



Australian Government

Guideline:

New Employment Services Trial (NEST) Capability Assessment

A Capability Assessment is a key component of the Targeted Compliance Framework. It is further protection for the most vulnerable Participants and provides another opportunity for Participants to disclose issues that may be affecting their ability to meet their Mutual Obligation Requirements as set out in their Job Plan.

The Capability Assessment is conducted by Services Australia. It ensures that only those Participants who deliberately fail to meet their Mutual Obligation Requirements face potential financial penalties. The purpose of the Capability Assessment is to determine whether a Participant's Job Plan is suitable for the Participant. A Job Plan will be suitable for a Participant if the Mutual Obligation Requirements specified in their Job Plan are appropriate to the Participant's circumstances and the Participant is capable of meeting them.

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Changes from the previous version (Version 2.0)

Policy changes:

Nil

Wording changes:

Deed Clause numbers have been removed from body of the text and appear at the bottom of each section.

Deed Clause numbers and links have been updated where necessary.

A full document history is available on the Provider Portal.

Related documents and references

[New Employment Services Trial \(NEST\) Assessments Guideline](#)

[New Employment Services Trial \(NEST\) Capability Interview Guideline](#)

[New Employment Services Trial \(NEST\) Work Refusal Failures and Unemployment Failures Guideline](#)

[New Employment Services Trial \(NEST\) Targeted Compliance Framework: Mutual Obligation Failures Guideline](#)

[New Employment Services Trial \(NEST\) Job Plan and Mutual Obligation Requirements Guideline](#)

[New Employment Services Trial \(NEST\) Points Based Activation System Guideline](#)

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1. The purpose of a Capability Assessment

The Capability Assessment provides further protection for vulnerable Participants. The purpose of the Capability Assessment is to determine whether a Participant's Job Plan is suitable for the Participant. A Job Plan will be suitable for a Participant if the Mutual Obligation Requirements specified in their Job Plan are appropriate to the Participant's circumstances and the Participant is capable of meeting them.

Even though Trial Providers do not conduct Capability Assessments (they are conducted by Services Australia), Trial Providers still have Deed obligations in relation to Capability Assessments.

The Capability Assessment will determine the Participant's place in the compliance framework. The Participant will:

- return to the Green Zone with their Demerits reset to zero if the result of the Capability Assessment is that the Participant's Job Plan is not suitable for Participant; or
- enter the Penalty Zone and incur financial penalties for future non-compliance if the result of the Capability Assessment is that the Participant's Job Plan is suitable for the Participant.

(Deed references: clause 128.10)

2. When a Capability Assessment is triggered

Participants will only participate in a Capability Assessment once they have already attended a Capability Interview and the outcome of the Capability Interview is that the Participant's Job Plan is suitable for the Participant. See the [New Employment Services Trial \(NEST\) Capability Interview Guideline](#) for more information on Capability Interviews.

In broad terms, Services Australia will conduct a Capability Assessment when the Participant has, in six active months (discussed below), incurred five Demerits or a Demerit for a 'fast-track' Mutual Obligation Failure when they already have three Demerits. A fast-track Mutual Obligation Failure is one of the following:

- acting in a manner that could result in an offer of employment not being made to the Participant;
- failing to attend a Job Interview; or
- failing to act on a Job Referral.

The term 'six active months' generally means 182 days, but prolonged for the time the Participant is in a penalty period or has an Exemption (up to a maximum of 12 months).

Note that, if a Participant has three or four Demerits when they incur a Demerit for a fast-track Mutual Obligation Failure, the Department's IT Systems will automatically increase the number of Demerits to five. For more information on when a Participant incurs a Demerit, see the [New Employment Services Trial \(NEST\) Targeted Compliance Framework: Mutual Obligation Failures Guideline](#).

When the circumstances described above occur:

- a Capability Assessment is said to be 'triggered'; and

- the Department's IT Systems will identify that the Participant's Reconnection Requirement for their most recent Mutual Obligation Failure is a Capability Assessment. Note the Department's IT Systems refer to Reconnection Requirements as 're-engagement requirements'.

When a Capability Assessment is triggered as described above, the Department's IT System will display the formal notification script that the Trial Provider must then read to the Participant. This notification informs the Participant that:

- they must contact Services Australia as soon as possible to participate in a Capability Assessment; and
- their Income Support Payment may remain suspended until they do so.

Participants will be unable to report to Services Australia for their next fortnightly Income Support Payment until they contact Services Australia to undertake the Capability Assessment.

