

# DES Restart Agreement 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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DES Restart Wage Subsidy Guidelines

## Document Change History

| Version | Effective Date | End Date | Change and Location  |
| --- | --- | --- | --- |
| 1.1 | 3 December 2018 |  | Clarified policy intentUpdate terminology Clarified participant Eligibility (p.5)Clarified Placement Eligibility (p.7)Clarified Kickstart payment calculation (p.11) |
| 1.0 | 1 July 2018 | 2 December 2018 | Original version of document  |

## Explanatory Note

All capitalised terms have the same meaning as in the *Disability Employment Services Grant Agreement* (the Grant Agreement). In this document, ‘must’ means that compliance is mandatory and ‘should’ means that compliance represents best practice and that compliance is discretionary.

## Disclaimer

This Guideline is not a stand-alone document and does not contain the entirety of Providers’ obligations. It must be read in conjunction with the Grant Agreement and any relevant Guidelines or reference material issued by the Department of Jobs and Small Business and Department of Social Services under or in connection with the Grant Agreement.

## Summary

This Guideline details the requirements for Providers to manage Restart Agreements and sets out the rules that apply to Restart under the Grant Agreement.

Providers are expected to build strong relationships with Employers and use Restart Agreements to broker Employment opportunities for eligible Participants so that they can be retained in the job.

All Restart Placements must average at least 20 hours of work per week over the 26 week duration of the Restart Agreement.

## Policy Intent

Restart assists income support and pension recipients to move off income support and into paid Employment by supporting employers to hire mature age Australians into sustainable ongoing Employment opportunities by contributing to the initial costs of recruitment, training and wages.

## Relevant References

Reference documents relevant to this Guideline include:

* Restart Programme Supporting Document
* Documentary Evidence Guidelines
* Learning Centre website
* Vacancy, Participant Placement and Participant Outcome Guidelines
* Employment Services Risk Management & Programme Assurance

## Restart Agreement Information

| Process | Details |
| --- | --- |
| **Promotion of Restart Agreement***Disability Employment Services Grant Agreement Clauses References:** Clause 102.1
 | **Promoting the Restart Agreement**Providers can use the Restart Agreement to broker Employment opportunities for eligible Participants.In promoting Restart, Providers must be aware of the following principles:* providing value for money
* complying with any work, health and safety requirements under the relevant state or territory legislation
* withstanding public scrutiny
* not bringing Employment Provider Services or the Australian Government into disrepute.

Providers must promote to Employers the use of online agreements and the free mobile jobactive Employer App, available from the [jobactive website](http://www.jobactive.gov.au/), iTunes and Google Play. The app assists Employers to manage their Restart Agreements. Employers can use the app to sign agreements online and submit Documentary Evidence when requesting a Restart Payment. Hard copy Agreements are intended for use in very limited circumstances, such as where the Employer has no, or limited, access to the internet. |
| Participant Eligibility*Disability Employment Services Grant Agreement Clauses References:** *Clause 102.1*
 | **Participant Eligibility**A participant who meets the eligibility requirements for a Restart Agreement is referred to as a Restart Participant. The eligibility requirements for the Restart Agreement are detailed below. A Participant can only receive one wage subsidy at any given time. The Department’s IT Systems determine a Participant’s eligibility for the Resart Agreement. Providers should also check eligibility in accordance with Social Security Law, the Grant Agreement and this Guideline.If a Provider determines the Department’s IT Systems have incorrectly determined Participant eligibility, the Provider must contact their Relationship Manager to discuss the issue. A participant is eligible for Restart if they:* are 50 years of age or older
* have received any Department of Human Services (DHS—Centrelink) or the Department of Veterans’ Affairs Income Support Payments or pensions (including Age Pension or Austudy) for the last six months
* are registered with a DES Provider at the time the Restart Agreement is created in ESS Web.

If the Restart Participant is not already registered or commenced with a Provider, the Provider must register the Restart Participant as a Volunteer and create the Agreement within 12 weeks (84 days) from the Restart Placement. This is so the Provider can finalise the creation of the Agreement with the Employer within the 84 days required under the Guideline. |
| Not eligible- Family Members | **Not eligible – Family Members**Participants must not be immediate family members of the Employer. The Department uses the following definitions of immediate family members from the [*Fair Work Act 2009*](https://www.fairwork.gov.au/about-us/legislation):1. an immediate family member of the employee as:
	1. a spouse
	2. de facto partner
	3. child
	4. parent
	5. grandparent
	6. grandchild or sibling.
2. an immediate family member of the spouse or de facto partner of the employee as:
	1. a child
	2. parent
	3. grandparent
	4. grandchild or sibling.

