs to consider the length of the break and the necessary period of extension to the actual length of the 13 Week Period or the 26 Week Period, and extend the Outcome claim period in the Department’s IT System accordingly.</strong></td>
</tr>
<tr>
<td>DES provider records the Permissible Break</td>
<td><strong>3. Participant</strong></td>
</tr>
<tr>
<td><strong>Participant returns to Employment activity following Permissible Break</strong></td>
<td><strong>Participant returns to Employment activity following Permissible Break</strong></td>
</tr>
<tr>
<td><strong>The Participant must return to the same Employment activity with the same Employer.</strong></td>
<td><strong>The Participant must return to the same Employment activity with the same Employer.</strong></td>
</tr>
<tr>
<td>If the break in an Employment activity is longer than four weeks, the DES provider must return the Participant to Employment Assistance. The DES provider can return the Participant to Post Placement Support, therefore setting a new Anchor Date, once the Participant resumes their Employment activity.</td>
<td>If the break or the total period of multiple breaks in the Employment activity is longer than four weeks, the DES provider must return the Participant to Employment Assistance. The DES provider can return the Participant to Post Placement Support, therefore setting a new Anchor Date, once the Participant resumes their Employment activity.</td>
</tr>
<tr>
<td><strong>4. Participant</strong></td>
<td><strong>Participant remains in the Employment activity</strong></td>
</tr>
<tr>
<td><strong>If the Permissible Break during a 13 Week Period lasted for three weeks, a Participant would need to remain in the Employment activity for a further three weeks (a total of 16 weeks).</strong></td>
<td><strong>If the Permissible Break during a 13 Week Period lasted for three weeks, a Participant would need to remain in the Employment activity for a further three weeks (a total of 16 weeks).</strong></td>
</tr>
<tr>
<td>A maximum of a further four weeks of Permissible Break would also be available during the 26 Week Period.</td>
<td>A maximum of a further four weeks of Permissible Break would also be available during the 26 Week Period.</td>
</tr>
<tr>
<td>If the maximum period of Permissible Breaks were used in each of the 13 Week Period and 26 Week Period, this would extend the number of calendar weeks required to achieve a 26 Week Employment Outcome to 34 weeks.</td>
<td>If the maximum period of Permissible Breaks were used in each of the 13 Week Period and 26 Week Period, this would extend the number of calendar weeks required to achieve a 26 Week Employment Outcome to 34 weeks.</td>
</tr>
<tr>
<td><strong>5. The DES provider</strong></td>
<td><strong>Outcome Fee claims for a 13 Week Period or 26 Week Period that includes a Permissible Break can generally be claimed automatically in the Department’s IT System, where claims are based on hours worked.</strong></td>
</tr>
<tr>
<td>DES provider claims an Outcome Fee where there is Permissible Break</td>
<td>DES providers can use the special claim or automated special claim process where Department’s IT System does not make available a Tax Invoice for claiming an Outcome where there has been a Permissible Break.</td>
</tr>
<tr>
<td>Who is Responsible:</td>
<td>What is Required:</td>
</tr>
<tr>
<td>---------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td></td>
<td>➢ End of process.</td>
</tr>
</tbody>
</table>
Attachment D – ‘Break in Employment’ breaks for Participants who lose their Employment during the 13 Week Period or 26 Week Period

Summary
‘Break in Employment’ provisions recognise that extra time may be needed to successfully find alternative Employment for Participants with disability when they lose their Employment. DES providers have up to 20 Business Days in which to find and place a Participant into alternative Employment if a Participant loses their Employment during a 13 Week Period or 26 Week Period. Please note this policy does not apply to Participants who voluntarily leave their Job Placement (refer to Attachment E - ‘Change in Employment’ Suspensions for Participants who voluntarily change Employment during a 13 Week Period or 26 Week Period).
Flow Chart – Process for claiming an Outcome Fee for Participants who lose their Employment during the 13 Week Period or 26 Week Period:

1. Participant begins Employment and the Anchor Date is entered by the DES provider in the Department’s IT System.

2. Participant loses their Employment during the 13 Week Period or 26 Week Period.

   - Some prospect of alternative Employment being found
   - No prospect of alternative Employment being found

3. The 20 Business Day period to find a new Job Placement begins the first Business Day directly following the last day of the Participant’s Employment.