No further Demerits until Capability Assessment is finalised

Participants will not accrue any further Demerits until they participate in a Capability Assessment and that Capability Assessment is finalised in the Department's IT System.

After triggering the Capability Assessment, Participants might commit further Mutual Obligation Failures after attending a Capability Assessment but before the Capability Assessment has been finalised in the Department's IT System.

In these cases, the Participant will not receive Demerits, but their Income Support Payment may be suspended to encourage the Participant to reconnect with their Trial Provider.

Work Refusal Failure or Unemployment Failure when Capability Assessment not finalised

Trial Providers must still comply with their Deed obligations relating to Work Refusal Failures and Unemployment Failures, regardless of whether the Capability Assessment is finalised in the Department's IT Systems.

For more information, see the [New Employment Services Trial \(NEST\) Work Refusal and Unemployment Failures Guideline](#).

(Deed references: clauses 129, 130)

3. Delivery of the Capability Assessment and recording the outcomes

Services Australia will notify Trial Providers of Capability Assessment outcomes via a noticeboard message on the Department's IT System. Services Australia will record the outcome of the Capability Assessment and will provide information in the Participant's record on what Mutual Obligation Requirements in their Job Plan are inappropriate and/or the parts of the Job Plan the Trial Provider must renegotiate with the Participant.

(Deed references: clause 128.10)

4. Actioning outcomes of a Capability Assessment

Once Services Australia has finalised the Capability Assessment in the Department's IT System, the Trial Provider must review the outcome and any servicing recommendations Services Australia has recorded in the Capability Management Tool (CMT).

The possible outcomes are as follows:

- the Participant's Job Plan is suitable for the Participant, which is referred to in the Department's IT Systems as 'Deemed capable of meeting their Job Plan requirements'; or
- the Participant's Job Plan is not suitable for the Participant, which is referred to in the Department's IT Systems as one of the following, depending on the reason that the Job Plan is not suitable:
 - 'Errors in the Job Plan – Requires Update';
 - 'Not capable of meeting their Job Plan requirements due to their circumstances/capacity'; or
 - 'Newly disclosed information'.

Each of these outcomes is discussed in further detail below.

The Participant's Job Plan is not suitable

Outcome: 'Errors in the Job Plan—Requires Update'

When the outcome of the Capability Assessment is 'Errors in the Job Plan – Requires Update', the Trial Provider must, within the 10 Business Days after the Capability Assessment is finalised:

- advise the Participant that there are errors in their Job Plan, which means that the Job Plan is not suitable for the Participant;
- advise the Participant that their Demerits will be reset to zero and they will return to the Green Zone; and
- in consultation with the Participant, update the Job Plan to address the identified errors in accordance with:
 - any recommendations from Services Australia shown in the Department's IT Systems; and
 - the [New Employment Services Trial \(NEST\) Job Plan and Mutual Obligation Requirements Guideline](#) and the [Points Based Activation System Guideline](#).

Trial Providers should also be aware that Participants will not accrue any further demerits until the Participant's Job Plan has been appropriately updated.

Outcome: 'Not capable of meeting their Job Plan requirements due to their circumstances/capacity'

Where the outcome of the Capability Assessment is 'Not capable of meeting their Job Plan requirements due to their circumstances/capacity', the Trial Provider must, within the 10 Business Days after the Capability Assessment is finalised:

- advise the Participant that their personal circumstances have made their current Job Plan not suitable for them;
- advise the Participant that their Demerits will be reset to zero and they will return to the Green Zone; and
- in consultation with the Participant, update the Job Plan so that it is suitable for the Participant in accordance with:
 - any recommendations from Services Australia shown in the Department's IT Systems and taking into account any reasons Services Australia assessed particular Mutual Obligation Requirements as being inappropriate for the Participant; and
 - the [New Employment Services Trial \(NEST\) Job Plan and Mutual Obligation Requirements Guideline](#) and
 - the [Points Based Activation System Guideline](#).

Outcome: 'Newly disclosed information'—newly disclosed personal circumstances

Services Australia may assess that the Participant would normally be capable of meeting their requirements. However, the Participant has disclosed new information about their personal circumstances that was previously unknown, and these circumstances, had they been known to the Trial Provider at the time of Demerit accrual, may have constituted an Acceptable or Valid Reason.

In this case, Services Australia will record the outcome of the Capability Assessment as 'Newly disclosed information – newly disclosed personal circumstances'.