The Department interprets this to include in-laws of both the employee and their partners to ensure no conflict of interest, real or perceived, or a person gaining an unfair advantage due to a family relationship compared with another member of the public.**Examples:*** The Restart Participant cannot be the Employer’s brother.
* The Restart Participant’s spouse cannot be the Employer’s sister.
* The Restart Participant could be a niece, nephew or cousin of the Employer.
 |
| Partial Capacity to Work (PCW) | **Partial Capacity to Work (PCW)**Restart Participants with an assessed PCW are eligible for a Restart Agreement where they work an average of at least 20 hours per week over the 26 weeks of the Restart Agreement and meet all other eligibility requirements.The Provider must take into account the Restart Participant’s Employment Services Assessment (ESAt) when determining the suitability of the Restart Placement. A Restart Participant must not be compelled to undertake more than their assessed PCW hours but they may volunteer to do so.  |
| Placement Eligibility*Disability Employment Services Grant Agreement Clauses References:**Clause 102.1* | **Placement Eligibility**A Restart Placement can be:* full-time, part-time or casual Employment
* an apprenticeship or traineeship
* found by the Provider or directly by the Restart Participant.

A Restart Placement must:* be declared by the Employer as a sustainable, ongoing position, offering an average of 20 hours per week over the 26 week duration of the Wage Subsidy Agreement, and expected to last more than 26 weeks
* comply with Employment standards for the position as established under all relevant Commonwealth, state or territory law (for example, is it suitable work under social security law that pays the minimum national award wage)
* be recorded by the Provider in the Department’s IT Systems
* not be in pre-existing Employment with the Employer within the previous six months
	+ paid work trials recorded in the Department’s IT Systems are not considered pre-existing Employment
* not displace an existing employee
* not be a commission-based, self-employment or subcontracted position
* not otherwise be a Non-Payable Outcome as defined in the Grant Agreement.
* **System Step:** The Provider must create and approve the agreement in the Department’s IT Systems within 84 days from the commencement of the Restart Placement.
* **System Step:** Restart Placement eligibility start dates can be viewed in the Registration Screen in ESS Web.
* Eligibility for Restart Agreements is calculated from the job placement start date.

**Leave**Approved leave is:* leave that the Employer agrees to and must provide as part of the minimum Employment entitlements set out in the [National Employment Standards (NES)](https://www.fairwork.gov.au/employee-entitlements/national-employment-standards) under the *Fair Work Act 2009*
* leave approved by the Employer that the Restart Participant is entitled to under the relevant award, [registered agreement](https://www.fairwork.gov.au/Dictionary.aspx?TermID=2034) or contract of Employment (these leave entitlements cannot be less than the NES)
* leave agreed to by the Employer and the Restart Participant.

All periods of approved leave, paid or unpaid, count towards the Restart Participant’s hours worked and are treated as though the Restart Participant worked the hours. If leave is approved, Providers must ensure any payments made to the Employer do not exceed 100 per cent of the Restart Participant’s wage.Approved leave cannot be used to regularly supplement a Restart Participant’s work hours to meet the 20 hour per week requirement.**Examples:**An Employer requires the Restart Participant to work 15 hours per week. The Employer cannot approve unpaid leave of five hours every week to bring the total hours worked to 20 hours per week to claim the Restart Payment.A Restart Participant is regularly working 20 hours per week. On one of these weeks, the Restart Participant works 17 hours and has three hours of approved leave under the relevant award. The Employer can claim 20 hours of work for the Restart Participant, for that week, under the Restart Agreement.**Work Trials**For the purpose of claiming a Restart Agreement, a paid Work Trial (as recorded in the Department’s IT Systems) is not considered pre-existing Employment.Restart Agreements can include periods of paid Work Trials. Restart Placements can either begin at the start of the paid Work Trial, or at the end of the paid Work Trial when ongoing Employment commences.Restart Agreements are not available for the time when the Restart Participant is participating in unpaid Work Trials or work experience. |
| Concurrent Funding | **Concurrent Funding**Employers cannot combine two Australian Government wage subsidies or similar funding.**Example:**The Employer of a Restart Participant cannot also receive Employer Incentive Funding available from the CDP administered by the Department of Prime Minister and Cabinet.**Australian Apprenticeships Incentives Programme**An Employer can receive both an Australian Government wage subsidy and an Australian Apprenticeships Incentives Programme (AAIP) Payment concurrently. This is because the AAIP is a training program and not an Employment program, the funding received under the AAIP is not considered to be a wage subsidy or similar funding.As AAIP payments are not considered to be similar funding, they are excluded when calculating the 100 per cent rule.**State and territory government wage subsidies**Australian Government wage subsidies can be combined with state or territory government wage subsidies or similar funding, as long as: * all other requirements in the relevant guidelines have been satisfied
* the total funding from the Australian Government wage subsidies or similar funding does not exceed 100 per cent of the Participant’s wages over the 26-week period of the Restart Agreement.

