

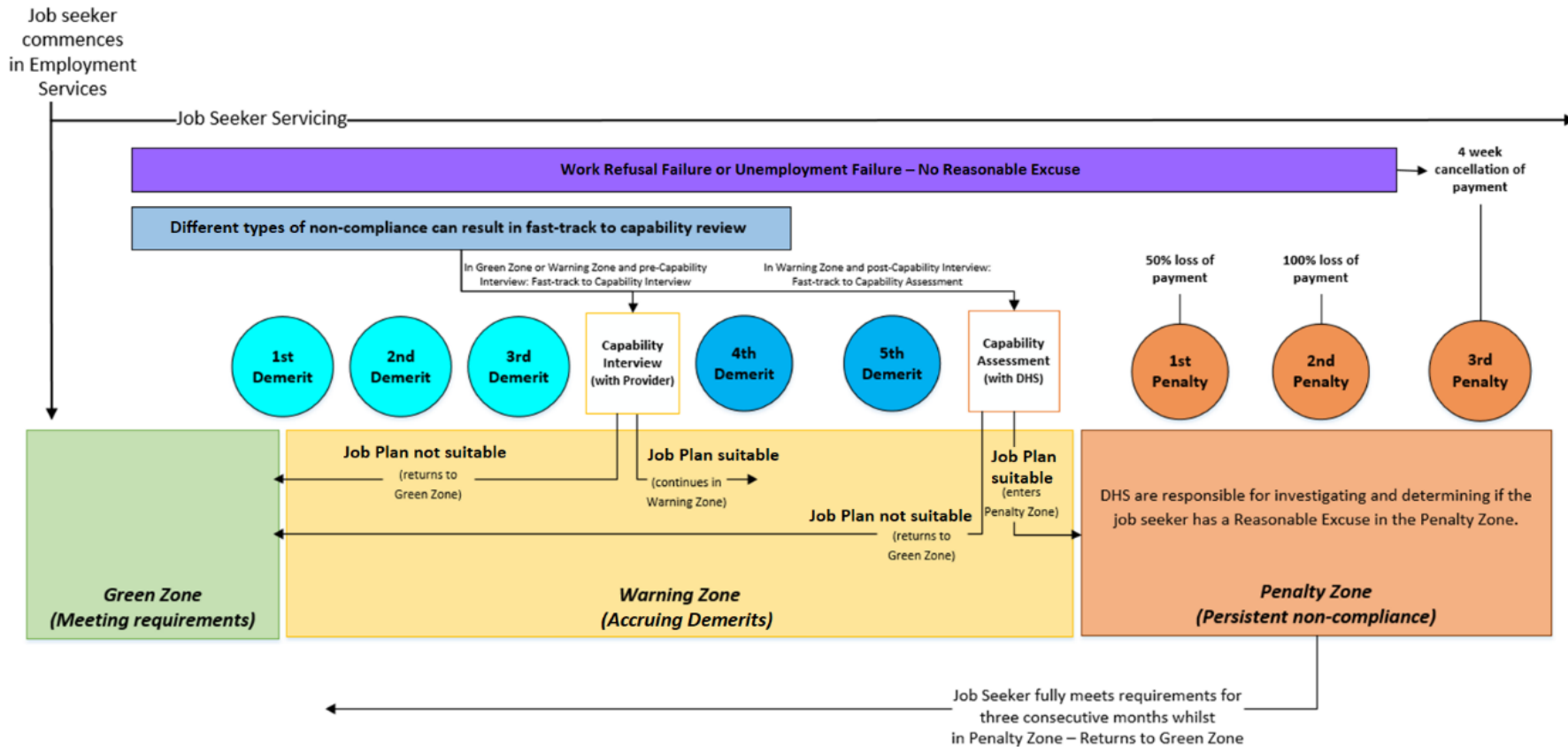


Targeted Compliance Framework Public Data Report—1 July 2019 to 31 December 2019

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Targeted Compliance Framework: Operational Overview



The Targeted Compliance Framework (TCF) was introduced on 1 July 2018, replacing an often complicated and confusing job seeker compliance framework. The TCF is fair, working as intended, deterring deliberate and wilful non-compliance while providing protection for vulnerable job seekers/participants.

