

# Managing and Monitoring Mutual Obligation Requirements Guidelines

**V 1.1**

**Disclaimer**
This document is not a stand-alone document and does not contain the entirety of Disability Employment Services Providers' obligations. It should be read in conjunction with the Disability Employment Services Grant Agreement and any relevant guidelines or reference material issued by the Department of Social Services under or in connection with the Disability Employment Services Grant Agreement.

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**Managing and Monitoring Mutual Obligation Requirements Guidelines**

### Document change history

| **Version** | **Effective Date** | **End Date** | **Change and location** |
| --- | --- | --- | --- |
| 1.1 | 3 Dec 2018 |  | References to program upper age limit updated to reflect alignment with the Aged Pension qualifying age.Mutual Obligation Requirements for mature age participants aged 55-59 years updated to reflect policy change from 20 September 2018.Added Documentary evidence requirement clarifications. |
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### Background

Job seekers generally have Mutual Obligation Requirements, such as looking for work and participating in Activities that will improve their employment prospects, in return for receiving taxpayer-funded income support paid by the Department of Human Services (DHS). The main aim of Mutual Obligation Requirements is to help a job seeker into paid work and reduce reliance on income support as quickly as possible. A secondary intent is for job seekers to contribute to the community that supports them while they are unemployed.

### Disability Employment Services Grant Agreement clauses:

Section 3C – Control of Protected Information

Section 3D – Records management

Section 5G – Job Plans

Section 5H – Targeted Compliance Framework and Activities

### Reference documents relevant to this guideline:

Learning Centre website

Targeted Compliance Framework Guidelines

Job Plan and Setting Mutual Obligation Requirements Guidelines

Disability Support Pension Recipients (Compulsory Requirements) Guidelines

Period of Service Guidelines

Programme Review, Programme Summary and Exits Guidelines

Social Security Act 1991

Guide to Social Security Law

### Explanatory Note:

All capitalised terms have the same meaning as in Disability Employment Services Grant Agreement. In this document, “must” means that compliance is mandatory and “should” means that compliance represents best practice.

**Managing and Monitoring Mutual Obligation Guidelines**

### Defining Mutual Obligation Requirements

Job seekers on the following Income Support Payments mustmeet their Mutual Obligation Requirements to receive their payment:

* Newstart Allowance
* Youth Allowance (other)
* Parenting Payment Single (when their youngest child turns six)
* Special Benefit (Nominated Visa Holders).

Job seeker Income Support Payments are generally paid in fortnightly instalments, so job seekers must have and satisfy sufficient Mutual Obligation Requirements for each fortnight that they are receiving Income Support Payments.

A job seeker’s Mutual Obligation Requirements are generally determined by considering the job seeker’s:

* age
* assessed work capacity, and
* whether they have primary responsibility for the care of a child.

Job seekers with full-time requirements should be looking for work full-time and actively addressing the individual circumstances that affect their capacity to undertake paid work.

Job seekers with part-time Mutual Obligation Requirements are:

* Principal Carer Parents whose youngest child is 6 years of age
* job seekers with a Partial Capacity to Work of 15 to 29 hours per week.

Job seekers’ Mutual Obligation Requirements include:

* entering into a Job Plan and fully complying with the requirements in their Job Plan
* attending all DHS and Provider appointments
* acting on referrals to jobs from their Provider and attending job interviews offered by employers
* undertaking Job Search (generally 20 Job Searches per month)
* participating in any Activity at any time that is relevant to their personal circumstances and will help the job seeker to improve their employment prospects.

A broad range of Activities can be used to meet a job seeker’s Mutual Obligation Requirements. For a list of Activities that can be used to meet a job seeker’s Mutual Obligation Requirements, see [Guide to Social Security Law 3.2.9.10](http://guides.dss.gov.au/guide-social-security-law/3/2/9/10).

Refer to the Job Plan and Setting Mutual Obligation Guidelines for information about Job Plan codes for a comprehensive range of Suitable Activities to meet a job seeker’s Mutual Obligation Requirements.

The Activities job seekers undertake must be included in their Job Plan as either a compulsory or voluntary Activity. There must be at least one compulsory Activity included in a Job Plan for job seekers with Mutual Obligation Requirements.

**If a job seeker fails to meet their Mutual Obligation Requirements, they have committed a Mutual Obligation Failure.**

**Please refer to the** [**Targeted Compliance Framework Guideline**](https://ecsnaccess.gov.au/sites/SecureSitePortal/jobactive/Guidelines/Pages/default.aspx)**s for more information.**

Voluntary Activities are not subject to the job seeker Targeted Compliance Framework.

**Determining Mutual Obligation Requirements**

DES Providers must identify a DES Participant’s strengths and identify any issues they have in finding employment when determining Mutual Obligation Requirements. They must ensure that any vocational and non-vocational Activities are tailored to address the Participant’s individual needs or reduced work capacity (if relevant).

DES Providers must create Activities designed to help Participants overcome or manage any vocational and non-vocational issues. See [Guide to Social Security Law 3.2.8.50](http://guides.dss.gov.au/guide-social-security-law/3/2/8/50) for a list of the types of Activities that can be included in a Job Plan.

For the purposes of Social Security Law, a Job Plan is an ‘Employment Pathway Plan’, and a ‘Participation Plan’ for Disability Support Pension recipients aged less than 35 years of age with compulsory requirements.

The Activities in the Job Plan must not place unreasonable demands on the DES Participant. The Participant must be capable of doing any Activity and meeting all requirements included in their Job Plan.

