



Australian Government
Department of Jobs and Small Business

To: s 22(1) _____, Branch Manager, Assurance Coordination Branch
 CC: s 22(1) _____, Branch Manager, JS Participation & Compliance Branch

Capability Interview Assurance Activity Interim Results

| | |
|---|---|
| Recommendation(s) – that you: | |
| 1. Note the results of the August – October 2018 Capability Interviews assessments reviewed as part of the Capability Interview Assurance Activity. | (Noted) |
| 2. Note the strategies to reduce the backlog of assessments awaiting Quality Assurance and publication. | (Noted) |
| 3. Note the proposed approach to drive improvements in future results through provider education. | (Noted) |
| <p>s 22(1) _____</p> <p>s 22(1) _____</p> | <p><i>Seek endorsement from s 22(1) please</i></p> <p>Date <i>25/3/2019</i></p> |

Purpose

To inform you of the interim results of the Capability Interview Assurance Activity (the Activity) for August – October 2018, and outline the strategies in place to reduce the backlog of assessments awaiting Quality Assurance (QA), and improve provider compliance through education.

Key Points:

August – October 2018 Interim Results

1. The results of the Capability Interviews assessed for the first three months of the activity have been finalised. Of the Capability Interviews assessed over the period:
 - 58.7 per cent satisfied or mostly satisfied requirements
 - 22.2 per cent partially met requirements
 - 19.1 per cent did not meet requirements.
2. A detailed breakdown of all results can be found at **Attachment A**, results by Provider can be found at **Attachment B** and results by deficiency type is at **Attachment C**.
3. A significant percentage of assessed Capability Interviews attracted deficiencies, most notably around the requirements to accurately update the job seeker's job plan

(Outcome One). The high level results from the August-October sample and corresponding early learnings were incorporated in to the Targeted Compliance Framework (TCF) refresher training delivered to providers throughout November and December 2018 by the program area.

4. We would expect to see an increase in provider compliance in the Capability Interviews completed from mid-November 2018 onward, as the impact of the TCF training takes effect. We will continue to closely monitor, and once the results for November through to February 2019 samples are finalised we will be able to provide you with further advice on what impact the training has had on provider compliance.

Timeliness of Assessments and QA

5. Currently the contracted assessors are approximately 40 per cent through the January 2018 sample, which was drawn on 26 February 2019. While the assessors are completing the initial assessment of Capability Interviews within a reasonable timeframe, there is opportunity for some further improvement to the timeliness.
6. However, the QA of the completed assessments is currently significantly behind schedule due to deficiency mapping issues that were identified while reviewing the September and October samples. To resolve the issue, a realignment of the deficiencies and results categories mapping was agreed, which required amendments to the assessment tool (and retesting) and a reassessment and QA of the impacted results.
7. Below is the proposed timeframes for completing assessments and QA over the upcoming assessment periods.

| | Sample | Sample Drawn | Assessments Completed | QA Completed | Results for Approval |
|----------|--------|--------------|-----------------------|--------------|----------------------|
| November | 667 | 17/12/2018 | 8/2/2019 | 22/03/2019 | 27/03/2019 |
| December | 474 | 30/1/2019 | 28/2/2019 | 3/04/2019 | 8/04/2019 |
| January | 613 | 26/02/2019 | 28/3/2019 | 12/04/2019 | 17/04/2019 |
| February | - | 15/3/2019 | 15/4/2019 | 26/04/2019 | 1/05/2019 |
| March | - | 15/4/2019 | 15/5/2019 | 17/5/2019 | 22/5/2019 |
| April | - | 15/5/2019 | 12/6/2019 | 14/6/2019 | 19/6/2019 |

8. Due to the nature of a monthly sample, and the timing of when the sample can be selected, there will always be a gap of up to 10 weeks between the Capability Interview being conducted and publication of the assessment results. However, there are a range of steps we can put in place to ensure that the critical period between the sample being drawn and publication of results sits around 5-6 weeks. For example, we propose the following:
 - *Assessments*
 - resourcing a fourth assessors to increase the number of assessments that can be completed each week
 - reduce the sample size from 10 per cent to 5 per cent of the total number of Capability Interviews conducted each month (noting we would not recommend this until there was a significant positive trend in compliance identified).

- QA
 - resourcing an additional QA role for an interim period to manage the backlog of assessments, preferably someone with program knowledge.
 - reduce the number of records that undergo QA. In order to determine where QA could be reduced, analysis would have to be done on which deficiencies assessors are correctly applying and also whether certain assessors are having less results overturned during QA. This review would be done once the results of the backlog are known.
9. The team will continue to explore these options and provide further advice in the coming weeks.

Provider Education

10. To assist with improving compliance of providers, noting that the impact of the TCF refresher training delivered in November and December 2018 is not yet known, the team will:
- commence planning for a second round of training (possibly May 2019) to communicate key messaging and learnings for providers prior to the compliance indicator applying from June 2019. This will be done in conjunction with the program area ✓
 - produce heat maps for each provider, showing outcomes and deficiencies reported down to site level, for Account Managers to use in individualised discussions with the relevant providers.

Background:

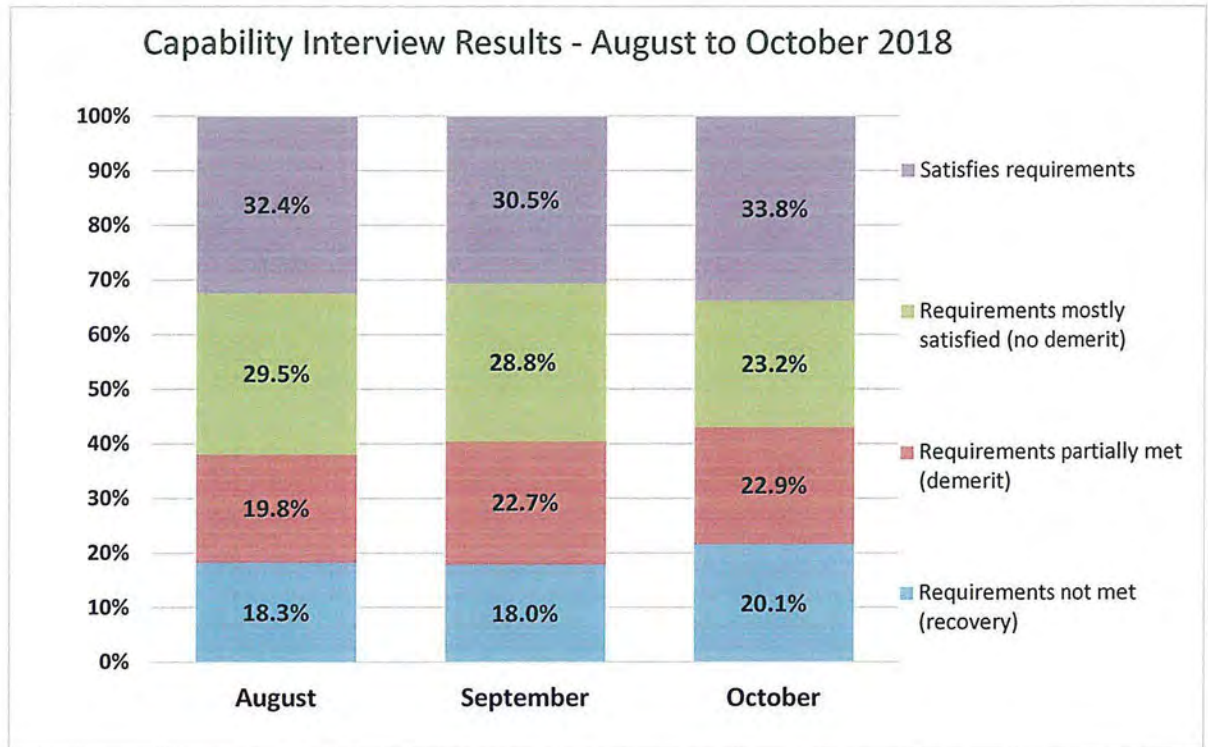
11. The TCF commenced on 1 July 2018 and introduced a demerit system for job seekers who failed to meet compliance requirements. Providers are required to conduct a Capability Interview with a job seeker following the accrual of a third demerit, in order to review the job seeker's circumstances to determine if the current requirements are appropriate.
12. The Activity reviews a sample of Capability Interviews that resulted in a job seeker returning to the Green Zone (i.e. the removal of all demerits) to confirm whether there was sufficient evidence to support the Capability Interview outcome.
13. A job seeker will return to the Green Zone when one of the following four outcomes are triggered in ESS Web during the Capability Interview:
- there are errors in the Job Plan (Outcome 1)
 - the job seeker's stream/eligibility has changed (Outcome 2)
 - the Job Plan is inappropriate for the job seeker's circumstances/capacity (Outcome 3)
 - the job seeker discloses new information which directly impacted them at the time they accrued Demerits (Outcome 4).
14. In June 2018, PISCES agreed that the review results of Capability Interviews completed after 1 January 2019 are to be included in Compliance Indicator calculations for jobactive providers. This was communicated to providers at the National Employment Services Association conference held in August 2018 and at the TCF refresher training sessions held for providers in November and December 2018.

15. Following discussions with the program area, ACB has agreed to delay the inclusion of CIAA results into the Compliance Indicator calculations until July 2019. This will give providers greater opportunity to improve compliance following publication of assessment results.

| | |
|------------------|--|
| Final approver: | s 22(1) |
| Position: | Branch Manager – Assurance Coordination |
| Group/Branch: | Quality, Integrity and Evidence Group; Assurance Coordination Branch |
| Month Year: | March 2019 |
| Contact Officer: | s 22(1) |
| Phone no: | s 22(1) |
| Consultation: | Job Seeker Compliance – Program Management & Governance |

Attachment A

August-October 2018 - Results by month

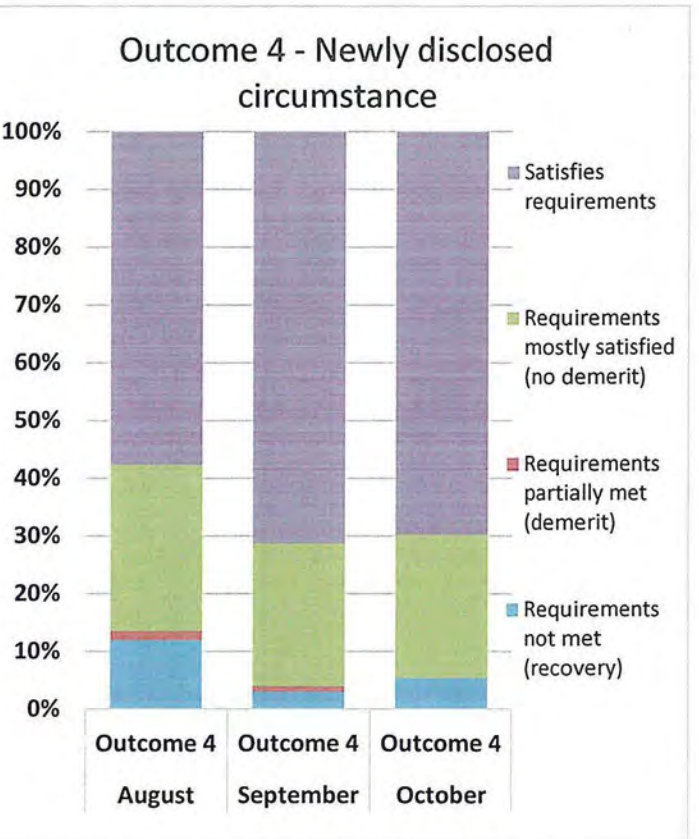
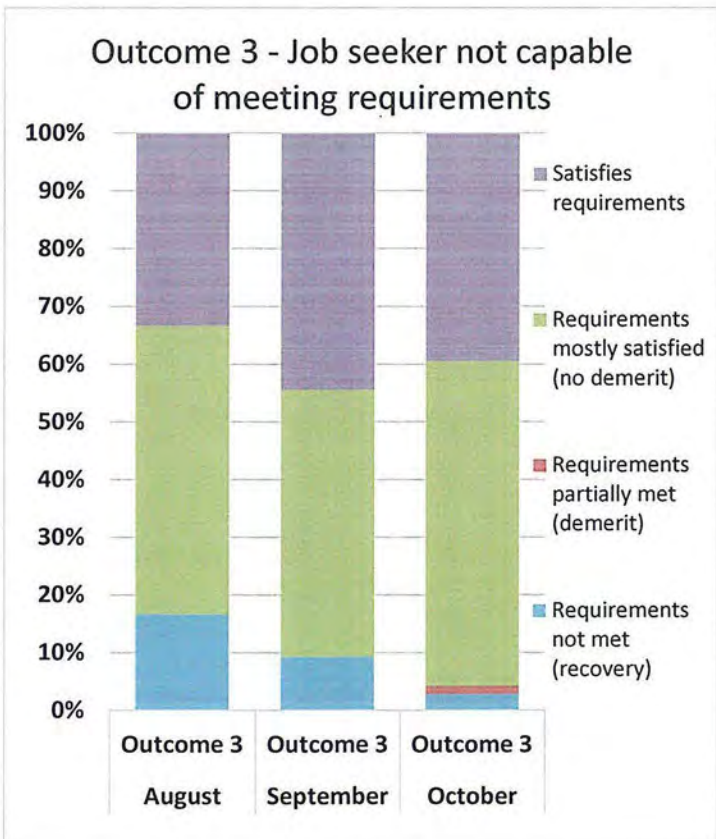
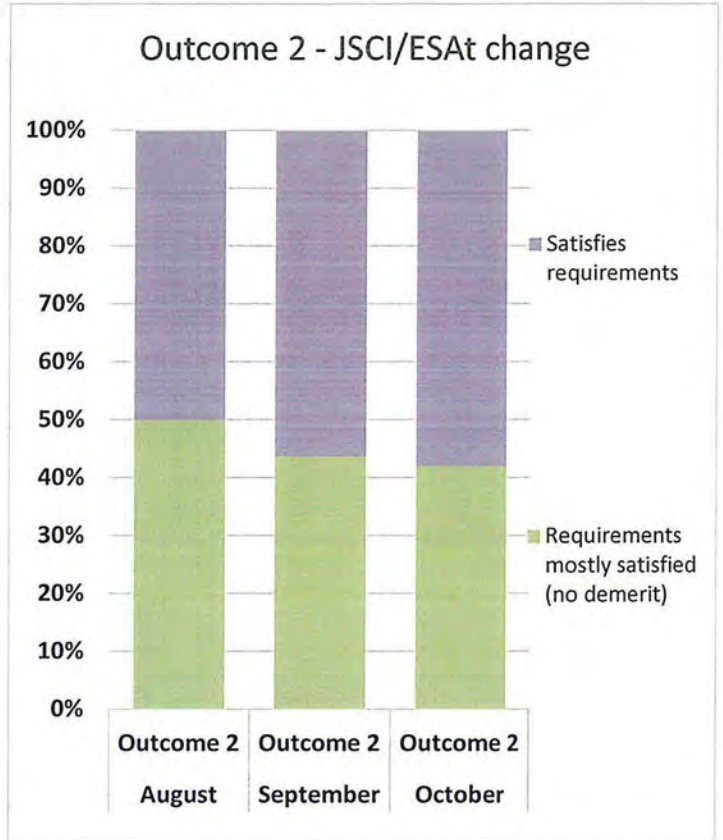
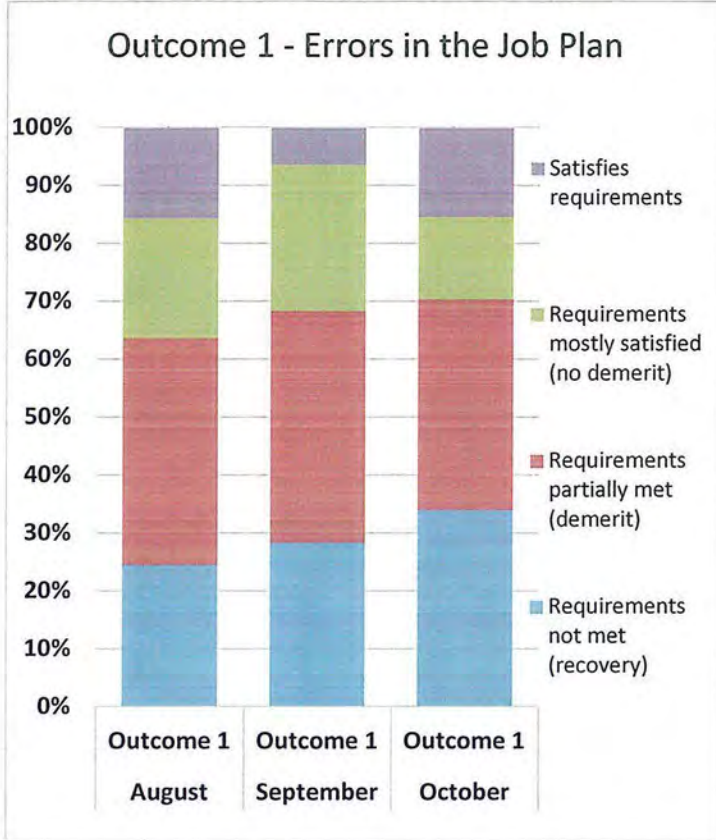