The Provider must check the Employer is following the above requirements.  |
| Employer Eligibility and Government Entity Eligibility *Disability Employment Services Grant Agreement Clauses References:** *Clause 102.1*
 | **Employer Eligibility**A Employer must be a legal entity with a valid Australian Business Number (ABN).A Employer can be a:* Related Entity of the Provider
* labour hire company or group training organisation.

A Employer must not:* have previously received a wage subsidy payment of the same type for the same Participant
* be the Provider’s Own Organisation
* displace an existing employee.

If a labour hire company or group training organisation is receiving a Restart Payment for an employee, they must disclose this to the business taking on the employee.**Government Entity Eligibility** An Employer must not be an Australian Government or state/territory government entity. However, an Employer can be a local government entity, provided the position it is not otherwise funded by an Australian, state or territory government entity. Providers can use the Australian Government’s website [ABN Lookup](http://abr.business.gov.au/) to determine if an Employer is a government entity.If the ABN Lookup site states that the ABN belongs to an Australian, state or territory government entity, the Employer does not meet the Restart Employer eligibility requirements.If an Employer claims they are not an Australian, state or territory government entity, they must provide proof to their Provider. **Change of Business Ownership**If an Employer’s business changes ownership, the new owner is eligible to claim the remaining Restart Payments, provided all other eligibility criteria and Restart Program requirements are met.If the new owner is eligible and requests to claim the Restart Payments then the Restart Agreement must be novated between the parties in accordance with their own legal advice. |
| Negotiation of Restart Agreement with the Employer *Disability Employment Services Grant Agreement Clauses References:**Clause 102.1* | Providers negotiate and manage all elements of a Restart Agreement including making Restart Payments to Employers. The Restart Agreement consists of both a head agreement and a Schedule (see [Attachment A](#_Attachment_A)).Providers must enter into a head agreement with each Employer. The head agreement contains the general terms and conditions of the Restart Agreement. This only needs to be done once for each Employer.A separate Schedule for each new Participant must be attached to the head agreement. Schedules contain the specific details of the Restart Placement for each new Restart Participant. Providers must explain the terms and conditions of the Restart Agreement to the Employer to ensure they fully understand their rights and obligations in accepting the Restart Agreement.Providers should instruct Employers to register on the [jobactive website](http://www.jobactive.gov.au), where they can download the free mobile jobactive Employer App (also available from iTunes and Google Play). The App allows Employers to manage all of their Restart Agreements. * **System step:** The Provider must create the agreement in ESS Web using the wage subsidies head agreement.
* **System step:** The Provider must negotiate and agree on the terms of the Schedule with the Employer before attaching a Schedule to the head agreement.
* **System step:** The Provider mustattach the Schedule to the head agreement within 12 weeks (84 days) of the Participant commencing in the Restart Placement, using ESS Web (see Summary of Documentary Evidence section).
* **System step:** The Restart Agreement term begins (wage subsidy start date) on the day the Restart Placement starts and ends 26 weeks from that date (wage subsidy end date).
* **System step:** Restart Agreements must be approved online by the Employer on the jobactive website or the free mobile jobactive Employer App.
* Agreements should only be printed and signed offline if access to online facilities is not available.
* If an agreement is signed offline, the Provider must still approve the head agreement online within 84 Days, and keep a signed copy.
* **System step:** If amendments are required during the Restart Agreement term (excluding amendments to Vacancy details), the Provider must agree on the changes with the Employer and update the details in the Restart Agreement in the Department’s IT Systems.
* Any changes to the Restart Placement date in ESS Web will automatically end the Restart Agreement. A new Restart Agreement will need to be created and approved with the new Restart Placement date.