After consulting with the Participant, DES Providers must determine the Activities to meet their Mutual Obligation Requirements in accordance with the DES Grant Agreement, these Guidelines and Social Security Law. Providers should take into account the Participant’s preferences wherever possible. However, as a delegate of the Secretary of the Department of Jobs and Small Business, DES Provider staff will ultimately determine what requirements the Participant must satisfy to meet their Mutual Obligation Requirements under Social Security Law.

DES Providers must record the Activities and other relevant items in the Participant’s Job Plan, and schedule Activities in the Calendar. Where drug or alcohol dependency is impacting on the Participant’s participation, Providers must record refusal for treatment, or lack of treatment available in the local area in the Capability Management Tool. They can also record this information on the Job Seeker’s Personal Summary Page (‘What you need to know’).

Under Social Security Law, Participants must be formally notified of the dates, times and locations for attending appointments and participating in Activities, along with any special requirements such as wearing work boots and other safety gear.

**Considering a Participant’s circumstances**

When determining a Participant’s Mutual Obligation Requirements and setting the terms of a Job Plan, DES Providers must consult with the Participant and consider:

* individual circumstances – in particular, their assessed work capacity (where relevant), their capacity to comply with requirements and their personal needs
* education, experience, skills and age
* the impact of any disability, illness, mental condition or physical condition or other non-vocational issue that affects a Participant’s ability to work, look for work or participate in Activities – including drug and alcohol dependency
* the state of the local labour market and the transport options available to the Participant in accessing that market
* the participation opportunities and Activities available to the Participant
* their family and care responsibilities (including availability of child care)
* the length of travel time required to comply with the requirements (reasonable travel time is 90 minutes each way or, if the Participant is a Principal Carer Parent or has a Partial Capacity to Work, 60 minutes each way)
* the financial costs (such as travel costs) of complying with the requirements and the Participant’s capacity to pay for such costs
* whether the Participant has any vulnerability indicators (as identified by DHS) such as homelessness, psychiatric problems or mental illness, severe drug or alcohol dependency, or traumatic relationship breakdown
* any history of the Participant not complying with their Mutual Obligation Requirements (to ensure that they undertake appropriate requirements in return for tax-payer funded income support)
* cultural factors
* if they are an Early School Leaver
* where the Participant participated in Time to Work Employment Service, any comments and recommendations in the Time to Work Employment Service Transition Plan - (Providers can find the Transition Plan in the Department’s IT Systems)
* any other matters that the Provider considers relevant to the Participant’s circumstances (including if the Participant discloses that they are a victim of family violence).

(Guide to Social Security 3.2.8.10)

When setting the Participant’s Mutual Obligation Requirements, the Provider must review any barriers identified through an Employment Services Assessment (ESAt) or Job Capacity Assessment (JCA) or other issues disclosed to the Provider. The Job Seeker Classification Instrument and Capability Management Tool may also help identify personal issues that may affect a Participant’s employability. These will help the Provider decide on the Activities required of a Participant to meet their fortnightly Mutual Obligation Requirements.

Providers can find information on a Participant’s circumstances in the Participation Profile screen of the Department’s IT Systems.

Using the Capability Management Tool to review a Participant’s circumstances

The Capability Management Tool in the Job Plan section of the Department’s IT Systems is a recommended tool for Providers. It must be updated when conducting a Capability Interview. It can also be used to review and manage a Participant’s personal circumstances that may affect their capacity to participate in Activities or result in identifying specific vocational or non-vocational issues, including those disclosed by the Participant.

The Capability Management Tool can help Providers to:

* ensure that the Participant has requirement in their Job Plan appropriate to their circumstances
* include ESAt recommended Interventions in the Job Plan
* record additional vocational or non-vocational issues.

Providers should familiarise themselves with relevant DES Grant Agreement provisions in case Participants request access to their records in the Capability Management Tool

(DES Grant Agreement Clause 41, 45, Annexure A)

**Continuing voluntarily in Employment Services**

A DES Participant fully meeting their Mutual Obligation Requirements will be Suspended. A Participant may elect to participate voluntarily in services while they are Suspended after:

* being contacted by their Provider to discuss and agree to voluntarily participate while Suspended from DES
* notifying DHS, who will either call their Provider or book an Appointment for them
* contacting their Provider directly to request services.

If a Participant who is Suspended from employment services elects to voluntarily participate in employment services, the Provider must provide services to the Participant.

If a Participant who is fully meeting their Mutual Obligation Requirements participates voluntarily in employment services, Providers must not remove the relevant compulsory Activities that DHS has included in their Job Plan. Additional Activities included in the Job Plan must be added as voluntary.

**Mutual Obligation Requirements for Principal Carer Parents**

Providers must consider a Principal Carer Parent’s family and caring responsibilities, including the availability of suitable child care, when setting Mutual Obligation Requirements. During school terms, face-to-face Provider Appointments and participation Activities are to be scheduled during school hours (generally between 9.00 am to 3.00 pm) unless otherwise agreed to by the Principal Carer Parent.

The Department’s IT Systems will automatically identify time outside of school hours in the Principal Carer Parent’s Calendar. Providers will be able to set requirements at times outside school hours, including weekends. However, Providers will need to discuss this with the Principal Carer Parent to ensure they are available at that time and record the reason in the Department’s IT Systems. This information will be attached to the requirement.

Principal Carer Parents have part-time Mutual Obligation Requirements and can fully meet their requirements through 30 hours per fortnight of:

* paid work (including self-employment)
* approved study (see the section on [Approved Short Courses](#_Approved_study_and) in these Guidelines)
* Voluntary Work (as described below), or
* a combination of the above.

Providers can approve Voluntary Work for the purposes of a Principal Carer Parent fully meeting their Mutual Obligation requirements if:

* the Provider determines that the Principal Carer Parent lives in a poor labour market
* limited training opportunities are locally available (online courses may be considered ‘locally available’ if they have access to a computer)
* there is a significant vocational aspect to the Voluntary Work.