August-October 2018 - Results by jobactive provider

| s 47G(1)(a) | August | | | | | | | | | | September | | | |
|--------------------|-----------|------------|-----------|------------|-----------|------------|-----------|------------|------------|-------------|------------|------------|------------|------------|
| | SR | | RMS | | RPM | | RNM | | Total | | SR | | RMS | |
| | No. | Per cent | No. | Per cent | No. | Per cent | No. | Per cent | No. | Per cent | No. | Per cent | No. | Per cent |
| | 0 | 0% | 2 | 50% | 1 | 25% | 1 | 25% | 4 | 100% | 0 | 0% | 2 | 40% |
| | 1 | 20% | 1 | 20% | 2 | 40% | 1 | 20% | 5 | 100% | 2 | 20% | 5 | 50% |
| | 2 | 67% | 0 | 0% | 0 | 0% | 1 | 33% | 3 | 100% | 1 | 20% | 2 | 40% |
| | 1 | 33% | 1 | 33% | 1 | 33% | 0 | 0% | 3 | 100% | 3 | 50% | 1 | 17% |
| | 1 | 50% | 1 | 50% | 0 | 0% | 0 | 0% | 2 | 100% | 2 | 50% | 0 | 0% |
| | 1 | 50% | 0 | 0% | 0 | 0% | 1 | 50% | 2 | 100% | 1 | 50% | 1 | 50% |
| | 4 | 57% | 2 | 29% | 1 | 14% | 0 | 0% | 7 | 100% | 5 | 29% | 1 | 6% |
| | 0 | 0% | 0 | 0% | 0 | 0% | 1 | 100% | 1 | 100% | 1 | 20% | 3 | 60% |
| | 2 | 40% | 2 | 40% | 1 | 20% | 0 | 0% | 5 | 100% | 1 | 14% | 4 | 57% |
| | 2 | 40% | 2 | 40% | 1 | 20% | 0 | 0% | 5 | 100% | 3 | 33% | 2 | 22% |
| | 2 | 40% | 2 | 40% | 0 | 0% | 1 | 20% | 5 | 100% | 1 | 14% | 2 | 29% |
| | 0 | 0% | 0 | 0% | 1 | 100% | 0 | 0% | 1 | 100% | 1 | 50% | 0 | 0% |
| | 1 | 33% | 2 | 67% | 0 | 0% | 0 | 0% | 3 | 100% | 2 | 67% | 1 | 33% |
| | 1 | 33% | 1 | 33% | 1 | 33% | 0 | 0% | 3 | 100% | 2 | 40% | 2 | 40% |
| | 1 | 14% | 2 | 29% | 3 | 43% | 1 | 14% | 7 | 100% | 4 | 36% | 2 | 18% |
| | 3 | 75% | 0 | 0% | 0 | 0% | 1 | 25% | 4 | 100% | 4 | 67% | 1 | 17% |
| | 1 | 33% | 0 | 0% | 0 | 0% | 2 | 67% | 3 | 100% | 1 | 17% | 2 | 33% |
| | 0 | 0% | 2 | 67% | 0 | 0% | 1 | 33% | 3 | 100% | 2 | 67% | 0 | 0% |
| | 3 | 33% | 1 | 11% | 3 | 33% | 2 | 22% | 9 | 100% | 2 | 18% | 4 | 36% |
| | 2 | 33% | 1 | 17% | 2 | 33% | 1 | 17% | 6 | 100% | 1 | 11% | 3 | 33% |
| | 3 | 50% | 1 | 17% | 1 | 17% | 1 | 17% | 6 | 100% | 2 | 15% | 6 | 46% |
| | 0 | 0% | 4 | 67% | 0 | 0% | 2 | 33% | 6 | 100% | 5 | 50% | 2 | 20% |
| | 10 | 34% | 10 | 34% | 4 | 14% | 5 | 17% | 29 | 100% | 18 | 35% | 13 | 25% |
| | 1 | 50% | 1 | 50% | 0 | 0% | 0 | 0% | 2 | 100% | 1 | 50% | 0 | 0% |
| | 0 | 0% | 0 | 0% | 1 | 50% | 1 | 50% | 2 | 100% | 1 | 25% | 3 | 75% |
| | 2 | 50% | 1 | 25% | | 0% | 1 | 25% | 4 | 100% | 3 | 27% | 1 | 9% |
| | 1 | 25% | 1 | 25% | 2 | 50% | 0 | 0% | 4 | 100% | 3 | 30% | 3 | 30% |
| | 1 | 33% | 2 | 67% | 0 | 0% | 0 | 0% | 3 | 100% | 1 | 25% | 2 | 50% |
| | 1 | 50% | 0 | 0% | 1 | 50% | 0 | 0% | 2 | 100% | 1 | 33% | 2 | 67% |
| | 2 | 40% | 2 | 40% | 1 | 20% | 0 | 0% | 5 | 100% | 4 | 57% | 1 | 14% |
| | 2 | 25% | 2 | 25% | 3 | 38% | 1 | 13% | 8 | 100% | 5 | 28% | 3 | 17% |
| | 1 | 33% | 1 | 33% | 1 | 33% | 0 | 0% | 3 | 100% | 1 | 25% | 1 | 25% |
| | 1 | 20% | 1 | 20% | 1 | 20% | 2 | 40% | 5 | 100% | 3 | 43% | 3 | 43% |
| | 2 | 40% | 1 | 20% | 2 | 40% | 0 | 0% | 5 | 100% | 6 | 46% | 3 | 23% |
| | 3 | 23% | 2 | 15% | 5 | 38% | 3 | 23% | 13 | 100% | 6 | 18% | 11 | 32% |
| | 1 | 13% | 1 | 13% | 0 | 0% | 6 | 75% | 8 | 100% | 5 | 29% | 3 | 18% |
| | 1 | 33% | 1 | 33% | 0 | 0% | 1 | 33% | 3 | 100% | 1 | 25% | 2 | 50% |
| | 1 | 50% | 1 | 50% | 0 | 0% | 0 | 0% | 2 | 100% | 1 | 25% | 2 | 50% |
| | 1 | 25% | 1 | 25% | 1 | 25% | 1 | 25% | 4 | 100% | 1 | 20% | 2 | 40% |
| | 3 | 38% | 4 | 50% | 1 | 13% | 0 | 0% | 8 | 100% | 10 | 36% | 8 | 29% |
| | 1 | 33% | 2 | 67% | 0 | 0% | 0 | 0% | 3 | 100% | 1 | 33% | 1 | 33% |
| | | | | | | | | | | | 0 | 0% | 1 | 100% |
| Grand Total | 66 | 32% | 61 | 30% | 41 | 20% | 38 | 18% | 206 | 100% | 118 | 30% | 111 | 29% |

Attachment C

August-October 2018 - Results by Outcome Type



Attachment D

August-October 2018 - Deficiency Listing and Prevalence

| Deficiency Number | Deficiency | Results Category | Number of Reviews containing Deficiency | Per cent of reviews containing deficiency |
|-------------------|---|-------------------------------|---|---|
| 1 | Provider failed to correctly calculate the number of hours in the job seeker's Job Plan at the time of the Capability Interview | Requirements mostly satisfied | 309 | 26.5% |
| 2 | The hours in the Job Plan were appropriate in line with policy but the provider identified them as inappropriate | Requirements partially met | 76 | 6.5% |
| 3 | ESS Web does not support the provider statement that the activity was inappropriate | Requirements partially met | 296 | 25.3% |
| 4 | Provider has incorrectly identified the job search level in the Job Plan as inappropriate | Requirements partially met | 163 | 13.9% |
| 5 | Provider has incorrectly indicated that the job seeker does not have a job search requirement | Requirements partially met | 61 | 5.2% |
| 6 | Provider incorrectly stated that there were expired activities in the Job Plan in place at the time of the Capability Interview | Requirements partially met | 73 | 6.2% |
| 7 | Provider incorrectly identified all errors in the Job Plan during the Capability Interview | Requirements not met | 202 | 17.2% |
| 8 | Provider failed to correctly assess the Job Plan as inappropriate during the Capability Interview which triggered an alternate Capability Interview outcome | Requirements mostly satisfied | 53 | 4.5% |
| 9 | Provider has indicated changes in circumstances in the JSCI that are not reflected in the Capability Interview - incomplete justification for the return to Green Zone | Requirements mostly satisfied | 3 | 0.3% |
| 10 | Provider has indicated changes in circumstances in the Capability Interview that are not reflected in the JSCI - while sufficient changes in the JSCI have results in a change of stream, administration error exists | Requirements partially met | 1 | 0.1% |
| 11 | Provider failed to justify the Circumstances Impact that returned the job seeker to the Green Zone | Requirements not met | 16 | 1.4% |
| 12 | Provider incorrectly identified 'newly disclosed circumstance': at least one 'newly disclosed circumstance' was already identified in ESS Web | Requirements mostly satisfied | 7 | 0.6% |
| 13 | Provider incorrectly identified 'newly disclosed circumstances': all 'newly disclosed circumstances' were already been identified in ESS Web | Requirements not met | 15 | 1.3% |
| 14 | The Job Plan was not updated within 10 Business Days of the Capability Interview being completed or was not updated to support the issues identified during the Capability Interview | Requirements mostly satisfied | 415 | 35.5% |
| 15 | Provider has failed to update the CMT to support issues identified in the Capability Interview | Requirements mostly satisfied | 10 | 0.9% |
| 16 | Evidence in ESS Web does not support the Capability Outcome code triggered, however the return to the Green Zone is justified based on an alternate Outcome Type | Requirements partially met | 78 | 6.6% |
| - | No deficiency | Satisfies Requirements | 379 | 32.5% |

Documents for Assistant Secretary



For Clearance



For Information

| DUE DATE | DATE & TIME IN |
|----------------------|-----------------------|
| FRIDAY COR 23 August | WED 21 AUGUST @ 15:30 |

Document Name: Minute May & June 2019 CAAA results minute

Level of Urgency: (please circle) Urgent Standard

Cleared by: (please circle initials) s 22(1)

Contact Person: s 22(1) Ext No.: s 22(1)

Comments for AS:

To inform you of the May + June 2019 CAAA results and permission to send letters by 30 August 2019.

AS Comments:

22/8 A few changes please.
Happy to sign in principle -
pending changes s 22(1)

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Australian Government
Department of Employment,
Skills, Small and Family Business

To: s 22(1) _____, Assistant Secretary, Assurance Coordination Branch
Through: s 22(1) _____, A/g Director, Targeted Assurance Team

**May and June 2019 Administration of the Capability Interview
Assurance Activity Results**

Recommendation(s) – that you:

1. **Note** the results of the Administration of the Capability Interview Assurance activity for May and June 2019.
2. **Agree** to release results to providers by 30 August 2019 using the attached letter template.
3. **Note** the proposed recommendations for the program area to consider.
s 22(1)
s 22, ,

Noted

Agreed/Not agreed

Noted

Date 23/8/19

Purpose

To inform you of the results for the Administration of the Capability Interview Assurance Activity (the Activity) for May and June 2019 and recommendations to improve provider compliance in future.

please ensure program area - including are aware of results before letters are sent. -s 22(1)

Key Points:

1. As part of the ongoing assurance activity, the Assurance Coordination Branch (ACB) conducted a review of Capability Interviews (CI) administered by jobactive providers in May and June 2019 to determine whether providers are completing the CI as per Deed and Guideline requirements and that job seekers are being appropriately returned to the Green Zone.
2. The key findings of the CI assessments in May and June are as follows:
 - 35 per cent were found to satisfy or mostly satisfy requirements
 - 30 per cent were found to partially meet requirements, and
 - 36 per cent did not meet requirements.
3. The results in May and June 2019 have seen a continued increase in the number of assessments that do not meet requirements from the August 2018 to April 2019 results.
4. Given that CIs reviewed in this period were conducted prior to the providers having received the August 2018 to April 2019 results and learnings for this activity, providers have not yet had the chance to action any improvements. It is

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expected that the compliance rate will increase from CIs conducted from August 2019 onwards.