4. The DES provider works with the Participant to secure a subsequent Employment Placement within the 20 Business Day period.

   - Alternative Employment found
   - Alternative Employment not found

5. The provider must enter all subsequent Job Placements into the Department's IT System.

6. The provider returns the Participant to the Employment Assistance phase of DES

7. Participant remains in Employment for the full 13 Week Period or 26 Week Period; which is counted from the Anchor Date of the first job for a 13 Week Period or from the start date of the 26 Week Period of the first job, which ever applies.

   - There can be more than one loss of Employment during a 13 Week Period or a 26 Week Period. However, the total number of weeks between the end of one job and the start of another job must not exceed 20 Business Days.

8. DES provider submits an Outcome Fee claim.

Note: This should not be read as a stand-alone document, please refer to the Disability Employment Services Deed.
'Break in Employment' breaks:

<table>
<thead>
<tr>
<th>Who is Responsible:</th>
<th>What is Required:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The DES provider</td>
<td>The Participant enters into a Job Placement that meets the requirements of an Outcome. When the DES provider moves the Participant into Post Placement Support an Anchor Date is created in the Department’s IT System. The Anchor date is the start of the 13 Week Period.</td>
</tr>
<tr>
<td>Participant begins Employment and the Anchor Date is entered by the DES provider in the Department’s IT Systems</td>
<td></td>
</tr>
</tbody>
</table>

2. The DES provider

Participant loses their Employment during the 13 Week Period or 26 Week Period

In each of the 13 and 26 Week Periods, a break of up to 20 Business Days is allowed where a Participant loses their Job Placement. If during this break the Participant commences a new Job Placement, the relevant 13 Week Period or 26 Week Period can continue.

This type of break may be used for the loss of more than one Job Placement during the 13 Week Period or 26 Week Period, providing the total period of unemployment is not more than 20 Business Days in each of the 13 Week Period and the 26 Week Period.

If the full 20 Business Days are used during the 13 Week Period, this will extend the 13 Week Period from 13 weeks up to 17 weeks for an Outcome claim. Up to a further 20 Business Days would also be available for that Participant during the 26 Week Period, which would extend the 26 Week Period from 13 weeks up to 17 weeks.

If, however, the Participant only uses 10 Business Days in the 13 Week Period, this will extend the 13 Week Period from 13 to 15 weeks for an Outcome claim. If the Participant again loses their job in the 26 Week Period, the DES provider may enter up to another 20 Business Days of 'Break in Employment' Permissible Breaks for that 26 Week Period.

The 13 weeks of Employment will comprise the time the Participant was employed in the first job and the required time to make a total of 13 weeks from the second job or subsequent jobs.

On loss of the Participant’s job:

- If the DES provider believes there is any prospect of securing alternative Employment for the Participant within the 'Break in Employment' limit, proceed to
<table>
<thead>
<tr>
<th>Who is Responsible:</th>
<th>What is Required:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Step 3</strong></td>
<td></td>
</tr>
<tr>
<td>➢ Should the DES provider believe that the Participant has no prospect of obtaining alternative Employment within the 'Break in Employment' limit, the DES provider should return the Participant to Employment Assistance, <strong>proceed to Step 6</strong>.</td>
<td></td>
</tr>
</tbody>
</table>

| 3. The DES provider | The 20 Business Day period in which to find another Job Placement will begin on the first Business Day directly following the day the previous Job Placement ends and will conclude 19 Business Days later unless a new Job Placement is entered into the Department’s IT System prior to that day. Where the Participant commences a new Job Placement within the 20 Business Days, any remaining days are available to be used if the second Job Placement ends due to redundancy or other reason beyond the Participant’s control during that 13 Week Period or 26 Week Period. |

| 4. The DES provider | DES providers should work with potential Employers and the Participant to source and secure a Vacancy and place the Participant into that Vacancy in accordance with Outcome Guidelines and reference materials. If a Participant has ceased Income Support Payment and goes back onto Income Support Payment in the period(s) between Job Placements this will not impact on a DES provider’s eligibility to claim an Outcome if all the requirements of Disability Employment Services Deed have been met. |

| 5. The DES provider | It is important that DES providers enter the details of all subsequent Job Placements into the Department’s IT System and retain Documentary Evidence as verification. **Proceed to Step 7** |

| 6. The DES provider | If there is no prospect of alternative Employment being found on loss of job, or if the DES provider is unable to obtain alternative Employment for the Participant within the 20 Business Day timeframe, the DES provider will need to move the Participant back into Employment Assistance. If there is no prospect of alternative Employment at |
### Who is Responsible:

- the time of job loss, the DES provider would select the ‘Ceased Employment’ Anchor End reason. This will return the Participant to the Employment Assistance phase of DES. **End of process.**

  - If the DES provider believed there was some prospect of finding alternative Employment at the time of job loss, but was unable to obtain alternative Employment for the Participant within the 20 Business Day window, the DES provider should select the ‘Break in Employment’ Anchor End reason. This Anchor End reason allows the DES provider to backdate the start date of the return to the Employment Assistance phase by the number of days of ‘Break in Employment’ break entered (up to 20 business days). Backdating the Employment Assistance start date allows the DES provider to be paid Service Fees for the period of 'Break in Employment', in acknowledgement of the work undertaken during the break to find alternative Employment for the Participant. **End of process.**

### 7. The DES provider

**Participant remains in the Employment activity for the full 13 Week Period or 26 Week Period**

- In order to claim an Outcome Fee for the 13 Week Period or 26 Week Period the Participant must remain in the Employment activity for a full 13 Consecutive Weeks or 26 Consecutive Weeks respectively from the Anchor Date.

  - The number of Business Days before the second job starts are not included in the calculation. The required extra days to make a total of 13 weeks are counted from the Anchor Date of the second job to make 13 weeks for an Outcome.

### 8. The DES provider

**The DES provider submits an Outcome Fee claim**

- When submitting a claim, wages and hours worked evidence will be required for all jobs. Outcomes must meet all requirements for Outcomes contained in Disability Employment Services Deed.

  - Note that where the JRRR is used to make a claim, claims must be submitted as a special claim through the Overrides and Special Claims application in the Department’s IT System for a Contract Manager to process. Other Outcome Fee claims involving a Break in Employment will be made available in the Department’s IT System without the need to make a special claim.

  - **End of process.**
Attachment E – 'Change in Employment' Suspensions for Participants who voluntarily change Employment during a 13 Week Period or 26 Week Period

Summary

'Change in Employment' breaks are available in recognition that Participants and their DES providers should not be penalised for finding alternative Employment during Post Placement Support (except for Job in Jeopardy participants) and/or during Ongoing Support.

Under this policy, where a Participant voluntarily changes their Employment during a 13 Week Period or 26 Week Period, there can be a break of up to 5 Business Days between Job Placements without the DES provider having to re-anchor the Outcome.
Flow Chart – Process for entering a Change in Employment break for Participants who voluntarily change their Employment:

1. Participant begins Employment and the Anchor Date is entered by the DES provider in the Department’s IT System.

2. DES provider enters a ‘Change in Employment’ Suspension where a Participant voluntarily changes their Employment.

3. The five Business Day period in which to enter the new Job Placement begins the first Business Day directly following the last day of the Participant’s Employment.

4. The provider must enter details of the new Job Placement into the Department’s IT System.

5. Participant in Post Placement Support remains in Employment for the full 13 Week Period or 26 Week Period, which is counted from the Anchor Date of the first job for a 13 Week Period or from the start date of the 26 Week Period of the first job, whichever applies. There can be more than one Change in Employment during a 13 Week Period or a 26 Week Period. Each Change in Employment will have up to five Business Days in which the Participant must commence their new Employment.

6. DES provider claims the relevant Outcome Fee in the Department’s IT System.

Note: This should not be read as a stand-alone document, please refer to the Disability Employment Services Deed.
Change in Employment:

<table>
<thead>
<tr>
<th>Who is Responsible:</th>
<th>What is Required:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The DES provider</td>
<td>The DES provider places the Participant into an Employment activity that, if completed, meets the requirements of an Outcome. The DES provider must enter a Job Placement Start Date and Anchor Date into the Department’s IT System in accordance with the relevant Guidelines. The Anchor Date is the start of the 13 Week Period.</td>
</tr>
<tr>
<td>Participant begins Employment and the Anchor Date is entered in the Department’s IT System</td>
<td></td>
</tr>
<tr>
<td>2. The DES provider</td>
<td>A DES provider can enter a ‘Change in Employment’ Suspension of up to 5 Business Days where a Participant voluntarily changes their Employment activity.</td>
</tr>
<tr>
<td>DES provider enters a ‘Change in Employment’ suspension where a Participant voluntarily changes their Employment</td>
<td>The Suspension will ‘halt’ the counting of 13 Consecutive Weeks or 26 Consecutive Weeks in the Department’s IT System, and the number of days of the Suspension will not count towards the 13 Week Period or 26 Week Period. The 13 Consecutive Weeks of Employment will comprise the time the Participant was employed in the first job, and the required time to make a total of 13 Consecutive Weeks from the second job or subsequent jobs.</td>
</tr>
<tr>
<td>3. The DES provider</td>
<td>The five Business Day period in which to commence the new Job Placement will begin on the first Business Day directly following the last day of the previous Employment and will conclude 4 Business Days later.</td>
</tr>
<tr>
<td>The DES provider has five Business Days to commence a Participant in their new job</td>
<td></td>
</tr>
<tr>
<td>4. The DES provider</td>
<td>It is important that DES providers enter the details of the subsequent Job Placement into the Department’s IT System and retains Documentary Evidence as verification.</td>
</tr>
<tr>
<td>The DES provider must enter details of the new Job Placement into the Department’s IT System</td>
<td></td>
</tr>
<tr>
<td>5. The DES provider</td>
<td>In order to claim an Outcome Fee the Participant must remain in Employment for a full 13 Consecutive Weeks. The 13 Consecutive Weeks is counted from the Anchor Date of the 13 Week Period of the first job and from the start date of the 26</td>
</tr>
<tr>
<td>Who is Responsible:</td>
<td>What is Required:</td>
</tr>
<tr>
<td>---------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>13 Week Period or 26 Week Period</td>
<td>Week Period. The number of Business Days of the 'Change in Employment' Suspension are not included in the calculation.</td>
</tr>
</tbody>
</table>

6. The DES provider

The DES provider may claim the relevant Outcome Fee claim in the Department’s IT System

If requirements under the Deed have been met, the DES provider can claim the relevant Outcome Fee in the Employment IT System.

**Note:** If the Participant’s subsequent Job Placement does not start within 5 Business Days of ceasing the earlier Employment, then the Participant must be moved back into Employment Assistance. The subsequent Employment must be entered into the Department’s IT system as a new Job Placement. The Anchor Date of this new Job Placement will be used to track for a new Outcome which can be claimed in the Department’s IT System by submitting the Tax Invoice.

➢ End of process.
Attachment F – Non-Payable Outcomes

Summary
As stated at clause 123.3 of the Deed, Outcome Fees are not payable for any placement defined as a Non-Payable Outcome at Annexure A of the Deed. Placements are considered to be Non-Payable Outcomes where they do not meet the outcome objectives of the DES.

Placements that are considered Non-Payable Outcomes may be genuine employment positions that provide valuable work experience for a Participant. The Department does not make judgements about the quality of any placement because it is a Non-Payable Outcome for the purposes of the DES programme.

The primary objective of DES is to assist job seekers with disability secure and maintain sustainable ongoing employment in the open labour market. The programme’s intent is that DES providers help Participants find Employment that suits the Participant’s goals and abilities. The simultaneous placement of multiple Participants into a short term employment role (large-intake pattern placements) may be appropriate where the DES provider has considered each Participant’s individual goals and abilities. However, short term large-intake pattern placements designed to maximise payments or benefits could be considered contrived employment.

Unless the placement is prohibited under clause 72 of the Deed or elsewhere, DES providers may place a Participant into a Non-Payable Outcome placement. Such placements may provide work experience for the Participant and may turn into a payable outcome (for instance where an Employer initially offers a short term placement but then offers ongoing Employment after being satisfied by the Participant’s performance). Providers may not claim Outcome Fees in relation to Non-Payable Outcome placements.

DES providers should record vacancies for Non-Payable Outcome placements and should place the Participant against the vacancy. DES providers should not normally anchor Non-Payable Outcome placements, because moving the Participant to Post Placement Support stops Service Fees from falling due and makes available Outcome Fees that the DES provider is not eligible to claim.

DES providers are encouraged to retain Participants in Employment Assistance where the Participant is undertaking a Non-Payable Outcome placement. Service Fees that fall due while the Participant is in Employment Assistance can be claimed normally, and the Participant can be moved to Post Placement Support if they move to a placement that is a payable outcome under DES.