If a Provider enters into collaboration arrangements with other Providers to cater for an Employer’s needs, the Provider who owns the Vacancy should negotiate, create, approve and manage the Restart Agreement with the Employer. |
| Supporting Restart Participants  | When a Restart Agreement is approved, Providers should offer post‑placement support to Restart Participants and Employers as required. This allows Providers to support Restart Participants and Employers to maximise the success of Restart Placements, including after a Restart Participant is Suspended or Exited from a Provider’s caseload. |
| Restart Amount | $10,000 (GST inclusive) is payable per Restart Placement for Employment of a six month duration that satisfies all other eligibility requirements. |
| Kickstart payments*Disability Employment Services Grant Agreement Clauses References:** *Clause 102.1*
 | Providers can offer kickstart payments to Employers to receive up to 40 per cent of the total Restart Payment four weeks after the job starts. A kickstart payment can exceed 100 per cent of the total wages paid at the time of claim as long as all of the Restart Payment conditions are met. However, the total Restart Payments over the life of the Restart Agreement must still be less than 100 per cent.Restart Participants are not required to have worked an average of at least 20 hours per week in the first four weeks of Employment for a kickstart payment to be made. Providers must however, be satisfied the hourly requirement over the agreement is likely to be met before approving a kickstart payment. * System step: If the Provider negotiates a kickstart payment with the Employer, then they must record the amount and date of the kickstart payment in the Restart Agreement in the Department’s IT Systems.

**Making a kickstart payment**Before making a kickstart payment to an Employer, a Provider must:* enter into a Restart Agreement with the Employer
* confirm the relevant Restart Participant is still Employed with the Employer
* confirm the Restart Participant will work an average of at least 20 hours per week over 26 weeks and the position is sustainable
* be satisfied that all other eligibility criteria are met.

The kickstart payment must not be made if the Provider is not satisfied the Employer meets all of the points above. However, the Employer may still be eligible for a flexible payment.* Documentary Evidence: The Provider must keep a record of all documentation confirming the Participant’s work hours and wages paid.

**When is a kickstart payment recoverable?**The kickstart payment is recoverable from the Employer or Provider when:* the Department establishes the kickstart payment was made after the Restart Participant’s Employment ended
* the eligibility criteria has not been met
* the Employer has not met the terms and conditions of the Restart Agreement
* the Employer has engaged in fraudulent practice in relation to the Restart Agreement as defined.

**Example:**The Restart Participant is working well in their new job and the Provider is satisfied they will achieve the minimum required hours of at least 20 per week over the 26 weeks. The Provider makes the kickstart payment at four weeks without confirming the Restart Participant is still Employed by the Employer. The Provider claims Reimbursement from the Department. Through ongoing program assurance, the Department establishes the kickstart payment was made after the Employment end date. The Department will recover the kickstart payment from the Provider and then calculate the actual amount that could have been paid in the first four weeks.* System step: kickstart payments are not available for Restart Placements that are recorded as a paid Work Trial in the Department’s IT Systems.
 |
| Flexible payments*Disability Employment Services Grant Agreement Clauses References:** *Clause 102.2*
* *Clause 102.3*
 | The Provider must negotiate with the Employer a Restart Payment structure that works best for the Employer’s business. Restart Payments can be made to Employers weekly, fortnightly, monthly, quarterly, on completion, or any other timeframe as agreed by the Provider and Employer.Regular flexible payments should take into account if a kickstart payment has been made and withhold the amount accordingly.The Provider must have entered into a Restart Agreement with the Employer and all eligibility criteria must be satisfied before a Restart Payment can be made.* **Documentary Evidence:** The Employer must submit Documentary Evidence demonstrating the Restart Participant has worked an average of at least 20 hours per week over 26 weeks from the wage subsidy start date (see Summary of Documentary Evidence section).
* **Documentary Evidence:** TheEmployer must invoice the Provider to receive a Restart Payment (see Summary of Documentary Evidence section).

**Examples:** A kickstart payment could be paid as follows:* $10,000 Restart Agreement with flexible payments:
* $4000 kickstart payment at four weeks
* $6000 flexible Payment at 26 weeks.