5. Table 1 provides a summary of the overall results for each month.

Table 1: May and June 2019 CI Assessment Results for jobactive Providers

| Assessment Result | May | | June | | Total | |
|------------------------------|------------|------------|------------|------------|-------------|------------|
| | Count | % | Count | % | Count | % |
| Satisfies Requirements | 81 | 14.9 | 81 | 14.8 | 162 | 14.9 |
| Requirement mostly satisfied | 101 | 20.1 | 109 | 18.5 | 210 | 19.3 |
| Requirements partially met | 150 | 31.7 | 172 | 27.5 | 322 | 29.6 |
| Requirements not met | 213 | 33.2 | 180 | 39.0 | 393 | 36.2 |
| Total | 545 | 100 | 542 | 100 | 1087 | 100 |

6. Deficiencies and their prevalence are outlined at **Attachment A**.
7. The results by jobactive provider are outlined at **Attachment B**.
8. The program area has been briefed on the findings. Discussions with the program area have informed the proposed recommendations (see point 15).

Summary of Findings

9. In May 2019, the number of assessments that did not meet requirements increased to 39 per cent which is the highest rate of non-compliance since the commencement of the activity.
10. This increase in non-compliance is likely attributed to the number of assessments where:
- Evidence in ESS Web did not support the provider's assessment that the job seekers activity was inappropriate.
 - Providers are continuing to incorrectly identified all errors in the Job Plan.
 - The provider failed to update the Job Plan within 10 business days of the Capability Interview being completed or the Job Plan was not updated to support the issues identified during the Capability Interview.
11. The May and June 2019 results show similar provider behaviour trends, as seen in the August 2018 to April 2019 results.
12. Providers received the first round of results for this activity, including an explanation on the deficiencies and a Best Practice Guide for Administering a Capability Interview, on 5 July 2019, which was after the CIs in this period were conducted.
13. It is expected that improvements in compliance rates in this activity will commence from the next reporting period.

Further Actions

14. Providers can query results from May and June 2019 through their Account Manager. The Targeted Assurance or the Job Seeker Compliance Team will provide responses.

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Recommendations

15. ACB recommends that: the program area continue to work closely with jobactive providers. Delivers targeted education on issue areas identified from this Activity. Continue to promote new products available such as the updated Capability Interview Learning Centre Module and the Best Practice Guide for Administering a Capability Interview to all providers.

Next Steps

16. ACB will generate the results letter to be issued to Providers via their Account Manager by 30 August 2019.
s 22(1)

Background:

18. The Administration of the Capability Interview Assurance Activity (the Activity) assesses a sample of Capability Interviews each month to confirm whether there was sufficient evidence in ESS Web to support the Capability Interview outcome.
19. The Activity commenced in 1 August 2018 and concludes 30 June 2020.
20. ACB communicated the first nine months of the Activity results (August 2018 – April 2019) to jobactive providers, via a results letter on 5 July 2019.
21. The letter included a summary of the provider's results, unit level data, a Best Practice Guide for Administering a Capability Interview, a Deficiency Guide and an offer to have a teleconference with the program area to discuss the results.
22. Three providers accepted the offer and the main theme from the teleconferences was providers trying to get a better understanding of how to complete the Pre-Interview Check questions.
23. There were no other disputes or requests for clarification from jobactive providers after releasing the 1 August 2018 – 30 April 2019 results to jobactive providers.
24. The program area is continuing to work with jobactive providers and develop educative products on the Activity to assist providers with understanding ways to improve performance when administering a Capability Interview.

| | | |
|------------------|--|---|
| Final approver: | s 22(1) | I |
| Position: | A/g Director | |
| Group/Branch: | Assurance Coordination Branch | |
| Month Year: | August 2019 | |
| Contact Officer: | s 22(1) | |
| Phone no: | s 22(1) | |
| Consultation: | Job Seeker Participation and Compliance Branch | |

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Attachment A

Table 2: Deficiencies and their prevalence - May/June 2019 Reporting Period

| Deficiency Number | Deficiency Description | May and June 2019 | | May-19 | | Jun-19 | |
|-------------------|---|-------------------|-------|--------|-------|--------|-------|
| | | # | % | # | % | # | % |
| 14 | The Job Plan was not updated within 10 Business Days of the Capability Interview being completed or was not updated to support the issues identified during the Capability Interview | 413 | 18.6% | 207 | 18.8% | 206 | 18.5% |
| 1 | Provider failed to correctly calculate the number of hours in the job seeker's Job Plan at the time of the Capability Interview | 393 | 17.7% | 200 | 18.1% | 193 | 17.3% |
| 3 | ESS Web does not support the provider statement that the activity was inappropriate | 379 | 17.1% | 195 | 17.7% | 184 | 16.5% |
| 7 | Provider incorrectly identified all errors in the Job Plan during the Capability Interview | 274 | 12.4% | 148 | 13.4% | 126 | 11.3% |
| 5 | Provider has incorrectly indicated that the job seeker does not have a job search requirement | 159 | 7.2% | 81 | 7.3% | 78 | 7.0% |
| 4 | Provider has incorrectly identified the job search level in the Job Plan as inappropriate | 136 | 6.1% | 60 | 5.4% | 76 | 6.8% |
| 6 | Provider incorrectly stated that there were expired activities in the Job Plan in place at the time of the Capability Interview | 112 | 5.1% | 46 | 4.2% | 66 | 5.9% |
| 11 | Provider failed to justify the Circumstances Impact that returned the job seeker to the Green Zone | 95 | 4.3% | 51 | 4.6% | 44 | 3.9% |
| 16 | Evidence in ESS Web does not support the Capability Outcome code triggered, however the return to the Green Zone is justified based on an alternate Outcome Type | 89 | 4.0% | 41 | 3.7% | 48 | 4.3% |
| 8 | Provider failed to correctly assess the Job Plan as inappropriate during the Capability Interview which triggered an alternate Capability Interview outcome | 59 | 2.7% | 28 | 2.5% | 31 | 2.8% |
| 12 | Provider incorrectly identified 'newly disclosed circumstance': at least one 'newly disclosed circumstance' was already identified in ESS Web | 32 | 1.4% | 10 | 0.9% | 22 | 2.0% |
| 2 | The hours in the Job Plan were appropriate in line with policy but the provider identified them as inappropriate | 27 | 1.2% | 10 | 0.9% | 17 | 1.5% |
| 13 | Provider incorrectly identified 'newly disclosed circumstances': all 'newly disclosed circumstances' were already been identified in ESS Web | 27 | 1.2% | 17 | 1.5% | 10 | 0.9% |
| 15 | Provider has failed to update the CMT to support issues identified in the Capability Interview | 8 | 0.4% | 1 | 0.1% | 7 | 0.6% |
| 9 | Provider has indicated changes in circumstances in the JSCI that are not reflected in the Capability Interview - incomplete justification for the return to Green Zone | 7 | 0.3% | 4 | 0.4% | 3 | 0.3% |
| 10 | Provider has indicated changes in circumstances in the Capability Interview that are not reflected in the JSCI - while sufficient changes in the JSCI have results in a change of stream, administration error exists | 7 | 0.3% | 4 | 0.4% | 3 | 0.3% |

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Attachment B

Table 3: Summary of Results by jobactive provider - May/June 2019 Reporting Period

| jobactive Provider | Grand Total | | Satisfies requirements | | Requirements mostly satisfied | | Requirements partially met | | Requirements not met | | Performance |
|--------------------|-------------|--------------|------------------------|--------------|-------------------------------|--------------|----------------------------|--------------|----------------------|--------------|--------------|
| | # | % | # | % | # | % | # | % | # | % | |
| s 47G(1)(a) | 6 | 50.0% | 3 | 33.3% | 2 | 33.3% | 1 | 16.7% | 0 | 0.0% | 93.3% |
| | 12 | 58.3% | 7 | 16.7% | 2 | 16.7% | 2 | 16.7% | 1 | 8.3% | 85.0% |
| | 2 | 50.0% | 1 | 0.0% | 0 | 0.0% | 1 | 50.0% | 0 | 0.0% | 80.0% |
| | 5 | 20.0% | 1 | 20.0% | 1 | 20.0% | 3 | 60.0% | 0 | 0.0% | 76.0% |
| | 19 | 31.6% | 6 | 26.3% | 5 | 26.3% | 5 | 26.3% | 3 | 15.8% | 73.7% |
| | 5 | 0.0% | 0 | 60.0% | 3 | 60.0% | 1 | 20.0% | 1 | 20.0% | 72.0% |
| | 11 | 36.4% | 4 | 18.2% | 2 | 18.2% | 3 | 27.3% | 2 | 18.2% | 70.9% |
| | 12 | 8.3% | 1 | 50.0% | 6 | 50.0% | 2 | 16.7% | 3 | 25.0% | 68.3% |
| | 19 | 10.5% | 2 | 36.8% | 7 | 36.8% | 5 | 26.3% | 5 | 26.3% | 63.2% |
| | 10 | 10.0% | 1 | 40.0% | 4 | 40.0% | 2 | 20.0% | 3 | 30.0% | 62.0% |
| | 30 | 26.7% | 8 | 16.7% | 5 | 16.7% | 8 | 26.7% | 9 | 30.0% | 59.3% |
| | 27 | 29.6% | 8 | 18.5% | 5 | 18.5% | 5 | 18.5% | 9 | 33.3% | 59.3% |
| | 11 | 18.2% | 2 | 27.3% | 3 | 27.3% | 2 | 18.2% | 4 | 36.4% | 56.4% |
| | 39 | 17.9% | 7 | 17.9% | 7 | 17.9% | 13 | 33.3% | 12 | 30.8% | 55.9% |
| | 139 | 12.9% | 18 | 20.1% | 28 | 20.1% | 51 | 36.7% | 42 | 30.2% | 55.1% |
| | 7 | 0.0% | 0 | 28.6% | 2 | 28.6% | 3 | 42.9% | 2 | 28.6% | 54.3% |
| | 6 | 33.3% | 2 | 0.0% | 0 | 0.0% | 2 | 33.3% | 2 | 33.3% | 53.3% |
| | 96 | 16.7% | 16 | 19.8% | 19 | 19.8% | 27 | 28.1% | 34 | 35.4% | 53.3% |
| | 3 | 0.0% | 0 | 33.3% | 1 | 33.3% | 1 | 33.3% | 1 | 33.3% | 53.3% |
| | 37 | 13.5% | 5 | 16.2% | 6 | 16.2% | 14 | 37.8% | 12 | 32.4% | 52.4% |
| | 29 | 24.1% | 7 | 13.8% | 4 | 13.8% | 7 | 24.1% | 11 | 37.9% | 52.4% |
| | 84 | 15.5% | 13 | 19.0% | 16 | 19.0% | 25 | 29.8% | 30 | 35.7% | 52.4% |
| | 33 | 21.2% | 7 | 18.2% | 6 | 18.2% | 7 | 21.2% | 13 | 39.4% | 52.1% |
| | 1087 | 14.9% | 162 | 19.3% | 210 | 19.3% | 322 | 29.6% | 393 | 36.2% | 52.0% |
| | 41 | 4.9% | 2 | 29.3% | 12 | 29.3% | 12 | 29.3% | 15 | 36.6% | 51.7% |
| | 7 | 0.0% | 0 | 42.9% | 3 | 42.9% | 1 | 14.3% | 3 | 42.9% | 51.4% |
| | 23 | 21.7% | 5 | 21.7% | 5 | 21.7% | 3 | 13.0% | 10 | 43.5% | 51.3% |
| | 57 | 8.8% | 5 | 24.6% | 14 | 24.6% | 17 | 29.8% | 21 | 36.8% | 51.2% |
| | 80 | 8.8% | 7 | 15.0% | 12 | 15.0% | 34 | 42.5% | 27 | 33.8% | 49.3% |
| | 29 | 6.9% | 2 | 17.2% | 5 | 17.2% | 12 | 41.4% | 10 | 34.5% | 49.0% |
| | 8 | 25.0% | 2 | 12.5% | 1 | 12.5% | 1 | 12.5% | 4 | 50.0% | 45.0% |
| | 11 | 9.1% | 1 | 18.2% | 2 | 18.2% | 3 | 27.3% | 5 | 45.5% | 43.6% |
| | 6 | 16.7% | 1 | 16.7% | 1 | 16.7% | 1 | 16.7% | 3 | 50.0% | 43.3% |
| | 6 | 33.3% | 2 | 0.0% | 0 | 0.0% | 1 | 16.7% | 3 | 50.0% | 43.3% |
| | 38 | 15.8% | 6 | 15.8% | 6 | 15.8% | 7 | 18.4% | 19 | 50.0% | 42.6% |
| | 19 | 5.3% | 1 | 15.8% | 3 | 15.8% | 6 | 31.6% | 9 | 47.4% | 40.0% |
| | 30 | 10.0% | 3 | 6.7% | 2 | 6.7% | 11 | 36.7% | 14 | 46.7% | 38.7% |
| | 47 | 8.5% | 4 | 12.8% | 6 | 12.8% | 12 | 25.5% | 25 | 53.2% | 36.6% |
| | 9 | 11.1% | 1 | 22.2% | 2 | 22.2% | 0 | 0.0% | 6 | 66.7% | 33.3% |
| | 20 | 5.0% | 1 | 10.0% | 2 | 10.0% | 5 | 25.0% | 12 | 60.0% | 30.0% |
| | 11 | 0.0% | 0 | 0.0% | 0 | 0.0% | 5 | 45.5% | 6 | 54.5% | 27.3% |

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Documents for Assistant Secretary

For Clearance

For Information

| DUE DATE | DATE & TIME IN |
|-------------|-----------------------|
| 11 November | 5 November @ 11:30 am |

Document Name: TCF July / August Results Minute

Level of Urgency: (please circle) Urgent Standard

Cleared by: (please circle initials) s 22(1)

Contact Person: s 22(1) Ext No.: s 22(1)

Comments for AS:

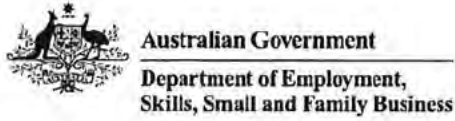
Hi s 22(1)

Results for the July / August reporting period
for approval.

s 22(1)

AS Comments:

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Can we see Sept results asap - even in draft.

Copy of this minute to s 22(1) & s 22(1) please s 22(1)

To: s 22(1) 1, Assistant Secretary, Assurance Coordination Branch
Through: s 22(1) 1, Director, Assurance Activities Team

July and August 2019 Administration of the Capability Interview Assurance Activity Results

| | |
|---|-------------------|
| Recommendation(s) – that you: | |
| 1. Note the results of the Administration of the Capability Interview Assurance activity for July and August 2019. | Noted |
| 2. Agree to release results to providers by 22 November 2019 using the attached letter template. | Agreed/Not agreed |
| 3. Note the proposed recommendations for the program area to consider. | Noted |
| s 22(1) _____ Date 5/11/19 | |

Purpose

To inform you of the results for the Administration of the Capability Interview Assurance Activity (the Activity) for July and August 2019 and recommendations to improve provider compliance in future.