The Voluntary Work must be in an organisation approved by the DHS. For further information refer to the [Guide to Social Security Law 3.2.9.130](http://guides.dss.gov.au/guide-social-security-law/3/2/9/130).

If the Principal Carer Parent fully meets their Mutual Obligation Requirements through sufficient participation in the above Activities they cannot be required to complete Job Search or meet any other additional requirements.

A Principal Carer Parent who is fully meeting their Mutual Obligation Requirements through sufficient participation in paid work and/or study, may be eligible for a Provider Exit (which is processed manually by the Provider) if participation in the approved Activity is likely to be ongoing or last more than 13 weeks. See the DES Suspensions Supporting Document.

Where a Principal Carer Parent is either aged 55 years up to (but not including) the Pension Age or has a Partial Capacity to Work, the category of Mutual Obligation Requirement which gives the Participant a lesser work requirement should be applied.

Meeting Mutual Obligation Requirements for Principal Carer Parents during school holiday periods

If a Principal Carer Parent is unable to obtain suitable child care during the school holiday period, the Provider will need to make alternative arrangements to enable them to meet their Mutual Obligation Requirements. A Principal Carer Parent would not be required to attend an Activity outside of their home during the school holidays where appropriate care and supervision of their children is not available or affordable.

For example, during school holidays it may be appropriate to conduct all contacts with Principal Carer Parents by telephone or via Skype/face-time etc. Job Search can also be conducted from home or the Provider may also decide to reduce Job Search requirements over the school holiday period, while the Principal Carer Parent is caring for children during school holidays.

Principal Carer Parents must continue to meet their part-time Mutual Obligation Requirements during the school holidays except for the fortnight in which the Christmas public holiday falls.

(Guide to Social Security 3.2.9.10)

Principal Carer Parents - employer initiated shut down period over the extended Christmas/New Year school holiday break

Principal Carer Parents who are fully meeting their Mutual Obligation Requirements by working 30 hours a fortnight (including instances when working is one of a combination of Activities) are considered to be meeting their requirements during the employer initiated shutdown period over the extended Christmas/New Year school holiday period. This only applies to Principal Carer Parents who reasonably expect to continue in their employment when their employment resumes in the New Year.

The employer initiated shut down period break can only be taken while the place of employment is closed, up to a maximum of eight weeks. After eight weeks the Principal Carer Parent will be required to participate in other Activities to meet Mutual Obligation Requirements while the employer is in the shutdown period.

Inability to obtain suitable child care is a Valid Reason or Reasonable Excuse.

If the Principal Carer Parent is required to undertake an Activity but is unable to obtain suitable child care, they will have an Acceptable or Valid Reason to not undertake that requirement. If this occurs, alternative requirements must be set to enable the Participant to meet their Mutual Obligation Requirements.

**Mutual Obligation Requirements for Participant with a Partial Capacity to Work**

Participants have a Partial Capacity to Work if both their baseline work capacity and work capacity within two years of Intervention are less than 30 hours per week.

Mutual Obligation Requirements are based on a Participant’s work capacity within two years with Intervention. However, Participants are not required to immediately participate at the higher work capacity. Rather, the Participant’s capacity to participate can be increased through participation in a suitable program of assistance or other appropriate Activity.

When a Participant’s work capacity with Intervention is less than their baseline work capacity due to a deteriorating condition, their Mutual Obligation Requirements are based on their baseline work capacity.

Participants with an assessed Partial Capacity to Work of 15-29 hours per week can fully meet their part-time Mutual Obligation Requirements through 30 hours per fortnight of paid work including self-employment, approved study, or a combination of these Activities.

If they fully meet their Mutual Obligation Requirements through sufficient participation per fortnight in the above Activities these Participants cannot be required to undertake Job Search or meet other requirements. They also do not need to remain connected with a Provider and will be Suspended on a Provider’s caseload.

Participants with an assessed Partial Capacity to Work who are fully meeting their Mutual Obligation Requirements through sufficient participation in paid work and/or study, may be eligible for a Provider Exit (which is processed manually by the Provider) if participation in the approved Activity is likely to be ongoing or last more than 13 weeks.

Participant who have been assessed as having a Partial Capacity to Work of 0-14 hours per week can fully meet their Mutual Obligation Requirements by attending quarterly appointments with DHS. Where these Participants volunteer for DES, any other Activities included in the Job Plan by the DES Provider must be voluntary activities.

**Mutual Obligation Requirements for Participants with temporary reduced work capacity**

Participants may have a temporary medical condition with a temporary reduced work capacity applied by DHS (which is identified through an Employment Services Assessment). Participants will have reduced requirements for the period of their temporary reduced work capacity. Providers must take this into account when setting suitable approved Activities and the level of participation in the Job Plan.

A Provider may consider that a medical condition will temporarily impact upon a Participant but the Participant does not have a temporary reduced work capacity in the Department’s IT Systems. Providers should exercise judgement and take these personal circumstances into account when setting Mutual Obligation Requirements. Providers can also encourage relevant Participants to contact DHS so that a temporary reduced work capacity status can be considered.

Participants who have been assessed as having a temporary reduced work capacity of 15-29 hours per week can fully meet their Mutual Obligation Requirements through 30 hours per fortnight of paid work (including self-employment) approved study or a combination of these Activities.

If the Participant is fully meeting their Mutual Obligation Requirements through sufficient participation per fortnight in the above Activities they cannot be required to undertake any Job Search or meet other requirements. They do not need to remain connected to a Provider and will be Suspended from the Provider’s caseload.