It supports those who are genuinely trying to meet their obligations and only results in financial penalties for the small number of job seekers/participants who persistently and deliberately do not meet their Mutual Obligation Requirements. It includes two capability reviews, the Capability Interview and the Capability Assessment, that act as safeguard for vulnerable job seekers/participants. These reviews provide an opportunity for a discussion with the job seeker/participant to ensure their Job Plan is appropriate to a job seeker's/participant's individual circumstances. Only those who are deliberately not meeting their requirements are at risk of potential financial penalties. If the job seeker's/participant's Job Plan is not consistent with their circumstances or capability, the job seeker returns to the Green Zone with zero demerits.

From 1 July 2019 to 31 December 2019 (this reporting period), 62 per cent of job seekers/participants who undertook a Capability Interview continued in the Warning Zone as they were found capable of meeting the requirements in their Job Plan. 72 per cent of all job seekers/participants who undertook a Capability Assessment were found capable of meeting their requirements and entered the Penalty Zone.

Note: This chart reflects the TCF in jobactive and DES, but differs slightly for ParentsNext.

Data tables¹

Table 1: Number of TCF job seekers/participants in All Programmes (jobactive, Disability Employment Services and ParentsNext)*—by Zone, as at 31 December 2019

Category	TCF job seekers/participants (All Zones)	TCF job seekers/participants in Green Zone	TCF job seekers/participants in Warning Zone	Warning Zone—Demerit Count (1)	Warning Zone—Demerit Count (2)	Warning Zone—Demerit Count (3) [^]	Warning Zone—Demerit Count (4)	Warning Zone—Demerit Count (5) ^{^^}	TCF job seekers/participants in Penalty Zone	Penalty Zone—Penalty Count (0)	Penalty Zone—Penalty Count (1)	Penalty Zone—Penalty Count (2)
Total	583,429	346,445	228,391	121,812	81,255	17,441	7,495	388	8,593	5,267	1,875	1,451
Percentage	100%	59%	39%	21%	14%	3%	1%	<1%	2%	1%	<1%	<1%

* TCF job seekers/participants are job seekers and participants commenced in jobactive, Disability Employment Services and ParentsNext, who were in one of the Targeted Compliance Framework (TCF) Zones at the end of the reference period (i.e. it excludes those serving a Non-Payment/Preclusion Period at that date).

Note: This does not include job seekers/participants who were exempt, suspended or serving a preclusion period or otherwise not considered active in Employment Services at the end of the reference period.

[^] A Provider Capability Interview is triggered generally after three (confirmed) Demerits are accrued by a job seeker/participant within a six active month period (see Glossary for information on Capability Interviews).

^{^^} A Department of Human Services Capability Assessment (see Glossary for information on Capability Assessments) is triggered generally after five (confirmed) Demerits are accrued within six active months. If the job seeker/participant has been found capable of meeting their Mutual Obligation Requirements at a Capability Assessment, they will enter the Penalty Zone. Those with a Demerit count of five in the above table had a Capability Assessment triggered, which had yet to be finalised, at the end of the reference period.

Note: Demerits expire after six active months. Further information on Demerits, Active Months, TCF Zones (Green, Warning and Penalty), and Financial Penalties are contained in the Glossary.

¹ Due to rounding, percentages in tables in this report may not always add up to 100%.

Table 2: Zone Transitions—Job seekers/participants in All Programmes (jobactive, Disability Employment Services and ParentsNext)—1 July 2019 to 31 December 2019

Description of Zone Transition	Number of job seekers/participants	Proportion of caseload*
Accrued First Demerit—Enter Warning Zone from Green Zone	381,099	43%
Last Demerit expired after six Active Months—Reset to Green Zone from Warning Zone	100,926	11%
Found Capable at Capability Assessment—Commenced in Penalty Zone	14,850	2%
Compliant for three Active Months—Reset to Green Zone from Penalty Zone	8,986	1%
Served Non-Payment/Preclusion Period for 3rd penalty—Recommence in Penalty Zone	1,298	<1%

Table 2 provides a summary of job seeker/participant Zone Transitions during the reference period.

* The caseload is a count of unique job seekers or participants who commenced in jobactive, Disability Employment Services or ParentsNext during the reference period.