Because the Participant is normally capable of meeting their Mutual Obligation Requirements, their Job Plan does not necessarily require updating. The Trial Provider must, within the 10 Business Days after the Capability Assessment is finalised:

- advise the Participant that newly disclosed information would have affected their ability to meet Mutual Obligation Requirements at the time of Demerit accrual;
- advise the Participant that their Demerits will be reset to zero and they will return to the Green Zone; and
- consider whether the Job Plan requires updating, and, if so, in consultation with the Participant, update the Job Plan so that it is suitable for the Participant in accordance with:
 - any recommendations from Services Australia shown in the Department's IT Systems; and
 - the [New Employment Services Trial \(NEST\) Job Plan and Mutual Obligation Requirements Guideline](#) and the [Points Based Activation System Guideline](#).

Outcome: 'Newly disclosed information'—The Participant's stream or program eligibility has changed

If an update to the Participant's Job Seeker Classification Instrument (JSCI) or their finalised Employment Services Assessment (ESAt) moves them to a different stream of servicing, Services Australia will record the outcome of the Capability Assessment as 'Newly Disclosed Information'. In these circumstances, the Trial Provider must, within the 10 Business Days after the Capability Assessment is finalised:

- advise the Participant that their stream or program eligibility has changed as a result of running the JSCI or as a result of the finalisation of an ESAT;
- advise the Participant that their Demerits will be reset to zero and they will return to the Green Zone; and
- in consultation with the Participant, update the Job Plan to address the identified errors in accordance with:
 - any recommendations from Services Australia shown in the Department's IT Systems; and
 - the [New Employment Services Trial \(NEST\) Job Plan and Mutual Obligation Requirements Guideline](#) and the [Points Based Activation System Guideline](#).

Trial Providers should also be aware that Participants will not accrue further demerits until the Participant's Job Plan has been appropriately updated.

The outcome of the Capability Assessment is that the Participant's Job Plan is suitable for the Participant

If Services Australia assesses that the Participant's Job Plan is appropriate for the Participant's individual capacity and personal circumstances, the Participant can be reasonably expected to be capable of meeting their requirements. In this case, Services Australia will record the outcome of the Capability Assessment as 'Deemed capable of meeting their Job Plan requirements'.

This outcome will be recorded when the Capability Assessment has not found any new and/or ongoing personal circumstances that impact the Participant's capacity to comply with their requirements aside from those already recorded in the CMT. The Participant will be confirmed as being in the appropriate servicing stream according to their capability, and the requirements included in their Job Plan are appropriate. Therefore, the Job Plan does not require updating. The Trial Provider must ensure the Participant understands that, based on existing evidence, they have been found capable of meeting their Mutual Obligation Requirements and their requirements have been assessed as appropriate.

When the outcome of the Capability Assessment is 'Deemed capable of meeting their Job Plan requirements', The Trial Provider must review the CMT for the Participant. Services Australia may have identified issues that the Trial Provider will need to consider when renegotiating the Participant's Job Plan in the future.

The Trial Provider should, at the next contact with the Participant:

- ensure the Participant understands that they are now in the Penalty Zone, and that the next time they commit a Mutual Obligation Failure, this may result in loss of part or all of their Income Support Payment, and
- ensure the Participant understands the Mutual Obligation Requirements in their Job Plan and the consequences of non-compliance.

Summary of required Documentary Evidence

In addition to the evidence recorded in the Department's IT systems, evidence could include:

- prior notification of the requirement to attend, Job Referral, referral to a Job Interview or notification of an Employment Offer
- prior notification of details provided to a Participant in relation to attending an Activity or Appointment with a Trial Provider or third party
- the type of Notification received (i.e. SMS, email or letter)
- fully or partially completed Job Searches or Job Search Related Tasks provided in hard copy form
- details of the job/Employer and/or details of the incident, including dates, the parties involved and what occurred.

All capitalised terms in this Guideline have the same meaning as in the New Employment Services Trial Deed 2019–2022 (the Deed).

Unless otherwise specified:

- a 'Participant' are references to a 'Participant (Mutual Obligation)' as defined in the New Employment Services Trial Deed 2019–2022 (the Deed); and
- a 'Job Plan' are references to a 'Job Plan' for the purposes of the Deed; and
- capitalised terms in this Guideline have the meaning given to them in the Deed

This Guideline is not a stand-alone document and does not contain the entirety of Trial Providers' obligations. It must be read in conjunction with the Deed and any relevant Guidelines or reference material issued by the Department of Education, Skills and Employment under or in connection with the Deed.