Participants with an assessed temporary reduced work capacity who are fully meeting their Mutual Obligation Requirements through sufficient participation in paid work and/or study, may be eligible for a Provider Exit (which is processed manually by the Provider) if participation in the approved Activity is likely to be ongoing or last more than 13 weeks. See the Period of Service Guidelines, Program Review, Program Summary and Exits Guidelines and Exits Supporting Document.

Participants who have been assessed as having a temporary reduced work capacity of 0-14 hours per week can fully meet their Mutual Obligation Requirements through participation in a quarterly interview with the DHS.

(Guide to Social Security 3.2.8.10)

**Mutual Obligation Requirements for mature age Participants**

Participants aged 55 years up to (but not including) the Pension Age can meet their full-time Mutual Obligation Requirements by participating in paid work (including self-employment), approved Voluntary Work or a combination of these Activities, depending on their age and circumstances.

* If the Participant is aged 55 to 59 years and in their first 12 months of receiving an Income Support Payment, they can fully meet their Mutual Obligation Requirements by participating in 30 hours per fortnight of:
* paid work; or
* a combination of approved Voluntary Work and paid work. However, this must include at least 15 hours per fortnight of paid work.
* If the Participant is aged 55 to 59 years and has been receiving an Income Support Payment for more than 12 months, they can fully meet their Mutual Obligation Requirements by participating in at least 30 hours per fortnight of paid work, approved Voluntary Work or a combination of the two Activities.
* If the Participant is aged 60 years up to (but not including) the Pension Age, they can fully meet their Mutual Obligation Requirements by participating in at least 30 hours per fortnight of paid work, approved Voluntary Work or a combination of the two Activities.

These Participants are not subject to other requirements (such as Job Search requirements) if they are meeting their Mutual Obligation Requirements in this way.

Participants should remain connected with a Provider but will be Suspended on a Provider’s caseload. However, Providers can continue to refer them to job opportunities.

These Participants still have full-time Mutual Obligation Requirements until they obtain a full-time job or no longer receive income support.

DHS will make an initial Appointment with the Provider for Participants aged 55 years of age up to (but not including) the Pension Age, even if they are already satisfying their Mutual Obligation Requirements (as above). Participants who fail to attend this Appointment or any other notified Provider Appointments or who fail to accept referrals to jobs, may be subject to action under the Compliance Framework. See Targeted Compliance Framework Guidelines.

**Mutual Obligation Requirements for some Ministers of Religion**

Ministers of Religion who are either a Principal Carer Parent or have a Partial Capacity to Work will be regarded as fully meeting their part-time Mutual Obligation Requirements by undertaking at least 30 hours per fortnight of paid pastoral work for their religious organisation.

Monitoring by the Department of Human Services for Participants fully meeting their requirements

For the above cohorts of Participants, DHS will determine whether a Participant is fully meeting their Mutual Obligation Requirements. If DHS establishes that they are participating sufficiently in appropriate Activities, they will update the Participant’s Job Plan to include the Activities they are undertaking to fully meet their Mutual Obligation Requirements. Once DHS determines a job seeker is fully meeting their Mutual Obligation Requirements, the Participant will be a DHS managed job seeker or exited from the Provider’s caseload.

The exception is if a Participant is in Post Placement Support or Ongoing Support. For these Participants, ongoing servicing and updating the Participant’s Job Plan will continue to be done by the DES Provider as appropriate. See Suspensions Supporting Document.

**Sufficient work test**

The decision that a Participant is doing sufficient work would generally be restricted to cases where the person can fully meet their Mutual Obligation Requirements while still receiving some payment and the person can demonstrate a stable pattern of employment and earnings (e.g. permanent part-time work). If there is significant variation in hours worked and earning from fortnight to fortnight, whether a Participant’s work fully meets their Mutual Obligation Requirements must be determined fortnightly.

Self-employment will satisfy the sufficient work test if the Participant is working at least their required number of hours and the taxable income provides the equivalent of the national minimum wage rate for the minimum required hours. If self-employment does not satisfy the sufficient work test, the Participant will generally be required to look for alternative work.

* **Documentary evidence:** Providers must document a Participant’s satisfactory participation in self-employment.

If a Participant’s commitment to their business Activities interferes with required Job Search or other Activities, the person will usually not be considered to be ‘unemployed’ for the purpose of qualifying for income support.

(Guide to Social security 3.2.2.10)

**Mutual Obligation Requirements for Early School Leavers**

An Early School Leaver is a person who receives Youth Allowance (other), is aged under 22 years and has not completed Year 12, the final year of secondary school or an equivalent Australian Qualifications Framework Certificate III level or above.

Until they turn 22 years of age or attain Year 12 or an equivalent qualification, Early School Leavers are generally required to participate in:

* full-time education or training with no Job Search requirement, including Certificate I and II level courses
* a combination of part-time education or training and part-time work for a total of 25 hours per week (15 hours for Principal Carer Parents and those with a Partial Capacity to Work of 15 to 29 hours per week) and no Job Search requirement
* other approved Activities for 25 hours per week (15 hours for Principal Carer Parents and those with a Partial Capacity to Work of 15 to 29 hours per week), including the requirement to do up to 20 Job Searches per month.

Early School Leavers who are eligible for PaTH Internship Placements must still undertake Job Search.

Once an Early School Leaver has completed Year 12 or an equivalent qualification or turns 22 years of age, they will no longer be an Early School Leaver. They will be subject to the Mutual Obligation Requirements that apply to other Participants.