Key Points:

- As part of the ongoing assurance activity, the Assurance Coordination Branch (ACB) conducted a review of Capability Interviews (CI) administered by jobactive and ParentsNext providers in July and August 2019. The purpose of this review was to determine if providers are completing CIs as per Deed and Guideline requirements and job seekers are being appropriately returned to the Green Zone.
- The key findings of the assessment of these CIs are as follows:
 - 36 per cent satisfied or mostly satisfied requirements
 - 30 per cent partially met requirements, and
 - 34 per cent did not meet requirements.
- Results for July and August 2019 saw a slight improvement over the previous reporting period with the proportion of assessments failing to meet requirements decreasing by two percentage points.
- CIs in this period were conducted as providers received the August 2018 to April 2019 results, which included an explanation of the deficiencies and a Best Practice Guide for Administering a

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CI. Given this timing, it is assumed that providers would not have had an opportunity to incorporate these learnings when administering CIs assessed across the sample period. Positive impacts on provider compliance flowing from this education would be expected to be seen in CIs conducted from September 2019.

5. Table 1 provides a summary of results across the two sampled months.

Table 1: July and August 2019 National Results for jobactive and ParentsNext Providers

| Assessment Result | July | | August | | Total | |
|------------------------------|------------|------------|------------|------------|-------------|------------|
| | Count | % | Count | % | Count | % |
| Satisfies Requirements | 108 | 18.0 | 95 | 15.8 | 203 | 16.9 |
| Requirement mostly satisfied | 118 | 19.6 | 105 | 17.5 | 223 | 18.6 |
| Requirements partially met | 195 | 32.4 | 172 | 28.6 | 367 | 30.5 |
| Requirements not met | 180 | 30.0 | 229 | 38.1 | 409 | 34.0 |
| Total | 601 | 100 | 601 | 100 | 1202 | 100 |

6. Deficiencies and their prevalence are outlined at [Attachment A](#).
7. Results broken down by jobactive and ParentsNext provider are outlined at [Attachment B](#).
8. The program area has been briefed on the findings, and discussions throughout the project have informed the proposed recommendations for the program area (see point 16).

Summary of Findings

9. In July and August 2019, main areas of non-compliance related to Outcome 1 (Errors in the Job Plan). This included providers:
- incorrectly identifying all errors in the Job Plan.
 - incorrectly indicating that the job seeker did not have a job search requirement.
 - failing to justify the circumstances that returned the job seeker to the Green Zone.
 - failing to update the Job Plan within 10 business days of the Capability Interview being completed or update the Job Plan to support the issues identified during the Capability Interview.
10. The results for this reporting period indicate that while a high number of assessments had an incorrect Outcome triggered, the job seeker's return to the Green Zone was justified for another reason i.e. a change in the job seeker's circumstances.
11. The July and August 2019 results demonstrate similar trends in provider behaviour as seen in previous month's results for this activity.

Further Actions

12. Providers can query or question results from July and August 2019 through their Account Manager.

Recommendations

13. ACB recommends that the program area continues to:
- work closely with jobactive and ParentsNext providers and deliver targeted education on issues identified from this Activity; and

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- promote educative material available to providers, such as the updated CI Learning Centre Module and the Best Practice Guide for Administering a CI.

Next Steps

14. ACB will generate the results letter to be issued to Providers via their Account Manager by 22 November 2019.
s 22(1)
16. ACB will meet with the Job Seeker Compliance Team to discuss progressing the inclusion of results in Compliance Indicator calculations from January 2020.

Background:

17. The Administration of the CI Assurance Activity assesses a sample of provider CIs conducted each month to confirm whether there was sufficient evidence in ESS Web to support the CI outcome.
18. The activity commenced in 1 August 2018 and concludes 30 June 2020.
19. Activity results for the first two reporting periods were sent to providers on 5 July 2019 and 30 August 2019.
20. There were no disputes or requests for clarification from jobactive providers after releasing results for the first two reporting periods.
21. The program area is continuing to work with jobactive providers and develop educative products relating to the Activity to assist providers understand ways to improve performance in administering CIs.
22. Pending agreement from the Job Seeker Participation and Compliance Branch, the results from this activity will impact jobactive providers Compliance Indicator scores from January 2020.

| | |
|------------------|--|
| Final approver: | s 22(1) |
| Position: | Director |
| Group/Branch: | Assurance Coordination Branch |
| Month Year: | October 2019 |
| Contact Officer: | s 22(1) |
| Phone no: | s 22(1) |
| Consultation: | Job Seeker Participation and Compliance Branch |

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Attachment A

Table 2: Deficiencies and their prevalence - July/August 2019 Reporting Period

| Deficiency Number | Deficiency Description | July 2019 | | August 2019 | | July and August 2019 | | Percentage point increase/decrease from May and June results** | |
|-------------------|---|-------------------|-------|-------------------|-------|----------------------|-------|--|---|
| | | No of assessments | %* | No of assessments | %* | No of assessments | %* | | |
| 14 | The Job Plan was not updated within 10 Business Days of the Capability Interview being completed or was not updated to support the issues identified during the Capability Interview | 215 | 35.8% | 214 | 35.6% | 429 | 35.7% | - 1.1% | ↓ |
| 1 | Provider failed to correctly calculate the number of hours in the job seeker's Job Plan at the time of the Capability Interview | 211 | 35.1% | 192 | 31.9% | 403 | 33.5% | - 1.5% | ↓ |
| 3 | ESS Web does not support the provider statement that the activity was inappropriate | 200 | 33.3% | 176 | 29.3% | 376 | 31.3% | - 2.3% | ↓ |
| 7 | Provider incorrectly identified all errors in the Job Plan during the Capability Interview | 120 | 20.0% | 150 | 25.0% | 270 | 22.5% | - 1.9% | ↓ |
| 4 | Provider has incorrectly identified the job search level in the Job Plan as inappropriate | 81 | 13.5% | 76 | 12.6% | 157 | 13.1% | - 1.0% | ↓ |
| 5 | Provider has incorrectly indicated that the job seeker does not have a job search requirement | 64 | 10.6% | 84 | 14.0% | 148 | 12.3% | - 1.9% | ↓ |
| 11 | Provider failed to justify the Circumstances Impact that returned the job seeker to the Green Zone | 44 | 7.3% | 63 | 10.5% | 107 | 8.9% | + 0.4% | ↑ |
| 6 | Provider incorrectly stated that there were expired activities in the Job Plan in place at the time of the Capability Interview | 61 | 10.1% | 45 | 7.5% | 106 | 8.8% | + 1.2% | ↑ |
| 16 | Evidence in ESS Web does not support the Capability Outcome code triggered, however the return to the Green Zone is justified based on an alternate Outcome Type | 39 | 6.5% | 56 | 9.3% | 95 | 7.9% | + 0.0% | → |
| 8 | Provider failed to correctly assess the Job Plan as inappropriate during the Capability Interview which triggered an alternate Capability Interview outcome | 24 | 4.0% | 20 | 3.3% | 44 | 3.7% | - 1.6% | ↓ |
| 2 | The hours in the Job Plan were appropriate in line with policy but the provider identified them as inappropriate | 11 | 1.8% | 23 | 3.8% | 34 | 2.8% | + 0.4% | ↑ |
| 13 | Provider incorrectly identified 'newly disclosed circumstances': all 'newly disclosed circumstances' were already been identified in ESS Web | 16 | 2.7% | 16 | 2.7% | 32 | 2.7% | + 0.3% | ↑ |
| 15 | Provider has failed to update the CMT to support issues identified in the Capability Interview | 14 | 2.3% | 13 | 2.2% | 27 | 2.2% | + 1.5% | ↑ |
| 12 | Provider incorrectly identified 'newly disclosed circumstance': at least one 'newly disclosed circumstance' was already identified in ESS Web | 13 | 2.2% | 10 | 1.7% | 23 | 1.9% | - 1.0% | ↓ |
| 9 | Provider has indicated changes in circumstances in the JSCI that are not reflected in the Capability Interview - incomplete justification for the return to Green Zone | 10 | 1.7% | 9 | 1.5% | 19 | 1.6% | + 1.0% | ↑ |
| 10 | Provider has indicated changes in circumstances in the Capability Interview that are not reflected in the JSCI - while sufficient changes in the JSCI have results in a change of stream, administration error exists | 3 | 0.5% | 2 | 0.3% | 5 | 0.4% | - 0.2% | ↓ |

* Percentage of assessed records where deficiency was applied

** Percentage point increase/decrease of a deficiency between May-June and July-August 2019 results.

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Attachment B

Table 3: Summary of Results by jobactive provider - July and August 2019 Reporting Period

| jobactive Provider | Total assessments | Satisfies requirements | | Requirements mostly satisfied | | Requirements partially met | | Requirements not met | | July and August 2019 | | |
|--------------------|-------------------|------------------------|------------|-------------------------------|------------|----------------------------|------------|----------------------|------------|----------------------|--|----------|
| | | No of Assessments | % | No of Assessments | % | No of Assessments | % | No of Assessments | % | Performance* | % increase/decrease in performance from May and June results** | |
| s 47G(1)(a) | 9 | 0 | 0% | 1 | 11% | 1 | 11% | 7 | 78% | 0.17 | -0.14 | ↓ |
| | 7 | 1 | 14% | 1 | 14% | 1 | 14% | 4 | 57% | 0.36 | -0.07 | ↓ |
| | 52 | 10 | 19% | 7 | 13% | 6 | 12% | 29 | 56% | 0.38 | +0.03 | ↑ |
| | 26 | 2 | 8% | 5 | 19% | 6 | 23% | 13 | 50% | 0.39 | -0.10 | ↓ |
| | 37 | 1 | 3% | 7 | 19% | 13 | 35% | 16 | 43% | 0.41 | -0.10 | ↓ |
| | 32 | 4 | 13% | 7 | 22% | 5 | 16% | 16 | 50% | 0.42 | -0.16 | ↓ |
| | 40 | 4 | 10% | 7 | 18% | 12 | 30% | 17 | 43% | 0.44 | -0.05 | ↓ |
| | 94 | 13 | 14% | 10 | 11% | 32 | 34% | 39 | 41% | 0.44 | -0.06 | ↓ |
| | 94 | 9 | 10% | 13 | 14% | 36 | 38% | 36 | 38% | 0.45 | +0.03 | ↑ |
| | 30 | 2 | 7% | 9 | 30% | 6 | 20% | 13 | 43% | 0.46 | -0.05 | ↓ |
| | 51 | 9 | 18% | 7 | 14% | 14 | 27% | 21 | 41% | 0.46 | +0.05 | ↑ |
| | 9 | 0 | 0% | 2 | 22% | 4 | 44% | 3 | 33% | 0.47 | -0.04 | ↓ |
| | 19 | 5 | 26% | 1 | 5% | 5 | 26% | 8 | 42% | 0.47 | -0.24 | ↓ |
| | 16 | 1 | 6% | 2 | 13% | 8 | 50% | 5 | 31% | 0.48 | +0.06 | ↑ |
| | 9 | 1 | 11% | 1 | 11% | 4 | 44% | 3 | 33% | 0.48 | -0.05 | ↓ |
| | 40 | 4 | 10% | 9 | 23% | 12 | 30% | 15 | 38% | 0.48 | -0.06 | ↓ |
| | 30 | 6 | 20% | 4 | 13% | 10 | 33% | 10 | 33% | 0.52 | +0.05 | ↑ |
| | 12 | 0 | 0% | 5 | 42% | 3 | 25% | 4 | 33% | 0.53 | +0.26 | ↑ |
| | 9 | 1 | 11% | 3 | 33% | 2 | 22% | 3 | 33% | 0.54 | -0.15 | ↓ |
| | 156 | 28 | 18% | 32 | 21% | 47 | 30% | 49 | 31% | 0.54 | -0.01 | ↓ |
| | 8 | 2 | 25% | 2 | 25% | 1 | 13% | 3 | 38% | 0.55 | +0.08 | ↑ |
| | 9 | 2 | 22% | 2 | 22% | 2 | 22% | 3 | 33% | 0.56 | +0.12 | ↑ |
| | 31 | 5 | 16% | 5 | 16% | 13 | 42% | 8 | 26% | 0.56 | +0.18 | ↑ |
| | 21 | 5 | 24% | 3 | 14% | 7 | 33% | 6 | 29% | 0.57 | +0.19 | ↑ |
| | 32 | 11 | 34% | 4 | 13% | 6 | 19% | 11 | 34% | 0.57 | +0.07 | ↑ |
| | 9 | 2 | 22% | 1 | 11% | 4 | 44% | 2 | 22% | 0.59 | +0.05 | ↑ |
| | 63 | 11 | 17% | 12 | 19% | 27 | 43% | 13 | 21% | 0.60 | +0.11 | ↑ |
| | 22 | 4 | 18% | 5 | 23% | 8 | 36% | 5 | 23% | 0.60 | +0.31 | ↑ |
| | 11 | 3 | 27% | 3 | 27% | 2 | 18% | 3 | 27% | 0.63 | -0.20 | ↓ |
| | 91 | 24 | 26% | 16 | 18% | 32 | 35% | 19 | 21% | 0.63 | +0.12 | ↑ |
| | 7 | 0 | 0% | 3 | 43% | 3 | 43% | 1 | 14% | 0.64 | +0.14 | ↑ |
| | 4 | 2 | 50% | 0 | 0% | 1 | 25% | 1 | 25% | 0.65 | +0.45 | ↑ |
| | 20 | 1 | 5% | 8 | 40% | 8 | 40% | 3 | 15% | 0.65 | +0.06 | ↑ |
| | 5 | 1 | 20% | 2 | 40% | 1 | 20% | 1 | 20% | 0.68 | +0.26 | ↑ |
| | 8 | 2 | 25% | 2 | 25% | 3 | 38% | 1 | 13% | 0.70 | +0.07 | ↑ |
| | 26 | 10 | 38% | 6 | 23% | 5 | 19% | 5 | 19% | 0.71 | +0.14 | ↑ |
| | 5 | 3 | 60% | 0 | 0% | 1 | 20% | 1 | 20% | 0.72 | -0.08 | ↓ |
| | 5 | 1 | 20% | 3 | 60% | 0 | 0% | 1 | 20% | 0.74 | +0.08 | ↑ |
| | 11 | 5 | 45% | 2 | 18% | 3 | 27% | 1 | 9% | 0.78 | +0.20 | ↑ |
| | 5 | 1 | 20% | 2 | 40% | 2 | 40% | 0 | 0% | 0.80 | -0.10 | ↓ |
| | 2 | 1 | 50% | 0 | 0% | 1 | 50% | 0 | 0% | 0.80 | +0.06 | ↑ |
| Grand Total | 1167 | 197 | 17% | 214 | 18% | 357 | 31% | 399 | 34% | 0.52 | +0.02 | ↑ |