Table 3: Capability Interview (completed by Providers) and Capability Assessment (completed by the Department of Human Services) outcomes across All Programmes (jobactive, Disability Employment Services and ParentsNext)—1 July 2019 to 31 December 2019

Capability Interview*	Capability Interview*	Capability Assessment^	Capability Assessment^
Outcome: Capable—Continue in Warning Zone	Outcome: Not Capable—Reset to Green Zone	Outcome: Capable—Enter Penalty Zone	Outcome: Not Capable—Return to Green Zone
62%	38%	72%	28%

* Capability Interviews are undertaken by Employment Services Providers and are designed to assess whether: (i) a job seeker’s/participant’s Requirements are appropriate to their individual circumstances and if they are capable of meeting their requirements outlined in the Job Plan/Participation Plan; and (ii) only job seekers/participants who are deliberately not meeting their Requirements continue in the Warning Zone. Further information on Capability Interview reasons, processes and outcomes is in the Glossary.

^ The Capability Assessment is an evidence-based review of a job seeker’s/participant’s individual circumstances and the appropriateness of their Job Plan Requirements, conducted by a Department of Human Services (DHS) Participation Solutions Team officer. The purpose of a Capability Assessment is to assess whether: (i) a job seeker’s/participant’s Requirements are appropriate to their individual circumstances and if they are capable of meeting their requirements outlined in the Job Plan/Participation Plan; and (ii) only job seekers/participants who are found to be capable of meeting their Requirements, but deliberately fail to do so, move into the Penalty Zone. Further information on Capability Assessment reasons, processes and outcomes is in the Glossary.

Table 4: Income Support Payment Suspensions and Confirmed Demerits, across All Programmes (jobactive, Disability Employment Services and ParentsNext)—1 July 2019 to 31 December 2019

Income Support Payment Suspensions	Confirmed Demerits*
1,289,905	536,547

Table 4 captures the total number of Income Support Payment Suspensions over the period. The first non-compliance event that a job seeker commits will trigger an Income Support Payment Suspension, any subsequent non-compliance event during a period of Income Support Payment Suspension, that would otherwise have triggered a Suspension are excluded from Table 4. Income Support Payment Suspensions do not result in a loss of payment. Where a job seeker/participant fails to Accept or Commence a Suitable Job, this will prompt Income Support Payment Suspension, but not Demerit creation.

* Confirmed Demerits are those accrued at any point in the reference period that still had a confirmed status at 31 December 2019.

Table 5: Summary of Financial Penalties in the Penalty Zone applied by Department of Human Services Decisions across All Programmes (jobactive, Disability Employment Services and ParentsNext)—1 July 2019 to 31 December 2019

Financial Penalties applied in Penalty Zone	1st Penalty* in Penalty Zone	2nd Penalty* in Penalty Zone	3rd Penalty* in Penalty Zone
13,444	7,306	4,327	1,811

Job seekers/participants will incur Financial Penalties where, following an investigation, DHS finds they have committed a Mutual Obligation Failure in the Penalty Zone. A DHS decision to apply a Financial Penalty is appealable under Social Security Law. For further information, see the Glossary.

Table 5 captures the total number of financial penalties applied over the period. Job Seekers/participants may have a penalty applied if they commit a: Failure to Attend or Misconduct at a Provider Appointment; Failure to Attend or Misconduct at an Activity; Failure to Attend or Misconduct at a Third Party Appointment; Failure to Attend or Misconduct at a Job Interview; Failure to Act on a Job Referral; Failure to Agree to a Job Plan; Failure to Undertake Satisfactory Job Search Efforts; Failure to Accept or Commence a Suitable Job; and Voluntary Unemployment or Dismissal Due to Misconduct.

* A first Mutual Obligation Failure in the Penalty Zone confirmed by DHS following investigation will see the job seeker/participant lose half of their fortnightly payment (i.e. one week's payment). A second Failure will result in loss of their entire fortnightly payment (i.e. two weeks' payment), and a third Failure will result in a four-week Non-Payment/Preclusion Period.

Note: further information on Financial Penalties is available in the Glossary.