Verification of an Early School Leaver’s qualifications

Only DHS can verify a Year 12 or equivalent qualification to determine whether a young person is no longer an Early School Leaver. DHS will accept any of the following:

* a Year 12 certificate issued by a Senior Secondary Board of Studies
* an Australian Qualification Framework Certificate III
* a higher qualification issued by a Registered Training Organisation or higher educational institution
* a Certificate III or IV of General Education for Adults
* the International Baccalaureate
* other higher education pre-entry course.
* **Documentary evidence**: Providers must fax an Early School Leaver’s qualifications to the DHS Business Hotline on 1300 786 102. Sight the original and send a copy of completed cover sheet with Attachment A. If the original qualification has been lost or destroyed, a certified copy of the qualification or a letter from the education institution formally verifying attainment of the qualification will be accepted. If none of these can be obtained, a statutory declaration from the Early School Leaver will be accepted. The statutory declaration must include the name of the course, date completed, name of institution and institution contact details, and must be appropriately certified. Do not send verification requests to DHS if the education level is below Year 12.

If DHS does not accept the qualification, they will contact the Provider. Providers must contact the Early School Leaver to advise them of the reason the qualification was not verified.

**System step**: Where accepted by DHS, update the education level information in the Job Seeker Classification Instrument to reflect the Early School Leaver’s advised higher level of educational attainment.

(DES Grant Agreement references: Clause 94.5. Guide to Social Security 3.2.9.95)

**Mutual Obligation Requirements for pregnant Participants**

Generally, Mutual Obligation Requirements for pregnant Participants will not change during the first two trimesters of pregnancy. However, Providers must take into account the Participant’s personal circumstances when setting their Mutual Obligation Requirements.

Pregnant Participants will not be required to undertake Job Search from three months before their due date. During this time, Providers cannot compel these Participants to accept job offers or referrals to job interviews.

Pregnant Participants will be exempt from Mutual Obligation Requirements six weeks from their expected due date.

(Guide to Social Security 3.5.1.230)

**Participants exempt from Mutual Obligation Requirements**

If a Participant is temporarily unable to meet their Mutual Obligation Requirements, DHS may grant an Exemption from requirements for a specified period. This recognises the different family and personal situations that Participants face and can prevent them from participating in Job Search, paid work, Work for the Dole, vocational training or a range of other Activities designed to improve their employment prospects.

The types of Exemptions that may be applied include but are not limited to the following situations:

* temporary medical incapacity
* serious illness
* pre and post natal
* children with a disability or other special family circumstances
* domestic violence
* other special circumstances.

If a Provider believes that the Participant does not have the capacity to meet their Mutual Obligation Requirements, the Participant should contact DHS to test their eligibility for an Exemption. Participants will need to provide evidence to support their claim.

If applying for an Exemption due to a temporary medical condition, the Participant will need appropriate evidence, for example an approved medical certificate.

However, DHS should wherever possible reduce a Participant’s Mutual Obligation Requirements rather than exempting them completely.

Participants granted an Exemption will be Suspended from a Provider’s caseload for the period of the Exemption. Some Participants with longer-term Exemptions may be Exited from a Provider’s caseload. However, Participants may voluntarily choose to continue participating with employment services.

 ([Guide to Social Security Law](http://guides.dss.gov.au/guide-social-security-law) [3.2.11](http://guides.dss.gov.au/guide-social-security-law/3/2/11), [3.5.1.220](http://guides.dss.gov.au/guide-social-security-law/3/5/1/220), [3.5.1.230](http://guides.dss.gov.au/guide-social-security-law/3/5/1/230), [3.5.1.250](http://guides.dss.gov.au/guide-social-security-law/3/5/1/250), [3.5.1.260](http://guides.dss.gov.au/guide-social-security-law/3/5/1/260), [3.5.1.270](http://guides.dss.gov.au/guide-social-security-law/3/5/1/270), [3.5.1.280](http://guides.dss.gov.au/guide-social-security-law/3/5/1/280) and [3.7.5.30](http://guides.dss.gov.au/guide-social-security-law/3/7/5/30)).

Participants subject to domestic violence

If there is any suspicion of domestic violence (including family violence) then Providers must refer the Participant to a DHS social worker. Providers should also refer a Participant to one of the national or state-based organisations for advice and information about domestic violence.

Providers notified of domestic violence (including family violence) as the reason for not meet Mutual Obligation Requirements, must consider this in their assessment of Valid Reason.

If a Participant is subject to domestic violence (including family violence), DHS will make an assessment on whether an Exemption is granted and the appropriate length of the Exemption from their Mutual Obligation Requirements.

If the Participant is a Principal Carer Parent and subject to domestic violence, DHS **must** grant an Exemption.

**Suitable Activities to meet Mutual Obligation Requirements**

Providers must consider a Participant’s individual circumstances when setting the Participant’s Mutual Obligation Requirements.

Providers must include approved Activities in the Participant’s Job Plan that will enable the Participant to meet their Mutual Obligation Requirements using the correct Job Plan code linked to the Activity scheduled in the Calendar.

Depending on a Participant’s circumstances, there is a range of Activities the Participant may undertake to meet their Mutual Obligation Requirements (some of which are described below).

National Work Experience Programme

The National Work Experience Programme provides voluntary short-term placements for Participants aged 17 years or over, regardless of whether the Participant is receiving full or part rate of income support payment.

PaTH Internship Placements

Young Participants aged between 17 and 24 years*,* with Mutual Obligation Requirements, can participate in a PaTH Internship after six months of continuous servicing in jobactive, Transition to Work or DES.

For example, to reach the six months servicing requirement, a Participant could do six months in DES, or two months in DES followed by four months in jobactive.

Early School Leavers can participate in a PaTH Internship (after continuous servicing). PaTH Internship placements are to be included in the Job Plan as a voluntary item. However, if the Participant fails to participate, then the Provider will need to place them in an alternative compulsory Activity.