Flexible payments, together with any concurrent state/territory government wage subsidies and the kickstart payment must not exceed 100 per cent of the Restart Participant’s wages over the 26-week period of the Restart Agreement.The Department may recover any Reimbursements made to the Provider if the Employer has not met the terms and conditions of the Restart Agreement, or if the Employer has engaged in any fraudulent practice in relation to Restart Program. |
| Calculating payments for early terminations*Disability Employment Services Grant Agreement Clauses References:** *Clause 102.2*
* *Clause 102.3*
 | If Employment is terminated before the Restart Agreements end date at 26 weeks, Providers must calculate the outstanding Restart Payment based on the number ofweeks the Restart Participant was employed for. This must total an average of at least 20 hours per week over the length of the Restart Agreement. If the Employer does not provide the Restart Participant with at least 20 hours on average throughout the Restart Agreement they may not be eligible to receive the full Restart Payment.**Example:**If a Restart Agreement lasted eight weeks and one days, the Provider should round this up to nine weeks. The Provider must then calculate the average hours per week over nine weeks. If the Restart Participant did not work an average of 20 hours per week over the nine weeks, the Employer is not eligible for the full Restart Payment.To work out the payment amount, divide the **total** Restart Payment amount $10,000 by 26 weeks (the full wage subsidy period) to calculate the weekly rate the Employer should have received. Then multiply this amount by the number of weeks worked.Using the above example of nine weeks and a Restart Payment amount of $10,000 the calculation is:* $10,000/26 = $384 (weekly rate)
* $384.60 x 9 weeks worked = $3,461

This amount is the maximum payment the Employer can receive based on the Restart Participant working nine weeks. This Restart Payment cannot exceed 100 per cent of the wages paid to the Restart Participant over the nine weeks. If any kickstart or flexible payments have been made to the Employer, the Provider must deduct these from the maximum payment amount. **Scenario for calculating an average of 20 hours per week**A Restart works for nine weeks. The Employer provides pay slips to the Provider to claim the Restart Payment, which shows the Restart Participant worked the following hours: Week 1 = 25 Week 2 = 22 Week 3 = 19 Week 4 = 21 Week 5 = 15 Week 6 = 19 Week 7 = 19  Week 8 = 15 Week 9 = 15**Calculating the hours worked**The Provider adds up all of the hours worked over the nine weeks. Total = 170 hours worked over nine weeks. To calculate the average, divide 170 by nine = 18.88 hours. The Employer is not eligible for a Restart Payment for nine weeks as the Restart Participant did not work 20 hours.However, the Provider can re-calculate the hours to determine at which week the 20 hours on average was achieved. For the purpose of this scenario, if the Provider re-calculates the average hours over seven weeks, 20 hours on average was achieved. Total = 140 hours worked over seven weeks. Then divide 140 by seven = 20 hours. In this case, even though the Employer is not eligible for a Restart Payment for the full nine weeks, they are eligible to receive a Restart Payment for the seven weeks.  |
| Restart Payments to Employers and Claims for Reimbursement | **Restart Payments to Employers**Restart Payments must not exceed 100 per cent of the Restart Participant’s wages at any point over the six month (26 week) period of the Restart Agreement (with the exception of the kickstart payment).* **Documentary Evidence:** Employers must invoice the Provider to receive a Restart Payment (see Summary of Documentary Evidence section).

**Claims for Reimbursement**Providers can submit a claim for Reimbursement from the Department once they have paid a Restart Payment to an Employer under a Restart Agreement that has met all relevant eligibility and Documentary Evidence requirements. Providers can claim Reimbursement at any time from the Restart Placement confirmed date to 56 days after the end of the Restart Agreement**.** Claims can be made:* after each flexible payment or kickstart payment is made (weekly, fortnightly, monthly, quarterly, or any other agreed milestone)