Note: For Recurring employment placements only, a DES provider can move the Participant to Ongoing Support if they choose to first support the Participant in Post Placement Support for 26 weeks. See the section on Recurring employment below for further details.
The following sets out further rules and information about Non-Payable Outcome conditions. The definition of ‘Non-Payable Outcome’ in Annexure A of the Deed contains the full list of Non-Payable Outcome conditions.

**Government funded programme, including a Work Trial programme**

Paragraph (n) of the definition of Non-Payable Outcome in the Deed includes any “programme, including a Work Trial programme, funded by the Australian Government, or a state or territory government, including a Complementary Service, unless otherwise specified in any Guidelines.”

The conditions under which such programmes are not considered Non-Payable Outcomes are that:

- Participants are placed into ongoing Employment and are paid a wage or salary;
- there is an employee-Employer relationship;
- the Employment is consistent with workplace relations laws, including relevant award pay and conditions;
- Participants are covered by the relevant occupational health and safety requirements.

A Work Trial placement through a programme funded by the Australian Government or a state or territory government is considered to be a Non-Payable Outcome until such time as ongoing Employment is offered to the Participant and the conditions set out above are met. This applies to Commonwealth, State or Territory funded programmes, including but not limited to the Indigenous Employment Programme, Jobs Fund, Queensland Government’s Green Army and Victoria Works for Mature Age Workers. For the avoidance of doubt, Outcome Fees are never payable for employment in an Australian Disability Enterprise where the DES Participant is also an Australian Disability Enterprise participant.

**Non-ongoing employment or a Work Trial**

Paragraph (o) of the definition of Non-Payable Outcome in the Deed includes any “non-ongoing employment or a Work Trial, as specified in any Guidelines.”

For the purposes of paragraph (o) of the definition of Non-Payable Outcome and for the purposes of paragraph (o) of the definition of Non-Payable Placement, each at Annexure A to the Disability Employment Services Deed, all Employment is considered to be non-ongoing, unless the Employment is, at the Anchor Date:

- offered on a permanent or ongoing basis; or
- subject to a fixed term contract of Employment and there is a reasonable expectation that the contract will be extended at the completion of the contract; or
- subject to a fixed term contract of Employment and there is a reasonable expectation that the contract will be followed by another contract of Employment; or
- casual or seasonal Employment where there is a reasonable expectation that Employment will continue to be available.

- An Apprenticeship (including Traineeships and School Based Apprenticeships) where there is a reasonable expectation that the Apprenticeship would be followed by further Employment at the end of the Apprenticeship.
For example, a DES provider would normally have a reasonable expectation that a fixed term contract will be extended or followed by another contract where:

- the Employer has indicated that further Employment is likely to be offered if the Participant performs satisfactorily in the initial contract period; or
- the Employer frequently offers further Employment to DES Participants that have completed an initial fixed term contract; or
- the DES Participants that have completed a fixed term contract for a particular job with an Employer, frequently transition into alternative Employment.

DES providers are encouraged to retain evidence that demonstrates a reasonable expectation that a fixed term contract or Apprenticeship will be extended or followed by further Employment.

DES providers may arrange non ongoing placements for Participants to:

- gain paid work experience;
- build work capacity; and/or
- build confidence.

These placements may be a valuable intervention for Participants who have had a long period of disengagement from the workforce and/or would not otherwise have gained Employment in the open labour market. A placement of this type is non-ongoing Employment until such time as the Employer offers ongoing Employment. DES providers must not anchor such Job Placements until the Employment is ongoing.

The Department acknowledges that some anchored jobs will cease prior to 26 weeks, through no fault of the DES provider, and will not routinely recover fees for employment Placements which end shortly after 26 weeks. However, to ensure that Participants are receiving the assistance and support they need to secure and maintain ongoing Employment the Department will monitor this type of placement. Where the Department is satisfied that a DES provider has anchored a position that is non-ongoing Employment, or that there is a pattern of anchoring Participants in positions with an Employer where the Employment routinely ends shortly after the Outcome for the 13 and/or 26 Week Period, the Department may take remedial action under the Deed including under clause 56.

**Contrived employment**

Paragraph (t) of the definition of Non-Payable Outcome in the Deed includes any “position that is contrived employment, as specified in any Guidelines.” This is intended to ensure that the best interests of the Participants are met and that quality outcomes for the Participants are achieved.