See the Managing PaTH Internship Guidelines for further information.

Approved study and short courses

Most people who undertake approved Full-Time Study are placed on a student payment such as Austudy, Youth Allowance (student) or ABSTUDY Living Allowance. Participants undertaking Full-Time Study should be advised to test their eligibility for a student payment with DHS.

Participants on income support payments such as Newstart, Youth Allowance (other) and Parenting Payment Single may participate in certain approved education or training.

Providers are responsible for identifying what training relates to skills in demand in each particular Employment Region.

Determining what is an appropriate course of study

Providers can approve a Participant’s participation in tertiary study or training under the following short course provisions:

* vocationally based
* less than 12 months or two semesters in duration
* the Participant has a semester or six months full-time equivalent remaining to complete their course and the course would greatly improve their employment prospects
* the Provider determines that participation is necessary and the course is vocationally orientated
* highly likely to provide a Participant with a qualification that will result in an Employment Outcome, improve their employability or lead to qualifications in an identified skills in a demand area as determined by the Provider
* the Participant is a single Principal Carer Parent on Newstart Allowance and has been granted Pensioner Education Supplement (PES) for the academic course (or longer course that is 12 months or more). For the purposes of meeting their Mutual Obligation Requirements, a single Principal Carer Parent on Newstart Allowance can continue to undertake the study for which Pensioner Education Supplement was granted as an approved Activity until that course has been completed. Providers need to sight evidence that the single Principal Carer Parent on Newstart Allowance is in receipt of Pensioner Education Supplement for that course
* the Participant is in receipt of Parenting Payment Single (this study would usually be approved by DHS)
* the Participant is a Parenting Payment recipient who transfers to Newstart Allowance or Youth Allowance (other) and in some limited instances where a Participant was granted the Disability Support Pension and then transferred to Newstart Allowance or Youth Allowance (other). They are able to continue their studies in the same course they commenced while receiving Parenting Payment or Disability Support Pension (this would usually be approved by DHS) for which they receive the Pensioner Education Supplement (PES).

Providers cannot approve, under short course provisions, full-time courses of 12 months (two semesters) or longer in duration, or Masters courses or Doctorate courses.

Note: Participants in receipt of Special Benefit (NVH) who have not attained a Year 12 or equivalent qualification, may undertake full-time study in a school institution up to Year 12. These Participants will still be required to attend Provider appointments and undertake up to 20 Job Searches per month.

Approving a Short Course

Providers are responsible for making approval decisions under approved short course provisions.

An approved short course must be included as a compulsory Activity in the Participant’s Job Plan.

Where a Provider approves the Activity as an approved short course and includes it in the Participant’s Job Plan then the Participant must still look for work and attend appointments with their Provider as long as it does not conflict with the scheduled time of the course. Participants with full time mutual obligation requirements cannot fully meet their requirements with full time study. They are required to accept any suitable work that does not conflict with scheduled course times and must not limit their Job Searches to areas relating to the course.

A Principal Carer Parent or Participant with a Partial Capacity to Work of 15 to 29 hours per week undertaking an approved short course for at least 30 hours per fortnight is considered to be fully meeting their part-time Mutual Obligation Requirements. These recipients are managed by DHS and will be Suspended from the Provider’s caseload.

**Breaks in Activities**

If a Participant has a break in an Activity which is required to satisfy their Mutual Obligation Requirements, then the Provider must update the Participant’s Job Plan with other Activities to meet their Mutual Obligation Requirements.

There is no need to adjust a Participant’s requirements if they have a break of less than or equal to four weeks that is outside their control. If the break is greater than four weeks then the Participant must do other requirements, such as Job Search, for the period of the break. Update the Job Plan with the new requirements.

(Guide to Social Security 3.5.1.70)

### Suitable work

Participants must actively look for work and be prepared to accept any offer of suitable work in a variety of fields. Any work can be considered suitable provided it meets certain safeguards set out in Social Security Law, such as minimum statutory conditions and related health and safety considerations.

‘Suitable work’ includes any work that a Participant is capable of doing, not just work the Participant prefers to do or is specifically qualified for. This can include casual or permanent, and part-time or full time work depending on the Participant’s assessed capacity. Participants are required to accept suitable work that may not be their first preference while they continue to look for work that better matches their qualifications, expertise and interest.

Work is unsuitable if it:

* involves skills, experience or qualifications that the person does not have and appropriate training will not be provided by the employer
* is above the Participant’s assessed work capacity within the next two years with intervention
* may aggravate a pre-existing illness, disability or injury and medical evidence has been provided
* involves health or safety risks and would contravene an occupational health and safety law
* has terms and conditions which are less generous than the applicable statutory conditions
* involves commuting from home to work that would be unreasonably difficult (more than 60 minutes one way for Principal Carer Parents and those with Partial Capacity to Work and more than 90 minutes one way for other Participants)
* involves enlistment in the Defence Force or the Reserve Forces
* requires the person to change residence.

(Guide to Social Security Law 3.2.8.60)

**Unsuitable work for Principal Carer Parents**

In addition to the above ‘unsuitable work’, Principal Carer Parents cannot be required to accept employment of more than 25 hours a week. Additionally, Providers should consider whether:

* the Principal Carer Parent has access to appropriate care and supervision for their child/children during the times when they would be required to work
* the location of either the workplace or the child care facility would make the total travel time to and from work unreasonable
* the Principal Carer Parent will be at least $50.00 a fortnight financially better off as result of working.

Work is unsuitable for Principal Carer Parents if they do not have access to appropriate care and supervision for their children at the times when they would be required to work.