* Calculated using a weighted average of results

** Percentage point increase/decrease in provider performance between May-June and July-August 2019 results.

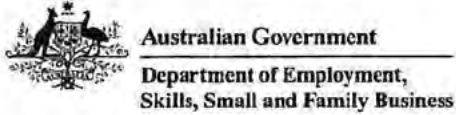
Table 3: Summary of Results by ParentsNext provider - July and August 2019 Reporting

| ParentsNext Provider | Total assessments | Satisfies requirements | | R | August 2019 | |
|----------------------|-------------------|------------------------|------------|----------|---|----------|
| | | No of Assessments | % | | % increase/decrease in Assessment performance from May and June results** | |
| s 47G(1)(a) | 1 | 0 | 0% | | - | → |
| | 1 | 0 | 0% | | - | → |
| | 1 | 0 | 0% | | - | → |
| | 1 | 0 | 0% | | 0.87 | ↓ |
| | 1 | 0 | 0% | | 0.60 | ↓ |
| | 4 | 0 | 0% | | 0.20 | ↓ |
| | 5 | 1 | 20% | 2 | 0.34 | ↓ |
| | 1 | 0 | 0% | 0 | 0.35 | ↓ |
| | 1 | 0 | 0% | 0 | 0.40 | ↓ |
| | 1 | 0 | 0% | 0 | - | → |
| | 1 | 0 | 0% | 0 | - | → |
| | 1 | 0 | 0% | 0 | 0.40 | ↓ |
| | 1 | 0 | 0% | 0 | - | → |
| | 1 | 0 | 0% | 0 | - | → |
| | 5 | 1 | 20% | 2 | +0.18 | ↑ |
| | 1 | 0 | 0% | 1 | +0.30 | ↑ |
| | 1 | 0 | 0% | 1 | +0.00 | ↑ |
| | 1 | 0 | 0% | 1 | +0.30 | ↑ |
| | 1 | 0 | 0% | 1 | +0.00 | ↑ |
| | 2 | 1 | 50% | 1 | +0.25 | ↑ |
| | 1 | 1 | 100% | 0 | +1.00 | ↑ |
| | 1 | 1 | 100% | 0 | - | → |
| | 1 | 1 | 100% | 0 | +0.10 | ↑ |
| Grand Total | 35 | 6 | 17% | 9 | -0.20 | ↓ |

* Calculated using a weighted average of results

** Percentage point increase/decrease in provider performance between May-June and July-August 2019 result

s 22(1)



To: s 22(1) A/g Assistant Secretary, Assurance Coordination Branch
Through: s 22(1) Director, Assurance Activities Team

September and October 2019 Administration of the Capability Interview Assurance Activity Results

Recommendation(s) – that you:

1. **Note** the results of the Administration of the Capability Interview Assurance activity for September and October 2019.
2. **Agree**, as per the communication protocol, (pending advice regarding communications to providers affected by bushfires) to release results to jobactive and ParentsNext providers using the attached letter template and through the Qlik and QAP Apps for providers.
3. **Note** the proposed recommendations for the program area to consider.

Noted

Agreed/Not agreed

Noted

Date 17/11/2019

s 22(1)

Purpose

To inform you of the results of the Administration of the Capability Interview Assurance Activity for September and October 2019 and a recommendation to improve provider compliance in future; as well as to seek your agreement to release the results to providers (pending advice regarding communications to providers affected by bushfires).

Key Points:

1. As part of the ongoing assurance activity, the Assurance Coordination Branch (ACB) conducted a review of Capability Interviews (CIs) administered by jobactive and ParentsNext providers in September and October 2019. The purpose of this review was to determine if providers are completing CIs as per Deed and Guideline requirements and job seekers are being appropriately returned to the Green Zone.
2. The key findings from the assessment of these CIs are as follows:
 - 38.6 per cent satisfied or mostly satisfied requirements
 - 32.7 per cent partially met requirements
 - 28.7 per cent did not meet requirements.

3. This is the first reporting cycle where there has been an increase in provider compliance. This follows a suite of educative documents which were given to providers with results from previous reporting cycles.
4. Table 1 provides a summary of results across the two sampled months.

Table 1: September and October 2019 National Results for jobactive and ParentsNext Providers

| Assessment Result | September | | October | | Total | |
|------------------------------|------------|--------------|------------|--------------|------------|--------------|
| | Count | % | Count | % | Count | % |
| Satisfies requirements | 91 | 19.1 | 107 | 21.2 | 198 | 20.2 |
| Requirement mostly satisfied | 84 | 17.6 | 97 | 19.3 | 181 | 18.5 |
| Requirements partially met | 150 | 31.4 | 170 | 33.7 | 320 | 32.6 |
| Requirements not met | 152 | 31.9 | 130 | 25.8 | 282 | 28.7 |
| Total | 477 | 100.0 | 504 | 100.0 | 981 | 100.0 |

5. Deficiencies and their prevalence are outlined at [Attachment A](#).
6. Results broken down by jobactive and ParentsNext provider are outlined at [Attachment B](#).
7. The program area has been briefed on the findings, and discussions throughout the project have informed the proposed recommendation for the program area (see point 13).

Summary of Findings

8. Results for September and October 2019 saw continued improvement over the previous reporting period with the proportion of assessments failing to meet requirements decreasing by five percentage points.
9. In this reporting period, main areas of non-compliance related to Outcome 1 (Errors in the Job Plan) which is similar to previous reporting periods. This included providers:
 - incorrectly identifying some errors in the Job Plan
 - incorrectly indicating that the job seeker did not have a job search requirement
 - failing to justify the circumstances that returned the job seeker to the Green Zone
 - failing to update the Job Plan within 10 business days of the CI being completed or update the Job Plan to support the issues identified during the CI.
10. The proportion of Outcome 1 CIs assessed during this period was reduced compared with previous reporting periods due to an identified system error in ESS Web which caused the Outcome 1 to be triggered incorrectly. These were removed from the sample which saw a decrease in the number of deficiencies associated with Outcome 1 assessments, with the notable exception of Deficiency 3 (see point 11).
11. The number of assessments with a deficiency because the provider incorrectly identified the activity in the Job Plan as inappropriate increased by 8.5 percentage points from September to October. This increase is attributed to providers incorrectly answering questions about activity suitability in the Pre-Interview Check section of CIs. This increase was supported by a corresponding decrease in the number of assessments which had a deficiency where all questions were incorrectly answered in the Pre-Interview Check.

s 22(1)

Further Actions

12. Providers can query or question results from September and October 2019 through their Account Manager.

Recommendation

13. ACB has one recommendation that the program area continues to work with jobactive and ParentsNext providers, as required, to enhance educative products relating to the Activity to assist providers understand ways to improve performance in administering CIs. ACB will continue to discuss with the program area whether any additional targeted action can be taken to continue to improve results from this Activity.
14. ACB notes the program area has actioned the recommendations from previous reporting periods. These recommendations were:
 - work closely with jobactive and ParentsNext providers and deliver targeted education on issues identified from this Activity
 - promote educative material available to providers, such as the updated CIs Learning Centre Module and the Best Practice Guide for Administering CIs.

Next Steps

15. ACB will generate the results letter to be issued to Providers via their Account Manager. The letters will be sent once advice has been received about the communication protocol with providers as part of the bushfire response.

s 22(1)

17. ACB will release the TCF02 - Compliance Qlik App for jobactive providers and a Quality Analytics Platform (QAP) App for ParentsNext providers. Security approval from the Digital Services Division was received via email on 13 January 2020. The Apps will not be released until the results letters have been sent to providers.
18. s 22(1) . The Provider Portal Notice will be published at the time the Qlik/QAP Apps are released.
19. ACB has developed a Qlik/QAP User Guide and recorded presentation to assist providers to use the App to interpret their results from this activity.

Background:

20. The Administration of the CI Assurance Activity assesses a sample of provider CIs conducted each month to confirm whether there was sufficient evidence in ESS Web to support the CI outcome.
21. Activity results for the first three reporting periods were sent to providers on 5 July 2019, 30 August 2019 and 22 November 2019.
22. There has been one dispute and no requests for clarification from jobactive providers after releasing results for the first three reporting periods. The disputed CI was reassessed and the result was not changed.
23. In July 2019, ACB and Job Seeker Participation and Compliance Branch agreed to communicate results to providers through a results letter and slowly transition to the Qlik/QAP App by

s 22(1)

Reporting Period 7 (March and April 2020 results). The transition period commenced this reporting period and will include the next two reporting periods prior to transitioning solely to the Qlik/QAP App.

24. The results from this activity will impact jobactive providers Compliance Indicator scores for CIs conducted by providers from 1 January 2020. This has been communicated to jobactive providers through their CEO letter and previous activity correspondence.

| | | |
|------------------|--|---|
| Final approver: | s 22(1) | I |
| Position: | Director | |
| Group/Branch: | Assurance Coordination Branch | |
| Month Year: | January 2020 | |
| Contact Officer: | s 22(1) | I |
| Phone no: | s 22(1) | |
| Consultation: | Job Seeker Participation and Compliance Branch | |

Attachment A

Table 2: Deficiencies and their prevalence – September/October 2019 Reporting Period

| Deficiency Number | Deficiency Description | September 2019 | | October 2019 | | September and October 2019 | | Increase/decrease from July and August results ² | |
|-------------------|---|-------------------|----------------|-------------------|-------|----------------------------|-------|---|---|
| | | No of assessments | % ¹ | No of assessments | % | No of assessments | % | | |
| 14 | The Job Plan was not updated within 10 Business Days of the Capability Interview being completed or was not updated to support the issues identified during the Capability Interview | 173 | 36.3% | 161 | 31.9% | 334 | 34.0% | - 1.7 | ↓ |
| 3 | ESS Web does not support the provider statement that the activity was inappropriate | 136 | 28.5% | 187 | 37.0% | 323 | 32.9% | + 1.6 | ↑ |
| 1 | Provider failed to correctly calculate the number of hours in the job seeker's Job Plan at the time of the Capability Interview | 148 | 31.0% | 144 | 28.5% | 292 | 29.7% | - 3.8 | ↓ |
| 7 | Provider incorrectly identified all errors in the Job Plan during the Capability Interview | 99 | 20.8% | 72 | 14.3% | 171 | 17.4% | - 5.1 | ↓ |
| 5 | Provider has incorrectly indicated that the job seeker does not have a job search requirement | 70 | 14.7% | 49 | 9.7% | 119 | 12.1% | - 0.2 | ↓ |
| 4 | Provider has incorrectly identified the job search level in the Job Plan as inappropriate | 52 | 10.9% | 59 | 11.7% | 111 | 11.3% | - 1.8 | ↓ |
| 6 | Provider incorrectly stated that there were expired activities in the Job Plan in place at the time of the Capability Interview | 47 | 9.9% | 56 | 11.1% | 103 | 10.5% | + 1.7 | ↑ |
| 11 | Provider failed to justify the Circumstances Impact that returned the job seeker to the Green Zone | 40 | 8.4% | 38 | 7.5% | 78 | 7.9% | - 1.0 | ↓ |
| 16 | Evidence in ESS Web does not support the Capability Outcome code triggered, however the return to the Green Zone is justified based on an alternate Outcome Type | 37 | 7.8% | 27 | 5.3% | 64 | 6.5% | - 1.4 | ↓ |
| 2 | The hours in the Job Plan were appropriate in line with policy but the provider identified them as inappropriate | 23 | 4.8% | 20 | 4.0% | 43 | 4.4% | + 1.6 | ↑ |
| 13 | Provider incorrectly identified 'newly disclosed circumstances': all 'newly disclosed circumstances' were already been identified in ESS Web | 13 | 2.7% | 20 | 4.0% | 33 | 3.4% | + 0.7 | ↑ |
| 15 | Provider has failed to update the CMT to support issues identified in the Capability Interview | 18 | 3.8% | 14 | 2.8% | 32 | 3.3% | + 1.1 | ↑ |
| 8 | Provider failed to correctly assess the Job Plan as inappropriate during the Capability Interview which triggered an alternate Capability Interview outcome | 17 | 3.6% | 10 | 2.0% | 27 | 2.7% | - 1.0 | ↓ |
| 12 | Provider incorrectly identified 'newly disclosed circumstance': at least one 'newly disclosed circumstance' was already identified in ESS Web | 7 | 1.5% | 8 | 1.6% | 15 | 1.5% | - 0.4 | ↓ |
| 9 | Provider has indicated changes in circumstances in the JSCI that are not reflected in the Capability Interview - incomplete justification for the return to Green Zone | 9 | 1.9% | 4 | 0.8% | 13 | 1.3% | - 0.3 | ↓ |
| 10 | Provider has indicated changes in circumstances in the Capability Interview that are not reflected in the JSCI - while sufficient changes in the JSCI have results in a change of stream, administration error exists | 8 | 1.7% | 3 | 0.6% | 11 | 1.1% | + 0.7 | ↑ |

¹ Percentage of assessed records where deficiency was applied.² Percentage point increase/decrease of a deficiency between July-August and September-October 2019 results.