or* collectively at the end of the 26 week Restart Agreement.
* The Provider must:
* make Restart Payments out of their own funds to the Employer
* ensure the Restart Participant worked a minimum average of 20 hours per week over the Restart Agreement period
* only claim Reimbursement up to the same dollar value they paid the Employer (see Summary of Documentary Evidence section).
* **System step:** Providers must claim all Reimbursements within 56 days of the end of the Restart Agreement**.**
* Providers who fail to meet this timeframe may not be Reimbursed.
* Providers are required to have appropriate administrative processes in place, and to work with Employers to ensure this timeframe is met.
* The 56 day timeframe should be balanced to provide a reasonable amount of time to both the Employer and Provider to finalise payment documents. For example:
	+ 28 days for the Employer to gather the required Documentary Evidence and supply a final tax invoice to the Provider
	+ 28 days for the Provider to review the claim, make the Restart Payment and claim the Reimbursement from the Department.
* **Documentary Evidence:** Providers must ensure that all Documentary Evidence is retained to demonstrate the Restart Participant was Employed as per the conditions agreed to in the wage subsidy head agreement and 100 per cent of wages has not been exceeded.
* **System step:** Providers must select the ‘kickstart payment’ in the Claim screen in the Department’s IT Systems when claiming Reimbursement of the kickstart payment.
* **System step:** Providers must select the ‘flexible payment’ in the Claim screen in the Department’s IT Systems when claiming Reimbursement for flexible payments.
 |
| Summary of Documentary Evidence*Disability Employment Services Grant Agreement Clauses References:** Clause 21
* Clause 22
* Clause 23
* *Clause 102.2*
* *Clause 102.4*
 | **Summary of Documentary Evidence*** **Documentary Evidence:** Providers must obtain sufficient Documentary Evidence to process a Restart Payment to an Employer and claim Reimbursement from the Department.

**Restart Agreements**For a Restart wage subsidy, an approved Restart Agreement, linking Vacancy, Employer and Placement details, must be entered into the Department’s IT Systems. Most of this information is pre-populated.Restart Agreements must be approved online by the Employer on the jobactive website or the free mobile jobactive Employer App. Restart Agreements should only be printed and signed offline if access to online facilities is not available. **Evidence from Employers— Restart Participant Employment**Providers must ensure all Documentary Evidence is retained to demonstrate the Restart Participant was Employed as per the conditions in the wage subsidy head agreement, and the required hours were worked over the Restart Agreement period. This must include a declaration by the Employer through the Department’s IT Systems and either:* payslips to demonstrate the hours worked and wage paid up until the claim period, or a print‑out from the Employer’s payroll software

or* a statutory declaration, email or other correspondence from the Employer.

Employers can declare the Restart Participant has worked the required hours through the Department’s IT Systems. The wage subsidy head agreement states that Employers must retain payslips/payroll summaries to support their declaration.Providers must verify the Restart Participant has completed the required hours of work. Providers must also retain evidence from the Employer to verify any periods of approved leave.The Department can request any documentation in relation to a Restart Agreement from Providers, to support program assurance activities. If Providers do not have this documentation they can request it from Employers, as per the Employers obligations under the wage subsidy head agreement.**Evidence from Provider—claims for Reimbursement**Providers must make Restart Payments to Employers before making a claim for Reimbursement.The Reimbursement claim amount must not exceed the amount the Employer paid the Restart Participant. The Provider can claim the Reimbursement any time from the Restart Placement confirmed date to 56 days after the end of the Restart Agreement.Providers must retain Documentary Evidence to demonstrate payment to the Employer before Reimbursement, this may include:* a record of transaction (bank statement or report from the Provider’s financial system)
* a tax invoice and corresponding receipt from the Employer
* a tax invoice from the Employer and a remittance advice

or* statutory declaration, email or other correspondence from the Provider.

All Documentary Evidence must include:* the amount of the Restart Payment
* the Employer’s details (including ABN)
* the date the Restart Payment was made.
* **System step:** Providers submit claims for Reimbursement through the Department’s IT Systems. Providers must also keep any evidence not uploaded to the Department’s IT Systems with the claim for Reimbursement.

At the Department’s request, Providers must supply evidence to demonstrate they have paid the Employer and that the Reimbursement claimed matches the Restart Payment they made to the Employer.* **System step:** When submitting an override and special claim request, the Provider must include the linked agreement identifier and/or the Vacancy identifier. The Provider must provide appropriate justification for the override request.
 |
| Transferred Arrangements*Disability Employment Services Grant Agreement Clauses References:** *Clause 102.6*
 | **Transferred Arrangements**When a Restart Participant transfers to another Provider, the gaining and outgoing Providers must ensure both the Restart Participant and Employer continue to be supported.* **System step:** The outgoing Provider must agree that the Restart Agreement will be terminated.
* The Department’s IT Systems prevent the outgoing Provider from claiming any further Reimbursements. The gaining Provider must enter into a new Restart Agreement with the Employer for the remaining balance.
 |
| More Information | For further information, contact your Relationship Manager.  |

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## Wage Subsidy Head Agreement

**Agreement ID:**

| 1. **EmploymentServiceProvider (Provider) details**
 |
| --- |
| **Provider name:**  |  |
| **Provider ABN:**  |  |
| **Site address:**  |  |
| 1. **Employer details**
 |
| **Employer’s legal name:**  |  |
| **Employer ABN:**  |  |
| **Address:** |  |
| 1. **Head Agreement Term**
 |
| **Start date:** |  |
| **End date:** | 30 June 2020 |