(Guide to Social Security Law 3.2.8.50)

If a job offer to the Principal Carer Parent involves employment outside school hours or in school holidays, a job is generally considered suitable if there is appropriate care and supervision for a child during the hours of work (including the travel to and from work). Suitable care and supervision means:

* child care provided by an approved child care service (within the meaning of the Family Assistance Administration Act 1999).
* any other care or supervision arrangements that the parent deems suitable, or
* the child is attending school.

**Unsuitable work for Participants with a Partial Capacity to Work**

In addition to the list above of ‘unsuitable work’, work is unsuitable for Participants with a Partial Capacity to Work if:

* it does not provide appropriate support or facilities to take account of the illness, disability or injury
* the total cost of participating in employment means that the Participant would be financially worse off as a result of undertaking the work. Examples include personal care requirements incurred by the Participant to get ready for work or while on the job; disability aids required for participation in the job that are not covered by the Employer and the cost of travel to and from the job by the Participant’s means of transport.

### 3. Job Search Requirements are an important part of Mutual Obligation Requirements

Providers must set the number of Job Searches a Participant is required to undertake per month in accordance with the DES Grant Agreement, these Guidelines and Social Security Law. Providers must specify this in the Participant’s Job Plan.

Participants with Mutual Obligation Requirements will usually have to look for work.

The number of Job Searches generally expected of Participants (including Principal Carer Parents and those with a Partial Capacity to work of 15 to 29 hours per week) is dependent on the individual’s capacity.

Participant cannot be required to do more than 20 Job Searches per month.

See [Guide to Social Security 3.2.9.30](http://guides.dss.gov.au/guide-social-security-law/3/2/9/30) for additional information on setting Job Search requirements.

(DES Grant Agreement reference: Section 5G)

**Participants who do not have Job Search Requirements**

The following Participants will not be required to undertake Job Search while they are fully meeting their Mutual Obligation Requirements

* Principal Carer Parents
* those with a Partial Capacity to Work of 15 to 29 hours per week
* Participants aged 55 and over

Pregnant Participants will not be required to undertake Job Search from three months before their due date.

NEIS Prospective Participants who have been assessed as NEIS Eligible but have not yet signed a NEIS Participant Agreement will have their Job Search requirements reduced to zero while participating in NEIS Training.

NEIS Participants in receipt of Parenting Payment (Single) or the Disability Support Pension are able to choose to remain on their current payment or move to NEIS Allowance. Where they remain on their current payment while participating in NEIS Assistance and actively working on their small business, they do not have Job Search or other Mutual Obligation Requirements.

Early School Leavers who are meeting their Mutual Obligation Requirements through full-time education or a combination of part-time study and part-time work of 25 hours per week (15 hours for those with part-time Mutual Obligation Requirements) mustnot have any Job Search requirements in their Job Plan.

Recording Job Search requirements in the Job Plan

When setting compulsory Job Searches, Providers must use the JS09 code. The Department is actively monitoring Job Plans.

In some Exceptional Circumstances, Job Searches may not be required for a limited period while non-vocational issues are actively being addressed. In these cases, where no Job Searches are contained in a Job Plan, Providers must document the reason in the comments field of the Department’s IT Systems.

Circumstances that may reduce Job Search requirements

Providers must not reduce the number of Job Searches a Participant is required to undertake merely because the Participant is undertaking other Activities.

Providers may reduce the number of Job Searches as a result of a Participant’s:

* physical, intellectual or psychiatric impairment
* treatment for drug and alcohol dependency – (in some Exceptional Circumstances to have no Job Searches)
* substantially elevated level of family and caring responsibilities
* accommodation situation, where this is likely to impede Job Search
* education or skill level, where this is likely to substantially limit job opportunities
* current employment status (part-time or casual work)
* domestic violence (including family violence) or family relationship breakdown (DHS may grant an Exemption from Mutual Obligation Requirements in these circumstances)
* level of English language skills, if Participant is doing a course to improve these skills
* cultural factors
* the state of the labour market and the transport options available to the person in accessing that market, for example, taking into account travel time.

(Guide to Social Security 3.2.9.30)

Job Search requirements while studying Language, Literacy and Numeracy courses

If a Provider has identified that a Participant needs to improve their Language Literacy and Numeracy skills, the number of required Job Searches may be reduced (but not reduced to zero) while the Participant is actively participating in an accredited Language Literacy and Numeracy course. Approved courses include the Skills for Education and Employment program and the Adult Migrant English Program. Providers must ensure that the Participant has some Job Search requirement recorded in their Job Plan while participating in these programs.

Job Search requirements for Participants aged 60 years and over

The number of Job Searches required by Participants aged 60 years and over depends on their capacity. Generally, 10 Job Searches per month are expected.

In setting an appropriate number of Job Searches, in addition to other considerations, Providers may also consider:

* other non-vocational issues or vocational issues that are being, or have been addressed
* if the Participant has undertaken re skilling or re-training

Job Search requirements for those in paid work

For Participants with full-time Mutual Obligation Requirements:

* if doing at least 40 hours of declared paid work (including self-employment)
* per fortnight then the number of Job Searches should be halved. If the Participant is doing a significant number of hours of paid work per week and receiving only a residual amount of income support, the number of Job Searches may be reduced further.
* if doing at least 70 hours of declared paid work (including self-employment) per fortnight then the Participant should have no Job Search requirement.

For Participant with part-time Mutual Obligation Requirements (Principal Carer Parents and those with a Partial Capacity to Work of 15 to 29 hours per week):

* if doing 11 to 29 hours of declared paid work (including self-employment)
* per fortnight, the number of Job Searches should be halved
* if doing 30 hours or more of declared paid work (including self-employment) per fortnight, the Participant should have no Job Search requirement.