Table 6: Summary of Financial Penalties due to Work Refusal or Unemployment Failures applied by Department of Human Services Decisions across jobactive and Disability Employment Services Programmes—1 July 2019 to 31 December 2019

Financial Penalties for Work Refusal Failures	Financial Penalties for Unemployment Failures
571	2,036

Job seekers/participants (in any Zone) who are found by DHS to have committed a Work Refusal Failure (i.e. Fail to Accept a Suitable Job or Fail to Commence a Suitable Job) or an Unemployment Failure (i.e. Voluntarily Leave a Suitable Job, or are Dismissed from a Suitable Job due to Misconduct) will incur a Financial Penalty in the form of having their Income Support cancelled and being subject to a (generally four-week) Non-Payment/Preclusion Period.

Glossary

Active Months—The calculation of active months is prescribed by the [Social Security \(Administration\) \(Non-Compliance\) Determination 2018 \(No. 1\)](#). Three active months (which is the time since their last Failure that a person remains in the Penalty Zone) is defined as 91 days. Six active months (the length of time until a Demerit expires) is defined as 182 days. For both periods, exemptions, Non-Payment/Preclusion Periods due to non-compliance, and the time between a referral to a Capability Assessment and its completion do not count towards active months (because during these periods job seekers/participants are not demonstrating compliance), and may prolong the time it takes for the active months to pass. However, both three and six active months cannot be longer than twelve calendar months.

Capability Assessment (reasons)—A Capability Assessment will be triggered when: (i) a job seeker/participant accrues five Demerits in six active months, and has been found capable of meeting their Job Plan Requirements at their Capability Interview; or (ii) has been fast tracked to the equivalent point following non-attendance or inappropriate behaviour at a Job Interview or not acting on a Job Referral, and has already had a Capability Interview and was found capable of meeting their Job Plan Requirements. Once a job seeker/participant has reached this point, their Provider will set a Capability Assessment as the Re-engagement Requirement. The Provider must verbally notify the job seeker/participant of this Requirement. They will also inform them that they will need to contact DHS to participate as soon as possible, and that their payment will remain suspended until they do. Job seekers/participants will not accrue any further Demerits until they have had their Capability Assessment.

Capability Assessment (process)—The Capability Assessment will determine whether a job seeker/participant will: (i) move into the Penalty Zone—if their Job Plan Requirements are appropriate for their circumstances and they are capable of successfully meeting all Requirements; or (ii) be returned to the Green Zone. During the Capability Assessment, DHS will review the job seeker's Capability Interview and the information their Provider recorded; the current Job Plan; the Capability Management Tool and the barrier statuses; and the Job Seeker Classification Instrument (JSCI). DHS will notify Providers of Capability Assessment outcomes, and will provide information about what may need to be updated in the Job Plan, as well as any other personal information about the job seeker/participant relevant to their ongoing servicing—further information on specific Capability Assessment outcomes is below.

Capability Assessment (outcome—Capable)—The job seeker/participant is capable of meeting their Requirements. The job seeker/participant will enter the Penalty Zone.

Capability Assessment (outcome—Not capable)—The job seeker/participant is not capable of meeting their Requirements. Demerits will be reset to zero and they will return to the Green Zone.

Capability Interview (reasons)—A Capability Interview will be triggered when: (i) a job seeker/participant accrues three Demerits in a six active month period; or (ii) a job seeker/participant does not attend or behave appropriately at a Job Interview, or fails to act on a Job Referral, and has not yet had a Capability Interview (i.e. they are fast-tracked). After a Capability Interview has been triggered, the Provider must book it to occur in the next two Business Days. Where it cannot be booked within the next two Business Days due to job seeker/participant or external circumstances, the Provider must conduct it within the next 14 Business Days.

Capability Interview (process)—The Provider must deliver the Capability Interview face-to-face with the job seeker/participant, unless circumstances exist which mean it is allowable to conduct it over the phone or via video conference. *Prior to* the Capability Interview, the Provider will review the Job Plan, Job Seeker Summary and Job Seeker Classification Instrument (JSCI) information on the Department’s IT system and record information about the appropriateness of the Job Plan on the system. *During the* Capability Interview, the Provider and job seeker/participant will meet to discuss: the job seeker’s/participant’s Requirements; their recent non-compliance; anything that might be affecting their ability to comply; supports they may require; and their job searching progress. Providers must record the job seeker’s/participant’s responses in the Department’s IT System, and update the status of individual circumstances and actions being taken to address these in the Capability Management Tool. Where newly disclosed circumstances or barriers have been identified, the Provider must update the JSCI and (as needed), make a referral to a non-medical Employment Services Assessment (ESAt) during the Capability Interview. *Following* the Capability Interview, after Providers have recorded responses to questions, the Department’s IT System will indicate the outcome of the Capability Interview—further information on specific Capability Interview outcomes is below.