Attachment B

Table 3: Summary of Results by jobactive provider – September and October 2019 Reporting Period

| Jobactive Provider | Total assessments | Satisfies requirements | | Requirements mostly satisfied | | Requirements partially met | | Requirements not met | | September and October 2019 | | |
|--------------------|-------------------|------------------------|------------|-------------------------------|------------|----------------------------|------------|----------------------|------------|----------------------------|--|----------|
| | | No. of Assessments | % | No. of Assessments | % | No. of Assessments | % | No. of Assessments | % | Performance ¹ | Increase/decrease in performance from July and August results ² | |
| s 47G(1)(a) | 13 | 1 | 8% | 1 | 8% | 5 | 38% | 6 | 46% | 0.38 | -0.22 | ↓ |
| | 9 | 2 | 22% | 1 | 11% | 1 | 11% | 5 | 56% | 0.39 | -0.09 | ↓ |
| | 6 | 0 | 0% | 2 | 33% | 1 | 17% | 3 | 50% | 0.40 | -0.28 | ↓ |
| | 22 | 2 | 9% | 1 | 5% | 10 | 45% | 9 | 41% | 0.40 | -0.16 | ↓ |
| | 13 | 1 | 8% | 1 | 8% | 6 | 46% | 5 | 38% | 0.42 | -0.06 | ↓ |
| | 8 | 1 | 13% | 2 | 25% | 1 | 13% | 4 | 50% | 0.43 | -0.22 | ↓ |
| | 16 | 2 | 13% | 3 | 19% | 4 | 25% | 7 | 44% | 0.44 | -0.03 | ↓ |
| | 74 | 6 | 8% | 12 | 16% | 28 | 38% | 28 | 38% | 0.45 | +0.00 | → |
| | 21 | 3 | 14% | 2 | 10% | 9 | 43% | 7 | 33% | 0.49 | +0.10 | ↑ |
| | 31 | 4 | 13% | 4 | 13% | 13 | 42% | 10 | 32% | 0.50 | +0.02 | ↑ |
| | 34 | 5 | 15% | 6 | 18% | 11 | 32% | 12 | 35% | 0.50 | +0.06 | ↑ |
| | 7 | 2 | 29% | 1 | 14% | 1 | 14% | 3 | 43% | 0.50 | +0.03 | ↑ |
| | 31 | 2 | 6% | 7 | 23% | 13 | 42% | 9 | 29% | 0.52 | +0.11 | ↑ |
| | 56 | 6 | 11% | 10 | 18% | 24 | 43% | 16 | 29% | 0.53 | -0.07 | ↓ |
| | 3 | 1 | 33% | 0 | 0% | 1 | 33% | 1 | 33% | 0.53 | -0.12 | ↓ |
| | 8 | 1 | 13% | 3 | 38% | 1 | 13% | 3 | 38% | 0.54 | +0.18 | ↑ |
| | 37 | 13 | 35% | 2 | 5% | 9 | 24% | 13 | 35% | 0.55 | +0.09 | ↑ |
| | 25 | 5 | 20% | 0 | 0% | 7 | 28% | 8 | 32% | 0.55 | +0.13 | ↑ |
| | 8 | 2 | 25% | 0 | 0% | 4 | 50% | 2 | 25% | 0.55 | +0.02 | ↑ |
| | 23 | 7 | 30% | 5 | 22% | 2 | 9% | 9 | 39% | 0.55 | +0.03 | ↑ |
| | 10 | 2 | 20% | 2 | 20% | 3 | 30% | 3 | 30% | 0.56 | -0.14 | ↓ |
| | 73 | 12 | 16% | 11 | 15% | 32 | 44% | 18 | 25% | 0.56 | +0.12 | ↑ |
| | 19 | 3 | 16% | 4 | 21% | 7 | 37% | 5 | 26% | 0.57 | -0.08 | ↓ |
| | 52 | 8 | 15% | 14 | 27% | 15 | 29% | 15 | 29% | 0.57 | +0.19 | ↑ |
| | 11 | 3 | 27% | 2 | 18% | 3 | 27% | 3 | 27% | 0.60 | +0.06 | ↑ |
| | 67 | 21 | 31% | 11 | 16% | 17 | 25% | 18 | 27% | 0.61 | -0.02 | ↓ |
| | 26 | 5 | 19% | 5 | 19% | 11 | 42% | 5 | 19% | 0.62 | +0.05 | ↑ |
| | 123 | 26 | 21% | 29 | 24% | 42 | 34% | 26 | 21% | 0.63 | +0.09 | ↑ |
| | 7 | 2 | 29% | 2 | 29% | 1 | 14% | 2 | 29% | 0.63 | +0.04 | ↑ |
| | 7 | 3 | 43% | 1 | 14% | 1 | 14% | 2 | 29% | 0.64 | -0.16 | ↓ |
| | 6 | 2 | 33% | 1 | 17% | 2 | 33% | 1 | 17% | 0.68 | +0.13 | ↑ |
| | 4 | 1 | 25% | 2 | 50% | 0 | 0% | 1 | 25% | 0.70 | +0.53 | ↑ |
| | 5 | 2 | 40% | 1 | 20% | 1 | 20% | 1 | 20% | 0.70 | -0.10 | ↓ |
| | 25 | 9 | 36% | 5 | 20% | 8 | 32% | 3 | 12% | 0.73 | +0.02 | ↑ |
| | 15 | 3 | 20% | 7 | 47% | 3 | 20% | 2 | 13% | 0.74 | +0.28 | ↑ |
| | 24 | 10 | 42% | 6 | 25% | 4 | 17% | 4 | 17% | 0.74 | +0.17 | ↑ |
| | 13 | 4 | 31% | 3 | 23% | 5 | 38% | 1 | 8% | 0.75 | -0.03 | ↓ |
| | 6 | 2 | 33% | 1 | 17% | 3 | 50% | 0 | 0% | 0.78 | +0.22 | ↑ |
| | 11 | 5 | 45% | 3 | 27% | 2 | 18% | 1 | 9% | 0.81 | +0.18 | ↑ |
| | 5 | 3 | 60% | 1 | 20% | 1 | 20% | 0 | 0% | 0.90 | +0.16 | ↑ |
| | 2 | 2 | 100% | 0 | 0% | 0 | 0% | 0 | 0% | 1.00 | +0.28 | ↑ |
| Total | 957 | 194 | 20% | 179 | 19% | 313 | 33% | 271 | 28% | 0.57 | +0.05 | ↑ |

¹ Calculated using an average of Compliance Indicator Review Results Weighting.

² Increase/decrease in provider performance between July-August and September-October 2019 results.

Table 3: Summary of Results by ParentsNext provider – September and October 2019 Reporting Period

| ParentsNext Provider | Total assessments | Satisfies requirements | | Requirements mostly satisfied | | Requirements partially met | | Requirements not met | | September and October 2019 | | |
|----------------------|-------------------|------------------------|----------|-------------------------------|----------|----------------------------|----------|----------------------|-----------|----------------------------|--|---------------|
| | | No. of Assessments | % | No. of Assessments | % | No. of Assessments | % | No. of Assessments | % | Performance ¹ | Increase/decrease in performance from July and August results ² | |
| s 47G(1)(a) | 1 | 0 | 0% | 0 | 0% | 0 | 0% | 1 | 100% | 0.00 | - 0.30 | ↓ |
| | 3 | 0 | 0% | 0 | 0% | 0 | 0% | 3 | 100% | 0.00 | - 0.68 | ↓ |
| | 1 | 0 | 0% | 0 | 0% | 0 | 0% | 1 | 100% | 0.00 | - 0.60 | ↓ |
| | 1 | 0 | 0% | 0 | 0% | 0 | 0% | 1 | 100% | 0.00 | - 0.60 | ↓ |
| | 2 | 0 | 0% | 0 | 0% | 1 | 50% | 1 | 50% | 0.30 | - 0.65 | ↓ |
| | 3 | 1 | 33% | 0 | 0% | 0 | 0% | 2 | 67% | 0.33 | - 0.22 | ↓ |
| | 4 | 0 | 0% | 1 | 25% | 1 | 25% | 2 | 50% | 0.38 | + 0.38 | ↑ |
| | 1 | 0 | 0% | 0 | 0% | 1 | 100% | 0 | 0% | 0.60 | - | → |
| | 2 | 0 | 0% | 0 | 0% | 2 | 100% | 0 | 0% | 0.60 | + 0.60 | ↑ |
| | 1 | 0 | 0% | 0 | 0% | 1 | 100% | 0 | 0% | 0.60 | - 0.40 | ↓ |
| | 2 | 1 | 50% | 0 | 0% | 1 | 50% | 0 | 0% | 0.80 | + 0.20 | ↑ |
| | 2 | 1 | 50% | 0 | 0% | 1 | 50% | 0 | 0% | 0.80 | - 0.10 | ↓ |
| | 1 | 0 | 0% | 1 | 100% | 0 | 0% | 0 | 0% | 0.90 | + 0.90 | ↑ |
| | 1 | 1 | 100% | 0 | 0% | 0 | 0% | 0 | 0% | 1.00 | - | → |
| | Total | 25 | 4 | 16% | 2 | 8% | 8 | 32% | 11 | 44% | 0.42 | - 0.15 |

¹ Calculated using an average of Compliance Indicator Review Results Weighting.

² Increase/decrease in provider performance between July-August and September-October 2019 results.

³ Due to small sample size for ParentsNext there can be larger variances in results as not every provider has CIs sampled every month.

s 22(1)



Australian Government
Department of Education,
Skills and Employment

To: s 22(1) , Assistant Secretary, Assurance Coordination Branch
Through: s 22(1) , Director, Assurance Activities Team

November and December 2019 Administration of the Capability Interview Assurance Activity Results

| Recommendation(s) – that you: | |
|--|-------------------|
| 1. Note the results of the Administration of the Capability Interview Assurance Activity (CIAA) for November and December 2019. | Noted |
| 2. Agree as per the communication protocol, to release November and December 2019 results to jobactive and ParentsNext providers using the attached letter template by 6 March 2020 and through the Qlik and QAP Apps for providers. | Agreed/Not agreed |
| 3. Note the results will be released in conjunction with the September and October 2019 CIAA results which have been delayed due to the bushfire situation. Bushfire contingency arrangements are scheduled to be lifted on 6 March 2020. | Noted |
| 4. Note the proposed recommendations for the program area to consider. | Noted |
| s 22(1) | Date |

3/3/2020
Please advise
TCF team of
the timing of the
letters + ensure
they advise their FAs.
s 22(1)

Purpose

To inform you of the results of the Administration of the CIAA for November and December 2019 and recommendations to improve provider compliance in future; as well as to seek your agreement to release the results to providers.

Key Points:

- As part of the ongoing assurance activity, the Assurance Coordination Branch (ACB) conducted a review of Capability Interviews (CIs) administered by jobactive and ParentsNext providers in November and December 2019. The purpose of this review was to determine if providers are completing CIs as per Deed and Guideline requirements and job seekers are being appropriately returned to the Green Zone.
- The key findings from the assessment of these CIs are as follows:
 - 36.4 per cent satisfied or mostly satisfied requirements
 - 34.3 per cent partially met requirements
 - 29.3 per cent did not meet requirements.

4/3/2020
Please continue
QA process as
discussed at
Section meeting
s 22(1)

s 22(1)

3. This reporting cycle saw a decrease in provider compliance from previous reporting cycles. Despite the department providing ongoing education these results indicate there are still opportunities for improvement in provider compliance when administering CIs.
4. **Table 1** provides a summary of results across the two sampled months.

Table 1: November and December 2019 National Results for jobactive and ParentsNext Providers

| Assessment Result | November | | December | | Total | |
|------------------------------|------------|------------|------------|------------|------------|------------|
| | Count | % | Count | % | Count | % |
| Satisfies requirements | 72 | 15.6 | 64 | 14.4 | 136 | 15.0 |
| Requirement mostly satisfied | 93 | 20.2 | 101 | 22.6 | 194 | 21.4 |
| Requirements partially met | 172 | 37.3 | 139 | 31.2 | 311 | 34.3 |
| Requirements not met | 124 | 26.9 | 142 | 31.8 | 266 | 29.3 |
| Total | 461 | 100 | 446 | 100 | 907 | 100 |

5. Deficiencies and their prevalence are outlined at **Attachment A**.
6. Results broken down by jobactive and ParentsNext provider are outlined at **Attachment B**.
7. The program area has been briefed on the findings, and discussions throughout the project have informed the proposed recommendations for the program area (see point 13).

Summary of Findings

8. Results for November and December 2019 saw a decrease in compliance from the previous reporting period with the proportion of assessments that did not meet requirements increasing by 0.6 percentage points. This was caused by a proportional increase of 8.3 percentage points in the number of sampled Outcome 1 CIs, which usually have a higher rate of non-compliance compared to the other Outcomes.
9. In this reporting period, main areas of non-compliance continue to relate to Outcome 1 (Errors in the Job Plan) which is similar to previous reporting periods. This included providers:
 - incorrectly identifying activities in the Job Plan as inappropriate
 - failing to update the Job Plan within 10 business days of the CI being completed or update the Job Plan to support the issues identified during the CI
 - incorrectly calculating the number of hours in a Job Plan at the time of the CI
 - incorrectly identifying all errors in the Job Plan during the CI.
10. The number of assessments with deficiency 3 - *ESS Web does not support the provider statement that the activity was inappropriate*, increased by 6.5 percentage points between the September and October 2019 and the November and December 2019 reporting periods. This is due to an increase in providers incorrectly identifying compulsory activity hours and travel time in the Job Plan as inappropriate during the Pre Interview Check section of the CI. When providers are making these errors, it is inappropriately triggering Outcome 1 as they are recording newly disclosed circumstances during the CI in the Pre Interview Check section rather than in the section for newly disclosed circumstances.
11. The number of assessments with a deficiency 14 - *The Job Plan was not updated within 10 Business Days of the Capability Interview being completed or was not updated to support the*

s 22(1)

issues identified during the Capability Interview, increased by 7.0 percentage between the September and October 2019 and the November and December 2019 reporting periods. This increase is likely attributed to providers not being able to update the Job Plan within the 10 days due to contingency arrangements or reduced job seeker availability during the holiday period.

Further Actions

12. Providers can query or question CIAA results through their Account Manager.

Recommendations

13. ACB recommends that the program area:
 - consider if in the future there are any IT changes to the Pre-Interview Check section of the CI which could support providers to reduce the errors associated with Outcome 1
 - reiterate to providers through Account Managers that responses to questions in the Pre Interview Check Section of the CI cannot be informed by newly disclosed circumstances and that the Job Plan must be updated to reflect circumstances identified during the CI within 10 Business Days
 - continue to enhance and target educative products relating to the Activity to assist providers in understanding ways to improve performance in administering CIs.

Next Steps

14. Pending your approval, ACB will generate the results letters to be issued to providers via their Account Manager by 6 March 2020. The results will be released in conjunction with the September to October 2019 CIAA results which were previously delayed due to the bushfire situation.

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16. ACB will release the TCF02 - Compliance Qlik App for jobactive providers and a Quality Analytics Platform (QAP) App for ParentsNext providers. Security approval from the Digital Services Division (DSD) was received via email on 13 January 2020. The Apps will not be released until the results letters have been sent to providers. Pending your approval of the release of results letters by 6 March; ACB will liaise with DSD to publish the Apps on 9 March. An additional notification via an ESSWEB Bulletin is also scheduled for 9 March.
17. s 22(1) The
Provider Portal Notice will be published at the time the Qlik/QAP Apps are released.
18. ACB has also developed a Qlik/QAP User Guide and recorded presentation to assist providers to use the App to interpret their results from this activity. This is also scheduled to be published through the Targeted Compliance Framework Learning Centre on 9 March.