Contrived employment is an arrangement, as determined by the Department in its absolute discretion, whereby a DES provider or another person creates an artificial work opportunity for a Participant for the purpose, or with the effect of, maximising payments to, or otherwise obtaining a benefit for, the Provider or any other person.

Where there is evidence available to the Department to form a view that the DES Provider has placed Participants in positions that are contrary to the objectives of the Deed, the Department may deem those placements to be contrived employment.
The Department monitors programme data for patterns of Employment Placements which indicate that a DES provider is contriving employment arrangements to maximise any benefits to the DES provider and/or Employers.

Where the Department has reasonable grounds to believe that a DES provider and another person have contrived Employment arrangements to maximise Job Placement Fees, Outcome Fees, performance ratings, Wage Subsidies or any other payments under the Deed, the Department may deem these placements to be Non-Payable Outcomes under paragraph (t) of the definition of ‘Non-Payable Outcome’ in Annexure A of the Deed.

If the Department determines that a DES provider has made a claim for an Outcome Fee in relation to a contrived Employment arrangement, the Department may exercise its right to seek remedies under the Deed including for breach under clause 56 of the Deed.

A position that is not in Open Employment
Paragraph (u) of the definition of Non-Payable Outcome in the Deed includes any “position that is not Open Employment as specified in any Guidelines.” This is intended to ensure Participants are assisted to find work in the open labour market in an integrated setting, alongside employees without disability.

‘Open Employment’ is defined in Annexure A of the Deed as “Employment where an employee with a disability is engaged in the mainstream workforce, alongside employees without disability and any requirements provided in the Guidelines have been met.”

Outcome Fees are not payable where a Participant is employed in an environment or under conditions which do not meet this definition of Open Employment. For the avoidance of doubt, self-employment is considered to be Open Employment.

Positions that are not in Open Employment
Positions in the following situations are not considered to be Open Employment:

- where a Participant is employed in a work crew, work area or enclave where the majority of the employees (excluding supervisors and support workers) have disability; or
- where a Participant is employed in an Australian Disability Enterprise (ADE) (not as an Australian Disability Enterprise participant) to do the same or similar tasks as Australian Disability Enterprise participants.

Indicators that the Placement is in Open Employment:

- The position is in the mainstream workforce;
- The Employer and any organisation where the Participant is placed by the Employer is a commercial business or organisation; or if it is a social firm or venture, is operating on a commercial basis;
- The position is available to the open labour market including people without disability; or involves functions and conditions comparable to those of a similar role in a commercial business;
• ADE participants are not part of the work area; or are present but perform duties that are entirely or substantially distinct from those of the Participant (the Participant must not be an ADE Participant);
• The position involves day-to-day contact with customers or non-employees without disability in the physical work environment;
• The position involves interaction with other employees (excluding supervisors and support workers) and non-employees in the physical work environment, a majority of whom do not have disability or are not in a work experience position e.g. Work for the Dole; and
• The position usually involves working independently without co-workers in the physical work environment.

Indicators that the Placement is not in Open Employment:
• The Employer and any organisation where the Participant is placed by the Employer is a social firm or venture focussing on the employment of people with disability and is not operating on a commercial basis;
• The position involves functions or conditions that are not comparable to those for a similar role in a commercial business;
• ADE participants are employed to perform duties that are mostly similar to those of the Participant even if at a lower level of independence, complexity or work rate; and
• The position involves interaction mainly with other employees and non-employees in the physical work environment, who have disability or are in a work experience position e.g. Work for the Dole.

Case studies and examples of Placements that are not in Open Employment are available in the Outcomes Supporting Document.

Departmental approval
In exceptional circumstances, DES Providers may seek prior approval from the Department to anchor an Employment Placement where the Provider considers that the position may not be in Open Employment, such as where a DES Participant would be employed in a work area where the majority of employees would have disability.

The Department will consider such requests for approval on a case by case basis. In any such cases, the Employment Placement must not be anchored until the Department notifies the DES provider that it has approved such a Placement.

Recurring employment
Paragraph (p) of the definition of Non-Payable Outcome in the Deed includes any “Recurring employment.” Unlike other Non-Payable Outcomes, Recurring employment placements may meet all of the outcome objectives of the DES programme. These Placements are considered Non-Payable Outcomes only because the Government has already paid the provider for achieving the outcome.