Capability Interview (outcome—Capable)—The job seeker/participant is capable of meeting their Requirements. The job seeker/participant will continue in the Warning Zone.

Capability Interview (outcome—Not Capable)—The job seeker/participant is not capable of meeting their requirements. Demerits will be reset to zero and they will return to the Green Zone.

Capability Management Tool—The Capability Management Tool (CMT) is used to record, review and manage information on job seekers’ personal circumstances that may be affecting their capacity to meet their Mutual Obligation Requirements. The CMT consolidates information collected from the Capability Interview discussion, the most recent JSCI, and any past ESAts or Capability Assessments.

Demerits—A Demerit is a record created on the Department’s IT system where a job seeker/participant in the Green or Warning Zone commits a Mutual Obligation Failure. The number of Demerits accrued determines when the job seeker/participant should undergo a Capability Interview (after three Demerits unless fast-tracked) or Capability Assessment (after five Demerits unless fast-tracked), and ultimately whether they should enter the Penalty Zone and become subject to penalties for future Failures, because they can now be considered to have 'persistently committed Mutual Obligation Failures'. Most Mutual Obligation Failures without Valid Reason will see the job seeker/participant incur a Demerit. Some Failures (such as to act on a Job Referral or Attend or Behave Appropriately at a Job Interview) can result in additional Demerits triggering a Capability Review—see ‘Fast Tracked Demerit’. Demerits expire after six active months. Further information on the administrative mechanisms and rules pertaining to Demerit creation and removal are set out in a legislative instrument, the [Social Security \(Administration\) \(Non-Compliance\) Determination 2018 \(No. 1\)](#).

Failure—is a failure to meet a Mutual Obligation Requirement; Work Refusal Failure; Unemployment Failure; or Failure to meet a Reconnection Requirement, under the Social Security Law.

Fast-Tracked Demerit—Job seekers/participants who fail to attend a Job Interview or undertake a Job Referral will immediately undergo the next Capability Interview or Capability Assessment they are due for, regardless of the number of Demerits they have.

Financial Penalties—Financial penalties may apply to job seekers/participants who persistently and deliberately fail to comply with their Mutual Obligation Requirements or commit Work Refusal or Unemployment Failures. The [Social Security \(Administration\) \(Non-Compliance\) Determination 2018 \(No. 1\)](#) describes the administrative mechanisms which are to be used to monitor a job seeker's/participant's compliance and identify when they have become persistently non-compliant. After five Mutual Obligation Failures (or less if fast-tracked because of a serious failure) within six active months (and if the person is found able to meet their Requirements in the Capability Interview and Capability Assessment) the job seeker/participant will enter the Penalty Zone. Further Mutual Obligation Failures without Reasonable Excuse will result in the job seeker/participant being determined to have 'persistently committed Mutual Obligation Failures', and will result in them facing escalating Financial Penalties:

- for a first Failure in the Penalty Zone their fortnightly payment will be reduced by half (one week's payment);
- for a second Failure, they will lose their entire fortnightly payment (two weeks payment); and
- for a third Failure, their payment will be cancelled and a four-week Non Payment/Preclusion Period will apply.

In addition, job seeker's/participant's in any Zone who commit a Work Refusal or Unemployment Failure will incur a Financial Penalty in the form of having their Income Support Payment cancelled and being subject to a (generally four week) Non-Payment/Preclusion Period.

Green Zone—All job seekers/participants begin in the Green Zone with zero Mutual Obligation Failures and will be subject to Payment Suspension for any Failure to meet a Mutual Obligation Requirement. No Financial Penalties will apply to the job seeker in the Green Zone, except for Work Refusal or Unemployment Failures.