Background:

19. The Administration of the Ci Assurance Activity assesses a sample of provider CIs conducted each month to confirm whether there was sufficient evidence in ESS Web to support the CI outcome.

s 22(1)

20. Activity results for the first three reporting periods were sent to providers on 5 July 2019, 30 August 2019 and 22 November 2019.
21. There has been one dispute and no requests for clarification from jobactive providers after releasing results for the first three reporting periods. The disputed CI was reassessed and the result was not changed.
22. In July 2019, ACB and Job Seeker Participation and Compliance Branch agreed to communicate results to providers through a results letter and slowly transition to the Qlik/QAP App by Reporting Period 7 (March and April 2019 results). The transition period commenced for the September to October 2019 reporting period and will include the next reporting period prior to transitioning solely to the Qlik/QAP App.
23. The results from this activity will impact jobactive providers Compliance Indicator scores for CIs conducted by providers from 1 January 2020. This has been communicated to jobactive providers through their CEO letter and previous activity correspondence. The Compliance Indicator is a score between 0 and 100 that provides the department with a measure of a jobactive provider's compliance against the deed and guideline requirements. A provider's Star Percentage (and possible Star Ratings) is reduced if their Compliance Indicator score is below 83.
24. On 19 February 2020, the Bushfire Contingency and Response Working Group's provider portal notice advised the department's approach to ensuring performance and STAR ratings took bushfires and contingency into account in a justifiable and fair manner. External expertise is being engaged to consider all of the various components and factors robustly, noting that once a methodology of adjusting STAR calculations is decided, there remains consideration regarding the application of this to performance. The department has encouraged providers to reach out to the department with any trends it had identified or analysis that it had undertaken on the impact of bushfires and contingency. Bushfire contingency arrangements currently in place are scheduled to be lifted on 6 March 2020.

Attachments

Attachment A – Deficiencies and Their Prevalence – November/December 2019 Reporting Period

Attachment B – Summary of Results by jobactive provider – November/December 2019 Reporting Period

s 22(1)

| | | |
|------------------|--|---|
| Final approver: | s 22(1) | I |
| Position: | Director | |
| Group/Branch: | Assurance Coordination Branch | |
| Month Year: | February 2020 | |
| Contact Officer: | s 22(1) | |
| Phone no: | s 22(1); | |
| Consultation: | Job Seeker Participation and Compliance Branch | |

Attachment A

Table 2: Deficiencies and their prevalence – November/December 2019 Reporting Period

| Deficiency Number | Deficiency Description | November 2019 | | December 2019 | | November and December 2019 | | Increase/decrease from September and October results ² | |
|-------------------|---|-------------------|----------------|-------------------|----------------|----------------------------|----------------|---|---|
| | | No of assessments | % ¹ | No of assessments | % ¹ | No of assessments | % ¹ | | |
| 3 | ESS Web does not support the provider statement that the activity was inappropriate | 162 | 35.1% | 206 | 46.1% | 368 | 40.5% | + 6.5 | ↑ |
| 14 | The Job Plan was not updated within 10 Business Days of the Capability Interview being completed or was not updated to support the issues identified during the Capability Interview | 180 | 39.0% | 182 | 40.8% | 362 | 39.9% | + 7.0 | ↑ |
| 1 | Provider failed to correctly calculate the number of hours in the job seeker's Job Plan at the time of the Capability Interview | 156 | 33.8% | 129 | 28.9% | 285 | 31.4% | + 1.7 | ↑ |
| 7 | Provider incorrectly identified all errors in the Job Plan during the Capability Interview | 66 | 14.31% | 113 | 25.3% | 179 | 19.7% | + 2.3 | ↑ |
| 4 | Provider has incorrectly identified the job search level in the Job Plan as inappropriate | 74 | 16.0% | 46 | 10.3% | 120 | 13.2% | + 1.9 | ↑ |
| 5 | Provider has incorrectly indicated that the job seeker does not have a job search requirement | 44 | 9.5% | 45 | 10.0% | 89 | 9.8% | - 2.3 | ↓ |
| 6 | Provider incorrectly stated that there were expired activities in the Job Plan in place at the time of the Capability Interview | 49 | 10.6% | 37 | 8.3% | 86 | 9.5% | - 1.0 | ↓ |
| 11 | Provider failed to justify the Circumstances Impact that returned the job seeker to the Green Zone | 37 | 8.0% | 24 | 5.4% | 61 | 6.7% | - 1.2 | ↓ |
| 16 | Evidence in ESS Web does not support the Capability Outcome code triggered, however the return to the Green Zone is justified based on an alternate Outcome Type | 29 | 6.3% | 28 | 6.7% | 57 | 6.3% | - 0.2 | ↓ |
| 15 | Provider has failed to update the CMT to support issues identified in the Capability Interview | 15 | 3.2% | 16 | 3.6% | 31 | 3.4% | - 0.1 | ↓ |
| 13 | Provider incorrectly identified 'newly disclosed circumstances': all 'newly disclosed circumstances' were already been identified in ESS Web | 21 | 4.5% | 5 | 1.1% | 26 | 2.8% | - 0.6 | ↓ |
| 8 | Provider failed to correctly assess the Job Plan as inappropriate during the Capability Interview which triggered an alternate Capability Interview outcome | 11 | 2.4% | 12 | 2.7% | 23 | 2.5% | - 0.2 | ↓ |
| 9 | Provider has indicated changes in circumstances in the JSCI that are not reflected in the Capability Interview - incomplete justification for the return to Green Zone | 11 | 2.4% | 9 | 2.0% | 20 | 2.2% | - 0.9 | ↓ |
| 2 | The hours in the Job Plan were appropriate in line with policy but the provider identified them as inappropriate | 14 | 3.0% | 5 | 1.1% | 19 | 2.1% | - 2.3 | ↓ |
| 12 | Provider incorrectly identified 'newly disclosed circumstance': at least one 'newly disclosed circumstance' was already identified in ESS Web | 7 | 1.5% | 6 | 1.34% | 13 | 1.4% | - 0.1 | ↓ |
| 10 | Provider has indicated changes in circumstances in the Capability Interview that are not reflected in the JSCI - while sufficient changes in the JSCI have results in a change of stream, administration error exists | 7 | 1.5% | 2 | 0.4% | 9 | 1% | - 0.1 | ↓ |

¹ Percentage of assessed records where deficiency was applied.² Percentage point increase/decrease of a deficiency between September-October and November-December 2019 results.

Table 3: Summary of Results by jobactive provider – November and December 2019 Reporting Period

| jobactive Provider | Total assessments | Satisfies requirements | | Requirements mostly satisfied | | Requirements partially met | | Requirements not met | | November and December 2019 | | |
|--------------------|-------------------|------------------------|-----|-------------------------------|-----|----------------------------|-----|----------------------|-----|----------------------------|--|----------|
| | | No. of Assessments | % | No. of Assessments | % | No. of Assessments | % | No. of Assessments | % | Performance ¹ | Increase/decrease in performance from September and October results ² | |
| s 47G(1)(a) | 14 | 0 | 0% | 2 | 14% | 4 | 29% | 8 | 57% | 0.30 | - 0.19 | ↓ |
| | 3 | 0 | 0% | 1 | 33% | 0 | 0% | 2 | 67% | 0.30 | - 0.40 | ↓ |
| | 21 | 0 | 0% | 3 | 14% | 9 | 43% | 9 | 43% | 0.39 | - 0.23 | ↓ |
| | 36 | 3 | 8% | 7 | 19% | 8 | 22% | 18 | 50% | 0.39 | - 0.11 | ↓ |
| | 10 | 1 | 10% | 2 | 20% | 2 | 20% | 5 | 50% | 0.40 | - 0.28 | ↓ |
| | 33 | 1 | 3% | 7 | 21% | 11 | 33% | 14 | 42% | 0.42 | - 0.10 | ↓ |
| | 16 | 0 | 0% | 3 | 19% | 7 | 44% | 6 | 38% | 0.43 | + 0.05 | ↑ |
| | 7 | 2 | 29% | 0 | 0% | 2 | 29% | 3 | 43% | 0.46 | - 0.24 | ↓ |
| | 27 | 4 | 15% | 6 | 22% | 5 | 19% | 12 | 44% | 0.46 | + 0.06 | ↑ |
| | 21 | 1 | 5% | 6 | 29% | 6 | 29% | 8 | 38% | 0.48 | + 0.09 | ↑ |
| | 30 | 3 | 10% | 6 | 20% | 11 | 37% | 10 | 33% | 0.50 | 0.00 | → |
| | 7 | 2 | 29% | 1 | 14% | 1 | 14% | 3 | 43% | 0.50 | - 0.07 | ↓ |
| | 26 | 5 | 19% | 3 | 12% | 9 | 35% | 9 | 35% | 0.50 | + 0.05 | ↑ |
| | 64 | 7 | 11% | 12 | 19% | 25 | 39% | 20 | 31% | 0.51 | - 0.06 | ↓ |
| | 4 | 0 | 0% | 1 | 25% | 2 | 50% | 1 | 25% | 0.53 | 0.00 | → |
| | 11 | 2 | 18% | 3 | 27% | 2 | 18% | 4 | 36% | 0.54 | - 0.21 | ↓ |
| | 108 | 16 | 15% | 18 | 17% | 47 | 44% | 27 | 25% | 0.56 | - 0.07 | ↓ |
| | 13 | 1 | 8% | 5 | 38% | 3 | 23% | 4 | 31% | 0.56 | - 0.04 | ↓ |
| | 50 | 6 | 12% | 8 | 16% | 25 | 50% | 11 | 22% | 0.56 | + 0.03 | ↑ |
| | 9 | 3 | 33% | 1 | 11% | 2 | 22% | 3 | 33% | 0.57 | + 0.18 | ↑ |
| | 15 | 4 | 27% | 3 | 20% | 3 | 20% | 5 | 33% | 0.57 | + 0.15 | ↑ |
| | 26 | 5 | 19% | 5 | 19% | 9 | 35% | 7 | 27% | 0.57 | + 0.02 | ↑ |
| | 9 | 4 | 44% | 0 | 0% | 2 | 22% | 3 | 33% | 0.58 | - 0.16 | ↓ |
| | 8 | 2 | 25% | 1 | 13% | 3 | 38% | 2 | 25% | 0.59 | - 0.19 | ↓ |
| | 38 | 3 | 8% | 11 | 29% | 16 | 42% | 8 | 21% | 0.59 | + 0.02 | ↑ |
| | 14 | 2 | 14% | 5 | 36% | 3 | 21% | 4 | 29% | 0.59 | + 0.15 | ↑ |
| | 59 | 9 | 15% | 13 | 22% | 24 | 41% | 13 | 22% | 0.59 | + 0.03 | ↑ |
| | 6 | 0 | 0% | 2 | 33% | 3 | 50% | 1 | 17% | 0.60 | + 0.06 | ↑ |
| | 63 | 15 | 24% | 11 | 17% | 22 | 35% | 15 | 24% | 0.60 | - 0.01 | ↓ |
| | 5 | 1 | 20% | 1 | 20% | 2 | 40% | 1 | 20% | 0.62 | - 0.28 | ↓ |
| | 10 | 4 | 40% | 2 | 20% | 1 | 10% | 3 | 30% | 0.64 | + 0.08 | ↑ |
| | 18 | 3 | 17% | 5 | 28% | 7 | 39% | 3 | 17% | 0.65 | + 0.10 | ↑ |
| | 18 | 1 | 6% | 6 | 33% | 9 | 50% | 2 | 11% | 0.66 | - 0.07 | ↓ |
| | 10 | 3 | 30% | 2 | 20% | 3 | 30% | 2 | 20% | 0.66 | + 0.11 | ↑ |
| | 13 | 4 | 31% | 3 | 23% | 4 | 31% | 2 | 15% | 0.70 | + 0.07 | ↑ |
| | 23 | 6 | 26% | 8 | 35% | 5 | 22% | 4 | 17% | 0.70 | - 0.04 | ↓ |
| | 9 | 2 | 22% | 3 | 33% | 3 | 33% | 1 | 11% | 0.72 | + 0.22 | ↑ |
| | 4 | 2 | 50% | 1 | 25% | 0 | 0% | 1 | 25% | 0.73 | - 0.27 | ↓ |
| | 6 | 2 | 33% | 2 | 33% | 1 | 17% | 1 | 17% | 0.73 | + 0.09 | ↑ |
| | 13 | 3 | 23% | 6 | 46% | 2 | 15% | 2 | 15% | 0.74 | - 0.07 | ↓ |
| | 5 | 1 | 20% | 2 | 40% | 2 | 40% | 0 | 0% | 0.80 | + 0.40 | ↑ |
| Total | 882 | 133 | | 187 | | 305 | | 257 | | 0.55 | - 0.02 | ↓ |

¹ Calculated using an average of Compliance Indicator Review Results Weighting.² Percentage point increase/decrease of a deficiency between September-October and November-December 2019 results.

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Table 3: Summary of Results by ParentsNext provider – November and December 2019 Reporting Period

| ParentsNext Provider | Total assessments | Satisfies requirements | | Requirements mostly satisfied | | Requirements partially met | | Requirements not met | | November and December 2019 | | |
|----------------------|-------------------|------------------------|----------|-------------------------------|----------|----------------------------|----------|----------------------|----------|----------------------------|--|--------------|
| | | No. of Assessments | % | No. of Assessments | % | No. of Assessments | % | No. of Assessments | % | Performance ¹ | Increase/decrease in performance from September and October results ² | |
| s 47G(1)(a) | 1 | 0 | 0% | 0 | 0% | 0 | 0% | 1 | 100% | 0.00 | - | → |
| | 1 | 0 | 0% | 0 | 0% | 0 | 0% | 1 | 100% | 0.00 | -0.60 | ↓ |
| | 1 | 0 | 0% | 0 | 0% | 0 | 0% | 1 | 100% | 0.00 | - | → |
| | 4 | 0 | 0% | 0 | 0% | 1 | 25% | 3 | 75% | 0.15 | -0.18 | ↓ |
| | 4 | 0 | 0% | 1 | 25% | 1 | 25% | 2 | 50% | 0.40 | +0.10 | ↑ |
| | 2 | 0 | 0% | 1 | 50% | 0 | 0% | 1 | 50% | 0.50 | +0.50 | ↑ |
| | 1 | 0 | 0% | 0 | 0% | 1 | 100% | 0 | 0% | 0.60 | +0.60 | → |
| | 2 | 0 | 0% | 1 | 50% | 1 | 50% | 0 | 0% | 0.80 | - | → |
| | 2 | 0 | 0% | 1 | 50% | 1 | 50% | 0 | 0% | 0.80 | +0.80 | ↑ |
| | 2 | 0 | 0% | 1 | 50% | 1 | 50% | 0 | 0% | 0.80 | - | → |
| | 1 | 1 | 100% | 0 | 0% | 0 | 0% | 0 | 0% | 1.00 | - | → |
| | 1 | 0 | 0% | 1 | 100% | 0 | 0% | 0 | 0% | 1.00 | - | → |
| | 1 | 0 | 0% | 1 | 100% | 0 | 0% | 0 | 0% | 1.00 | - | → |
| | 1 | 1 | 100% | 0 | 0% | 0 | 0% | 0 | 0% | 1.00 | +0.62 | ↑ |
| | 1 | 1 | 100% | 0 | 0% | 0 | 0% | 0 | 0% | 1.00 | - | → |
| | Total | 25 | 3 | | 7 | | 6 | | 9 | | 0.54 | +0.12 |

¹ Calculated using an average of Compliance Indicator Review Results Weighting.