DES providers can normally claim one Outcome Fee for the 13 Week Period and one Outcome Fee for the 26 Week Period per Participant, per Period of Service. The Recurring employment Non-Payable Outcome means that DES providers can claim only one Outcome
Fee for a 13 Week Period and Outcome Fee for a 26 Week Period outcome per Participant over any number of Periods of Service, in respect of a particular Job Placement with a particular Employer.

**Outcome Fees and Recurring employment**
If a DES provider has claimed an Outcome Fee for a 13 Week Period, and the 26 Week Period subsequently ends, any further Placement into the same position by that DES provider is Recurring employment for the purposes of the 13 Week Period. If the Outcome Fee for the 26 Week Period has not been claimed, then the Placement would not be Recurring employment for the purposes of the 26 Week Period. In these circumstances a DES provider could choose to anchor a Recurring Placement and could claim an Outcome Fee for the 26 Week Period, where the Participant has met the requirements for both the 13 Week Period and the 26 Week Period.

**Ongoing Support and Recurring employment**
A Participant in a Non-Payable Outcome Placement is not normally eligible for Ongoing Support, because Non-Payable Outcomes do not normally meet the objectives of the DE programme. Where a Placement is a Non-Payable Outcome only because it is Recurring employment, the Participant may be eligible for Ongoing Support. This is because Recurring employment meets DES objectives and is a Non-Payable Outcome only because the Government has previously paid the provider for achieving the Employment Outcome.

Consistent with DES programme policy, Ongoing Support is available only where a Participant has met outcome requirements. The Participant must therefore be anchored in the Recurring employment Placement and supported to achieve the appropriate hours/earnings for the 13 Week Period and the 26 Week Period. After the DES provider has submitted a $0 claim for the 26 Week Period, the Participant can be moved to the appropriate level of Ongoing Support, consistent with normal processes.

**Pre-existing employment**
Paragraph (m) of the definition of Non-Payable Outcome in the Deed includes any “Pre-existing employment related activity, unless the Participant:

(i) is a Job in Jeopardy Participant; or
(ii) at Commencement, was working in that Pre-Existing employment related activity for less hours per week on average than their Employment Benchmark”

The purpose of this Non-Payable Outcome is to recognise that an outcome has been achieved only where the DES provider has assisted the Participant to improve their Employment arrangements. It does not apply to Job in Jeopardy Participants, who by definition have Pre-existing employment and for whom maintaining the level of the Pre-existing Employment is a programme objective.

A person is not eligible to commence DES where, at the time of Commencement, they are working in a Pre-existing employment activity at or above their Employment Benchmark. A person’s level of Pre-existing employment is considered to be their average working hours over the previous 13 working weeks, or the average hours worked over the Participant’s
Employment period in cases where the Participant has been employed for less than 13 weeks.

Where a Participant has Pre-existing employment at Commencement at fewer hours per week than their Employment Benchmark, they are eligible to commence DES. If the Participant’s Employment Benchmark is subsequently reduced below the hours of Employment worked in the Pre-existing employment at Commencement, the Pre-existing employment is considered a Non-Payable Outcome and the DES provider may not claim an Outcome Fee.

*Example:* A Participant is able to commence DES because their Pre-existing employment of 13 hours per week is below their Employment Benchmark of 15. If the Participant’s Employment Benchmark is subsequently reduced to 8, the Participant’s hours worked at Commencement are greater than their current Employment Benchmark, so the Pre-existing employment Placement is a Non-Payable Outcome.

The Pre-existing employment Non-Payable Outcome does not prevent a DES provider from claiming an Outcome Fee in instances where the Participant’s hours of Employment are increased to the relevant Employment Benchmark, either through additional hours in the Pre-existing employment position or through the addition of a new Employment position.

**Own Organisation/Related Entity**

Paragraph (v) of the definition of Non-Payable Outcome in the Deed includes any “employment within the Provider’s Own Organisation or a Related Entity, unless the Participant is so employed for:

(i) at least 13 Consecutive Weeks from the Anchor Date for a 13 Week Period; and
(ii) at least 26 Consecutive Weeks from the Anchor Date for a 26 Week Period,

in accordance with any Guidelines;

The purpose of this Non-Payable Outcome is to allow Outcome Fees to support genuine, ongoing Employment objectives. The DES provider can claim an Outcome where the Participant is employed by the Provider’s Own Organisation or a Related Entity at the beginning of the 13 Week Period and subsequently changes to a different Employer in either the 13 Week Period or 26 Week Period, provided that:

- the initial period of Employment in the Own Organisation or Related Entity was offered on an ongoing basis;
- the Participant is provided with normal Post Placement Support and searching for alternative Employment is not an activity listed in the Participant’s Employment Pathway Plan; and
- the Placement is not otherwise a Non-Payable Outcome.