### General Terms and Conditions:

#### Preliminary:

1. The Provider and Employer agree that each Schedule the Provider attaches to this Head Agreement will relate to a single Employment Position and will create a separate contract (Wage Subsidy Agreement) between the Provider and the Employer in relation to that Employment Position. Each Wage Subsidy Agreement consists of the terms and conditions of this Head Agreement and the relevant terms relating to the Employment Position, Wage Subsidy Participant (Participant) and Wage Subsidy Period set out in the relevant Schedule.

#### The Employment Position:

1. The Employer agrees that in relation to each Employment Position:
	1. it does not have a current Employment relationship with the relevant Participant and is not an immediate family member of the relevant Participant;
	2. if it receives a state or territory government wage subsidy for the Employment Position, it will immediately notify the Provider of the amount of any such funding;
	3. the total value of the Wage Subsidy for the Employment Position, together with any concurrent state or territory government wage subsidy, will not exceed 100 per cent of the relevant Participant’s wage;
	4. the Employment of the relevant Participant has not, does not, and will not displace an existing employee;
	5. the Employment Position is a sustainable and ongoing position that is not intended to end when Wage Subsidy payments cease, and in respect of which the Employer knows of no reasons why the Employment Position will not continue indefinitely;
	6. the Employment Position is one that complies with minimum wage rates prescribed for the Employment under relevant Commonwealth, State or Territory law (including any award conditions which may be applicable to the Employment Position);
	7. the Employment Position is not commission-based, self-employment or a subcontracted position; and
	8. if it is a labour hire or group training organisation, the Employer will disclose to the relevant host organisation that it is receiving a Wage Subsidy for the placement of the Participant with the host organisation.
2. For each Employment Position, the Employer must employ the relevant Participant for an average of at least 20 hours per week for the duration of the Wage Subsidy Agreement Term as set out in the relevant Schedule.
3. The Provider and the Employer must, as soon as possible, bring to the attention of the other party any difficulties the relevant Participant may have in the relevant Employment Position, and work towards supporting the Participant to continue in the Employment Position.
4. Where a Participant’s Employment ends prior to the Wage Subsidy End Date, the Employer must immediately notify the Provider of this and issue a separation certificate to the Participant, and the Wage Subsidy Agreement for that particular Employment Position and Participant is terminated.

#### Payment:

1. If the Employer complies with the Wage Subsidy Agreement, the Provider will pay the Wage Subsidy to the Employer in accordance with the relevant Schedule, Guideline and Grant Agreement.
2. If the Provider requests, the Employer must provide to the Provider all payslips/payroll summaries or any other evidence that the Provider deems necessary (Documentary Evidence) relating to the Employment of a particular Participant during the relevant Wage Subsidy Agreement Term.
3. Except for any kickstart payment, the Provider will pay the flexible Wage Subsidy payment/s in accordance with the Wage Subsidy Period/s specified in the relevant Schedule after the Employer has provided Documentary Evidence of the relevant Participant’s Employment over the relevant Wage Subsidy Period.
4. Where the Provider is satisfied that the Participant is likely to work an average of at least 20 hours per week over the duration of the Wage Subsidy Agreement Term and agrees to pay the Employer a kickstart payment, it will do so in accordance with the relevant Schedule.
5. The Provider will only make the kickstart payment in accordance with the relevant Schedule if the Participant is still employed by the Employer at the time of payment.
6. The requirements set out in clause 2c and 3 of this Head Agreement do not apply to the kickstart payment of the Wage Subsidy.
7. The Provider may withhold all or part of a Wage Subsidy payment if the Employer does not fulfil its obligations under this Head Agreement, or otherwise brings the use of Wage Subsidies or the Commonwealth into disrepute.
8. Where a Wage Subsidy Agreement terminates prior to the Wage Subsidy End Date (as specified in the relevant Schedule), any outstanding Wage Subsidy payments owed to the Employer for that Participant will be paid on a pro-rata basis for the period that Participant was employed on the condition that the Participant worked an average of at least 20 hours per week over that period.