Income Support Payment Suspension—For every Failure to meet a Mutual Obligation Requirement, job seekers/participants will have their Income Support Payment Suspended and be given a Re-engagement Requirement, which they must generally meet in order to lift the Suspension. Once Payment Suspension is lifted, this will enable reporting of income to DHS. The job seeker/participant will then receive full back-pay for the period their payment was suspended, subject to other provisions of the Social Security Law.

Mutual Obligation Failure—Job seekers/participants subject to the TCF commit a Mutual Obligation Failure when or if they fail to:

- agree a Job Plan (or Participation Plan for ParentsNext participants);
- undertake satisfactory Job Search effort;
- undertake a satisfactory Job Referral when requested to do so by their Provider;
- attend punctually, and behave in an appropriate manner, at an appointment (either with their Provider, or a third party);
- attend punctually, and behave in an appropriate manner, at an activity outlined in their Job Plan or Participation Plan;
- attend punctually, and behave in an appropriate manner, at a Job Interview.

For further information on Mutual Obligation Failures, including punctual attendance and inappropriate behaviour (e.g. *misconduct*) at Requirements, please refer to the [Guide to Social Security Law](#). Not all TCF job seeker's/participants will be subject to the full range of Mutual Obligation Requirement types listed

above (e.g. ParentsNext participants will not be compelled to undertake job search). A Mutual Obligation Failure will generally result in Payment Suspension until the job seeker/participant complies with the Requirement. A Mutual Obligation Failure will only result in a Demerit if the job seeker/participant is in the Green/Warning Zone and had no Valid Reason for their Failure, and will only result in a Financial Penalty if the job seeker/participant is in the Penalty Zone and DHS determines that the job seeker/participant did not have a Reasonable Excuse for committing the Failure.

Mutual Obligation Requirement—means the Activity Test, or Participation Requirements or other Requirements that a TCF job seeker/participant must meet in order to receive an Income Support Payment, including a Requirement that, if not complied with, would be a: Mutual Obligation Failure; Work Refusal Failure; Unemployment Failure; or Failure to meet a Reconnection Requirement, under the Social Security Law.

Non-Payment/Preclusion Period—where a job seeker/participant subject to the TCF commits a third Mutual Obligation Failure in the Penalty Zone, or (while in any Zone) commits a Work Refusal Failure or an Unemployment Failure, DHS will cancel their Income Support Payment and they will be subject to a (generally four week, six weeks in some limited circumstances) Non-Payment/Preclusion Period (i.e. during which they are precluded from receiving their participation payment). Like Financial Penalties for Mutual Obligation Failures in the Penalty Zone, these penalties cannot be waived by DHS, however can be appealed.

Penalty Decisions—Job seekers/participants do not continue to accrue Demerits in the Penalty Zone; instead, DHS will investigate the non-compliance and determine whether or not to apply a Financial Penalty. Before any penalty is applied, the job seeker/participant will be notified and given the opportunity to either accept the Penalty or explain the reasons for the non-compliance to DHS. If the job seeker/participant satisfies DHS that they have a **Reasonable Excuse** for the Failure, they will not face a Financial Penalty. If DHS determines they committed a Failure without a Reasonable Excuse, a Financial Penalty will be applied. A DHS decision to apply a Financial Penalty is appealable under Social Security Law.

Penalty Zone—When a job seeker/participant has been assessed by DHS as capable of meeting their Requirements at a Capability Assessment they will move in to the Penalty Zone. Job seekers/participants in the Penalty Zone will incur Financial Penalties where they do not have a Reasonable Excuse for failing to comply with a Mutual Obligation Requirement—either following DHS investigation or following job seeker/participant acceptance of the penalty. Job seekers/participants will experience escalating Financial Penalties with each event of a Mutual Obligation Failure. The first Failure results in a loss of half their fortnightly Income Support Payment; the second Failure results in loss of all their fortnightly Income Support Payment; and a third Failure results in payment cancellation and a four-week preclusion period. Job seekers/Participants will exit the Penalty Zone and return directly to the Green Zone once they have met all of their Requirements for three active months.