If the Participant changes to a different Employer after initially being employed by the Provider’s Own Organisation or Related Entity and subsequently returns to the Provider’s Own Organisation or Related Entity, an Outcome Fee cannot be claimed.

Own Organisations and Related Entities cannot access wage subsidies and Own Organisations cannot claim Job Placement Fees. Therefore where a DES provider or Related Entity bears the full cost of ongoing Employment of the Participant, including at least the initial part of the 13
Week Period, the placement is regarded as being appropriate Employment in the Participant’s interest, and Outcome Fees are available.

If a Participant is placed with an Employer and subsequently moves to a Provider’s Own Organisation or Related Entity Placement, Outcome Fees cannot be claimed for the Placement. Use of a provider’s resources to ensure that a 13 Week Period or 26 Week Period continues until an Outcome Fee is available may indicate that alternative Employment for the Participant has failed, and that the 13 Week Period or 26 Week Period has been continued for the purposes of claiming an Outcome Fee.

**Qualifying Education Outcome**

Paragraph (w) of the definition of Non-Payable Outcome in the Deed includes any “Qualifying Education Course for which the DES provider has already received an Outcome Fee for a 26 Week Period for that Participant in a previous Period of Service”.

The purpose of this Non-Payable Outcome is to prevent DES participants from cycling through Education Outcomes. DES provides Outcome Fees for education courses to recognise that appropriate education enhances a Participant’s Employment opportunities and prospects. The focus of the DES programme is however to find and retain appropriate Open Employment Placements for Participants. Therefore after a DES provider has claimed an Outcome Fee for a Qualifying Education Course for a 26 Week Period further Outcome Fees may not be claimed for any subsequent Qualifying Education Course for the same Participant, in any subsequent Period of Service.

**Inappropriate work**

Paragraph (y) of the definition of Non-Payable Outcome in the Deed includes any “type of work which is inappropriate for the Participant based on their ESAt or JCA or because they only have a Partial Capacity to Work”.

The purpose of this Non-Payable Outcome is to ensure that DES providers consider a Participant’s circumstances before referring a Participant to a particular Placement.

A Participant’s ESAt or JCA includes information about a Participant’s disability, injury or health condition and an assessment of the severity of these conditions. Employment may be considered inappropriate under this Non-Payable Outcome where the nature and intensity of the duties of the Employment position are inconsistent with the Participants assessed condition in the ESAt or JCA, or the terms of their Partial Capacity to Work. For example, where a Participant has suffered a spinal injury, manual work involving lifting heavy objects would appear to be inappropriate.

The Department recognises that Participants may be able to work more than the maximum hours in the assessed capacity bandwidth in the Participant’s ESAt or JCA. Similarly, Participants with a Partial Capacity to Work can accept Employment well in excess of 15 hours per week and may work up to full-time hours. While the Participant’s work capacity and Employment Benchmark are determined in consideration of a Participant’s assessed condition, a Participant working above their assessed work capacity would not normally fall
under this Non-Payable Outcome unless the duties of their position are inconsistent with their disability, injury or health condition.

Where the Department is concerned that a Placement may be inappropriate based on the conditions set out in the Participant’s ESAt or JCA or because of their Partial Capacity to Work, the DES provider will first be contacted to determine whether there are reasons why the placement is appropriate. If a DES provider is concerned that a placement may appear to be inappropriate based on a Participant’s conditions, they are encouraged to retain relevant evidence about the Participant’s conditions or Employment duties.

If a DES provider is concerned that a Participant has found Employment that is inappropriate for their disability, injury or health condition, the Provider should discuss these concerns with the Participant. Where the Participant insists on continuing with the inappropriate Employment, the DES provider should document their conversation with the Participant. The DES provider should not set the Anchor Date for the Placement or claim Outcome Fees where they believe the Placement is inappropriate.