Job Search requirements for Early School Leavers who are not meeting their requirements through study or paid work

Early School Leavers who are meeting their Mutual Obligation Requirements through approved Activities other than just paid work and study for 25 hours per week (15 hours for Principal Carer Parents and those with a Partial Capacity to Work of 15 to 29 hours per week) must have up to 20 Job Searches per month in their Job Plan.

### 4. Privacy and information sharing

Providers must comply with Social Security Law and Australian privacy legislation. A Participant's Personal Information must only be used or disclosed for the purpose it was collected, except in limited circumstances such as where the Participant gives permission or where Commonwealth laws allow or other special circumstances.

Providers should seek independent legal advice if they have any concerns regarding their obligations under any privacy or other legislation. For further information, refer to the [Privacy Guideline](https://ecsnaccess.gov.au/sites/SecureSitePortal/jobactive/Guidelines/Servicing/Pages/default.aspx).

(DES Grant Agreement references: Section 3C)

**Sharing Job Plans with SEE or AMEP Providers**

Providers should encourage Participants participating in the Skills for Education and Employment (SEE) program or Adult Migrant English Program (AMEP) to share their Job Plans with their SEE or AMEP Providers in order to make them aware of their full Mutual Obligation Requirements.

### 5. Summary of Required Documentary Evidence

* **Documentary evidence:** Where job seekers have used evidence to record their attendance directly into the Department’s IT System, offline records are not required to be kept. The same applies where Activity attendance information has been entered by the Activity Host Organisation into the Supervisor App or directly into the Department’s IT System, offline records are not required to be kept.
* **Documentary evidence:** In addition to recording the relevant information in the Department’s IT System, Providers must retain the following additional forms of evidence (either hard copy or soft copy):
* timesheets or other records of attendance, including information collected through the Supervisor App, where used
* a statement of attainment or similar (for accredited education)
* an invoice for services or a letter of acceptance into a program (for non-vocational interventions including drug or alcohol treatment and rehabilitation programs and preventative health treatments and interventions)
* Activity Host Organisation Agreements for Work for the Dole, Voluntary Work, the National Work Experience Programme, Work Experience (Other) and PaTH Internships.
* risk assessment documentation which details that all Grant Agreement and relevant guidelines requirements have been considered for both the Participant and the Activity (for Activities where risk assessments are required to be undertaken).

**Notification to Participants of their Mutual Obligation Requirements**

* The Provider must notify Participant of their Mutual Obligation Requirements in accordance with the reasonable notice timeframes for the relevant method of notification.
* The Provider must create a notification record in the Department’s IT Systems, identifying the method of notification used (i.e. SMS, email or letter).
* If the Provider is in direct contact with the Participant, the Provider must record as the notification method that the appointment was booked directly with the Participant.
* Where an Activity or Appointment is rescheduled by the Provider, formal notification must be issued to the Participant of their new requirements.

Note*:* If the Provider chooses to record the Participant's Activity details in the Activity Diary, this will help them to issue notification of the specific details of participation in an Activity to the Participant.

(DES Grant Agreement reference: Section 5H)

**Approved Activities**

* **Documentary evidence**: In addition to recording the relevant information in the Department’s IT Systems, Providers must retain the following additional forms of evidence (either hard copy or soft copy):
* timesheets or other records of attendance, including information collected through the Supervisor App, where used
* a statement of attainment or similar (for accredited education)
* a signed training notice or signal notice (for Defence Force Reserves)
* an invoice for services or a letter of acceptance into a program (for non-vocational interventions)
* Activity Host Organisation Agreements for Work for the Dole, Voluntary Work, the National Work Experience Programme and Work Experience (Other) Placements
* risk assessment documentation which details that all DES Grant Agreement and relevant guideline requirements have been considered for both the Participant and the Activity (for Activities where risk assessments are required to be undertaken)
* payslips or Employer payroll summaries (for part-time work)
	+ For both self-employment and part-time/casual paid work, income reported by the Participant to DHS to stimulate a Participant’s income support payment is acceptable documentary evidence. This information is available from the Case Summary Screen of the Department’s IT Systems (Job Seeker Information – View Declared Earnings). The information provided indicates both the earnings and the hours worked
	+ Additionally, documentary evidence for self-employment can include:
		- a Profit and Loss Statement
		- a signed and dated written statement from an accountant and/or registered bookkeeper
		- copies of records from the Australian Taxation Office and/or a tax return statement
		- a Business Activity Statement.

Where Activity attendance information has been entered by the Activity Host Organisation into the Mobile Supervisor’s App or directly into the Department’s IT Systems, or the Participant has used evidenced based recording of attendance, offline records are not required to be kept.

Providers must record Participants’ attendance at their internship and record the hours completed by the Participant at the end of each month.

### Attachment A – Early School Leaver Facsimile Cover Sheet

Fax to: DHS Business Hotline **1300 786 102**

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**Verification of Year 12 or equivalent qualification**

**(Office use only: CBHESL)**

Attached to this Verification Facsimile Cover Sheet is evidence of a completed Year 12 or equivalent qualification (i.e. Certificate III or higher) for:

|  |  |
| --- | --- |
| DES Participant’s name  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  |
| CRN | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**Declaration by Provider**

I have sighted:

(***tick*** *as to which applies*)

|  |  |
| --- | --- |
|  | * the original qualification
 |
|  | * a certified true copy of the qualification
 |
|  | * a letter from the relevant school or educational institution formally verifying attainment of the qualification
 |
|  | * a Statutory Declaration detailing the name of the course, date completed, institution and institution contact details.
 |

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name (Please print): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Organisation: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Office telephone & fax numbers: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Number of pages (including cover sheet): \_\_\_\_\_\_\_\_\_\_