Reasonable Excuse—Under the TCF, before DHS imposes a Financial Penalty it must determine if the job seeker/participant had a Reasonable Excuse for failing to meet their Requirements. The meaning of the term Reasonable Excuse is not defined in legislation but the excuse must be one that an ordinary member of the community would accept as reasonable in the circumstances. Mutual Obligation Requirements are designed to prepare job seekers/participants for work and therefore a Reasonable Excuse should generally also be one that an employer would consider reasonable for an employee who missed work. If the circumstance that prevented the job seeker/participant from meeting their Requirement was unforeseeable and outside the person's

control, it provides a Reasonable Excuse. However, this does not necessarily mean a circumstance that was foreseeable or was within the job seeker's/participant's control can never constitute a Reasonable Excuse.

The [Social Security \(Administration\) \(Reasonable Excuse—Participation Payments\) Determination 2018](#) sets out a list of specific factors relating to personal circumstances which DHS must take into account when determining Reasonable Excuse, as well as factors DHS *must not* consider, including drug or alcohol dependency if the job seeker/participant has previously used drug or alcohol dependency as a Reasonable Excuse and refused or failed to participate in available treatment. Regardless of any given reason, the job seeker/participant cannot be taken to have a Reasonable Excuse for not attending an appointment or activity if: it was reasonable to expect the job seeker/participant to have given prior notice of the Reasonable Excuse to the organisation which arranged the appointment or activity, and they failed to do so.

Re-engagement Requirement—is the Mutual Obligation Requirement a job seeker/participant must meet to end an Income Support Payment Suspension. Generally, job seekers/participants who have committed a Mutual Obligation Failure will be able to end their Payment Suspension once they contact their Employment Services Provider and re-engage with their activity or attend an appointment. Additionally, if a job seeker/participant does not meet their Re-engagement Requirement within four weeks of being notified of that Requirement, DHS will usually cancel their Payment.

TCF job seekers/participants—are job seekers commenced in jobactive and Disability Employment Services, and participants commenced in ParentsNext, who were in one of the Targeted Compliance Framework (TCF) Zones at the end of the reference period (i.e. it excludes those serving a Non-Payment/Preclusion Period at that date).

TCF Zones—The Targeted Compliance Framework consists of three Zones: the Green Zone, Warning Zone and Penalty Zone (each described separately in this Glossary).

Unemployment Failure—An Unemployment Failure occurs where a job seeker/participant voluntarily leaves a suitable job (*i.e. voluntary unemployment*), or where they have been *dismissed due to misconduct* from a suitable job. The penalty for job seekers/participants (in any zone) who commit an Unemployment Failure is to have their Income Support Payment cancelled and serve a four-week Non-Payment/Preclusion Period (six-weeks if the job seeker/participant has received financial relocation assistance to take up a job and then commits an Unemployment Failure). For further information on Unemployment Failures, please refer to the [Guide to Social Security Law](#).

Valid Reason—The reason a job seeker/participant gives after a Mutual Obligation Failure for their non-compliance and their inability to give prior notice, which is accepted by their Employment Services Provider.

Warning Zone—If a job seeker/participant in the Green Zone commits a Mutual Obligation Failure without a Valid Reason they will accrue a Demerit, and in addition to having their payment suspended will enter the Warning Zone. In this phase, each Failure to meet a Requirement will result in a Payment Suspension and accrual of a Demerit if there is no valid reason. No Financial Penalties will apply to the job seeker/participant in this phase, except for Work Refusal or Unemployment Failures. Job seekers/participants in the Warning Zone will be required to participate in capability reviews once they have accrued three and five Demerits in a six-active month period: at three Demerits, they will attend a Capability Interview with their Provider; at five, they will participate

in a Capability Assessment with DHS. Job seekers may also be fast-tracked to the relevant review for Job Interview and Job Referral Failures. The purpose of capability reviews is to evaluate whether the Job Plan is appropriate to the job seeker's/participant's personal circumstances and level of capability.

Work Refusal Failure—A Work Refusal Failure occurs where a job seeker/participant *fails to accept a suitable job* or *fails to commence a suitable job*. Job seekers/participants (in any Zone) who commit a Work Refusal Failure without a Reasonable Excuse will have their Income Support Payment cancelled and they will serve a four-week Non-Payment/Preclusion Period. For further information on Work Refusal Failures, please refer to the [Guide to Social Security Law](#).