#### Compliance and Remedies:

1. Where the Provider or the Department of Employment (‘the Department’) determines that the Employer has not met the terms and conditions of the Wage Subsidy Agreement or has engaged in any fraudulent practice in relation to Wage Subsidies, the Provider may take action, including, but not limited to:
	1. recovery of any Wage Subsidy payments made to the Employer;
	2. disqualifying the Employer from receiving future Wage Subsidy payments; and/or
	3. in the case of fraudulent practice, referring the matter for criminal prosecution.

#### Assignment and Novation:

1. The Employer must not assign any of its rights under the Wage Subsidy Agreement or enter into an arrangement that will require the novation of the Wage Subsidy Agreement, without the Provider’s prior written approval.
2. The Provider may assign, transfer, novate, and otherwise deal in any manner with, all or any part of the benefit of the Wage Subsidy Agreement and any of its rights, remedies, powers, duties and obligations under the Wage Subsidy Agreement to any person including the Department, without the consent of the Employer.

#### Privacy Statement:

Your personal information in relation to this Wage Subsidy Agreement is collected by the Department for the purposes of administering Wage Subsidies, including to monitor compliance or to promote the program, and may be shared between the Department and its Providers for these purposes. Your personal information will not be used for any other purpose, unless you agree or it is otherwise permitted by law. If you do not provide some or all of your personal information, the Department may not be able to administer the appropriate Wage Subsidy.

The Department’s Privacy Policy is available [here](https://www.jobs.gov.au/privacy) and contains more information about the way the Department manages personal information, including your rights to access and correct your information as well as information on how you can complain about a breach of the Australian Privacy Principles.

#### Freedom of Information:

Documents in the possession of the Department and its contracted service providers are subject to disclosure in response to a request made under the *Freedom of Information Act 1982* (FOI Act). There are a number of exceptions to release and, where appropriate, the Department will consult with affected individuals or organisations prior to making a decision on access to documents.

### Declaration and execution of Head Agreement by the Provider:

By signing the below, I declare that:

* I have explained the terms and conditions of the Head Agreement to the Employer
* I am duly authorised by the Provider to sign this declaration and Head Agreement;
* I agree to all the terms and conditions specified in this Head Agreement;
* the details provided in this Head Agreement are true and correct;
* I am satisfied that the Employer meets the requirements as set out in the relevant Grant Agreementand Guidelines; and
* before attaching a Schedule to this Head Agreement, I will ensure that the Employer agrees with the terms of the Schedule and the Participants and Employment Positions (as detailed in the Schedules) meet the requirements as set out in the relevant Grant Agreement and Guidelines.

|  |  |
| --- | --- |
| **Signature:** |  |
| **Date:** |  |
| **Name:**  |  |
| **Position:** |  |

### Declaration and execution of Head Agreement by the Employer:

By signing the below, I declare that:

* the terms and conditions of the Head Agreement have been explained to me
* I am duly authorised by the Employer to sign this declaration and Head Agreement;
* the details provided in this Head Agreement are true and correct; and
* I agree to all the terms and conditions specified in this Head Agreement.

|  |  |
| --- | --- |
| **Signature:** |  |
| **Date:** |  |
| **Name:**  |  |
| **Position:** |  |

## Disability Employment Services logoSchedule to Wage Subsidy Head Agreement

**Agreement ID:**

**Schedule ID:**

Congratulations on joining thousands of other businesses across Australia by accessing an Australian Government Wage Subsidy. By hiring an eligible Participant, you’re giving your business a boost, and contributing to the local economy.

To claim your Wage Subsidy, you need to employ [Participant Name] in an ongoing role for an average of at least 20 hours per week over six months. The general terms and conditions are included in the Head Agreement. If you have any questions, please contact me at the details below.

| **Wage Subsidy Details** |
| --- |
| **Participant Name:** |  |
| **Total Wage Subsidy Amount:** |  |
| **Kickstart Payment Amount:** |  |
| **Wage Subsidy Period/s** |
| **Kickstart Payment Date:** |  |
| **Flexible Payment/s:** |  |
| **Milestone Payments:** |  |
| **Wage Subsidy Agreement Term** |
| **Wage Subsidy Start Date:** |  |
| **Wage Subsidy End Date:** |  |
| **Employment Position Details** |
| **Vacancy ID:** |  |
| **Job Title/Description:** |  |
| **Provider Contact Details** |
| **Name:** |  |
| **Phone Number:** |  |
| **Email Address:** |  |
| **Employer Contact Details** |
| **Name:** |  |
| **Phone Number:** |  |
| **Email Address:** |  |