² Increase/decrease in provider performance between September-October and November-December 2019 results.

³ Due to small sample size for ParentsNext there can be larger variances in results as not every provider has CIs sampled every month.



Australian Government

Department of Employment

Department of Social Services

Department of Human Services



Job seeker Compliance

REVIEW

Final Report

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1 Introduction

The Ministers for Employment, Social Services and Human Services wrote to the Prime Minister on 9 November 2016 to inform him that they would undertake an internal review of the job seeker compliance framework.

The review was undertaken by an interdepartmental taskforce and was overseen by an interdepartmental committee, chaired by the Secretary of the Department of Employment, also comprising the Secretaries of the Department of Social Services (DSS) and the Department of Human Services (DHS).

A number of options to improve job seekers' compliance with their mutual obligation requirements have recently been proposed, including the 2015 'Further Strengthening Job Seeker Compliance' Budget measure and the recommendations of the Boston Consulting Group report 'Strengthening the Delivery of Welfare Payments', but have not been implemented.

This review sought to undertake a more thorough analysis of the current framework and build on the previously proposed options by providing a more comprehensive set of options to reform the job seeker compliance framework.

It was agreed between the Ministers' Offices that the review should be guided by the following principles:

- There should be high expectations for capable job seekers, with personal responsibility emphasised at every step in accordance with their assessed capabilities. Those using their initiative to actively look for work should be provided with greater autonomy under the compliance framework.
- The framework must be easy to understand, and unambiguously fair. This means that requirements and obligations must be clear and consistent, and sanctions must be clear, proportionate, applied consistently, and be immediate in effect.
- The framework must recognise that life throws up unexpected events. There must be appropriate points of discretion available to account for these. However, the standards applied should be broadly comparable.
- The aim should be to get people into work as quickly as possible should they become unemployed including sustainable employment.

The Ministers' Offices also agreed that, in assessing possible options to be pursued, the review should have regard to:

- the cost of options, fairness, efficiency and effectiveness;
- areas where the administrative burden could be simplified, while contributing to the focus on participation;
- simplifying mutual obligation requirements so they are better understood by job seekers and employment service providers to maximise compliance;
- significantly improved linkages between the delivery of income support and the delivery of employment services and; and
- improving the support job seekers receive, and incentives they face, to enter and remain in the workforce.

Early in the review the interdepartmental committee determined that changes to job seeker requirements and the broader participation framework would be out of scope for the review, primarily because it was beyond the capacity of the taskforce in the time available for the review but

also because interdepartmental work on this was already underway as part of the broader welfare reform process.

The review taskforce undertook significant research and analysis. This included job seeker surveys, site visits, consultation with experts, quantitative analysis of administrative data and examination of previous government, academic and stakeholder reports, research, public submissions and advocacy, as well as international evidence.

Assessment of the available evidence was split into several streams to facilitate the review: existing departmental evidence and experience, history of compliance policy, international evidence as well as public and stakeholder views.

The taskforce reviewed the substantial previous research undertaken by the Department of Employment and its predecessors directly and tangentially related to compliance policy and its implementation, both in its current form and historic iterations. The taskforce also looked at the significant international evidence that is available on the efficacy and consequences of various compliance systems implemented in other countries.

The analysis of previous departmental and international research involved an initial scan of available evidence and consultation with experts to identify other sources, where relevant. From there a broad systematic review of the available evidence was undertaken, collating, categorising and summarising relevant information. Previous reports' methodologies, citations or references were also examined, where possible, further increasing the evidence base and allowing the robustness of their findings to be tested. In some instances this involved contacting study authors for clarification of their methods.

For the review of international evidence, following a broad examination of academic evidence related to compliance and active labour market programs more generally, specific attention was focused on evidence regarding countries with similar income support systems to Australia.

The review of community attitudes looked at previous research, stakeholder submissions, public advocacy, related media and correspondence to the Minister for Employment from members of the public.

The taskforce visited a number of jobactive provider sites, including both high rated and lower rated providers and included discussions with office managers and other provider staff. The taskforce also visited two DHS Participation Solutions Team (PST) sites, undertaking discussions with team leaders and members, before observing a number of calls from job seekers relating to compliance action that was underway.

The taskforce also developed a comprehensive database of compliance-related administrative data, which enabled it to conduct fresh research and analysis into the extent of different types of non-compliance and the characteristics of non-compliant job seekers.

This research directly fed into policy development considerations, providing evidence of what has and has not worked effectively both domestically and internationally.

2 Executive Summary

The current “no show, no pay” job seeker compliance framework has been in place since 2009. The framework is intended to encourage unemployment payment recipients to look for work and participate in employment services and other activities designed to help them find work. Financial penalties are not intended to be punitive but to provide a deterrent to non-compliance. The key elements of the current framework are no show no pay penalties of one day’s loss of payment for non-participation in an activity, payment suspension and longer reconnection penalties for non-attendance at appointments and eight week penalties for persistent non-compliance or serious failures such as refusing work, which are able to be waived (see Chapter 4 for a full description of the framework and its development).

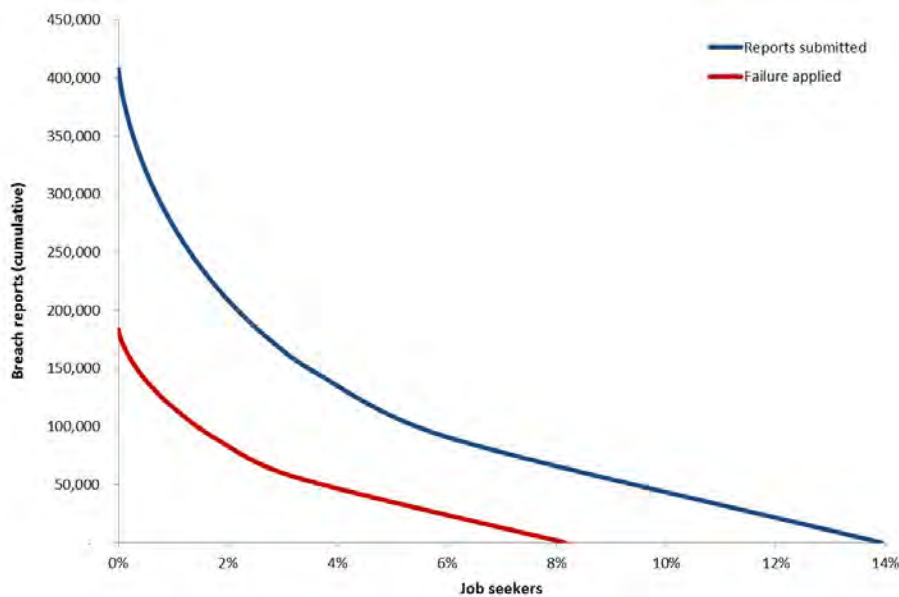
The framework has been modified several times since 2009, most significantly in 2011 with the introduction of payment suspension for non-attendance at appointments with employment service providers. Payment suspension means withholding payment but back paying the job seeker once they comply. This is different to a penalty, which means deducting payment from the job seeker. The most recent change to the framework was in 2015, when it became possible to maintain payment suspension until a job seeker actually attended a reconnection appointment rather than just agreed to attend, as had previously been the case, and to apply a penalty for the period of suspension (that is, not back pay the job seeker) if it was determined that they did not have a reasonable excuse for their initial failure to attend.

The current framework is generally considered to be overly complex. Qualitative and quantitative research of providers and job seekers has shown that job seekers are aware of what they need to do to remain on income support payments. However, the specific penalty for different requirements is not always clear to job seekers.

DHS PST (Participation Solutions Team) staff and jobactive providers who were consulted noted the effectiveness of suspending job seeker payments for failure to attend appointments until they re-engage with their jobactive provider. However, there was shared frustration caused by the current administrative arrangements when dealing with a small proportion of job seekers who providers or PST staff believe are either working cash-in-hand jobs or have an “entitlement attitude”. Providers and PST staff all felt that this cohort of job seekers were not all genuine and the current process did not always provide DHS with the information required to enforce penalties.

This is supported by analysis of administrative data, which found most job seekers genuinely try to meet their obligations and find work and a small percentage show persistent non-compliance, with no apparent reason. Around half of all reports for compliance failures confirmed by DHS relate to around two per cent of job seekers (Figure 2.1)

Figure 2.1 Job seekers who were the subject of a compliance report, October 2015-September 2016



Further, provider engagement and qualitative data has demonstrated that, although payment suspension is effective in re-engaging job seekers, there is a small group of job seekers who only attend re-engagement appointments or will wait until they need to report for their fortnightly income support before they make contact with their provider – suggesting they understand and are exploiting the current job seeker compliance system.

Current arrangements also lead to significant administrative churn. In the year from October 2015-September 2016, jobactive providers submitted around 350,000 compliance reports with no positive impact on job seeker behaviour but considerable administrative burden, including around:

- 187,000 PRs that were rejected by DHS or withdrawn;
- 5,400 invalid PAR reports;
- 1,700 CCAs that could not be actioned due to insufficient evidence or procedural error;
- 152,000 NARS submitted in error or automatically rejected due to being invalid.

The data also shows that the continued use of compliance action against some individuals does not lead to improved outcomes. Job seekers who received a payment suspension were less likely to subsequently achieve short or long-term employment outcomes than those who had never had a suspension and, the more suspensions applied, the lower the outcome rate (Figure 2.2). The same relationship was observed for financial penalties, but employment outcomes were even lower (Figure 2.3). These negative relationships remain even when accounting for age, length unemployment length, education level and circumstances such as disability or homelessness. It cannot be concluded that the repeated use of payment suspensions and compliance penalties against these job seekers is the reason for their poor outcomes, since job seekers who are disengaged and non-compliant, for any reason, are clearly going to be less inclined or have less capacity to find work than generally compliant job seekers. However, it is reasonable to conclude that the repeated use of suspensions and the current range of penalties against this group does not appear to have a deterrent effect. This may be due to the fact that currently penalties generally small or are able to be waived.

Figure 2.2 Employment outcome rates by number of payment suspensions received

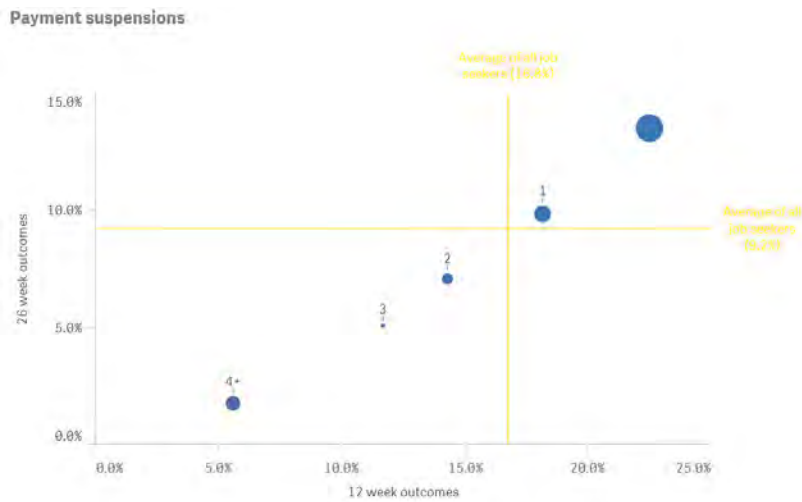
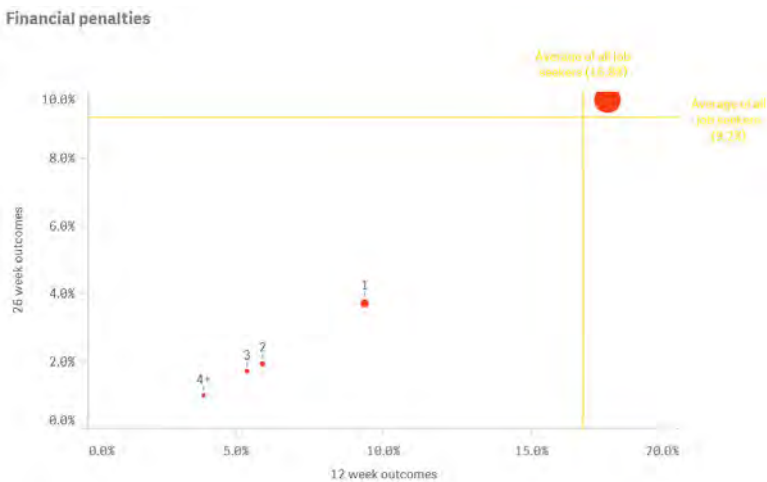


Figure 2.3 Employment outcome rates by number of financial penalties received



However, broader international evidence has shown that there is a role for penalties for non-compliance and that employment outcomes can be improved through their use. Yet there are significant risks as penalties that are too large or liberally applied can drive people away from social support and reduce the earnings and stability of employment for those who do find work. There is also evidence that, when applied, penalties which are too strong can lead to cost shifting, significant hardship, development/aggravation of health issues and increased crime. In the United Kingdom particularly, sanction application also appears to have led to deterioration of the relationship between employment service providers and job seekers, with reports of job centres having developed a 'climate of fear'. This could be expected to reduce the effectiveness of services.

Broadly, there is community support for the idea that job seekers should be doing whatever they can to find work, and that there should be strong consequences for those job seekers who are not genuinely looking for work despite being able to. However, a number of welfare groups, peak groups and community organisations are also concerned that current compliance arrangements are targeted too broadly.

This concern is supported by analysis of administrative data, the current penalty regime disproportionately affects those with personal circumstances likely affecting their ability to meet their requirements. People with disability or mental health conditions and refugees were slightly more likely than the average job seeker to be the subject of a compliance report, but did not have significantly higher rates of confirmed serious or persistent failures. Indigenous job seekers, ex-offenders and those who were homeless were twice as likely to be the subject of a compliance failure confirmed by DHS. On the other hand, 20 per cent of job seekers who received one or more compliance failures over a 12 month period had none of the following circumstances: disability, mental health condition, homelessness, more than 2 years unemployment duration; and were not refugees, ex-offenders or homeless. These job seekers were most likely to be Indigenous, male, aged in their 20s and living in regional areas

Conclusions and recommendations

Based on its analysis, which is covered in more detail in the rest of this report, the review found that, while current suspension arrangements are very effective in keeping the majority of generally compliant job seekers engaged, penalties are applied too broadly and with little effect. Multiple penalties are applied to job seekers whose non-compliance is primarily due to difficult personal circumstances which limit their capacity to meet their requirements, as well as to those who are wilfully and persistently non-compliant. Moreover, the penalties that are applied do not provide a sufficient deterrent to a small group of wilfully and persistently non-compliant job seekers who have no apparent reason for their repeated failures.

The table below summarises the key attributes and faults of the current job seeker compliance framework.

| Pros | |
|------|---|
| ✓ | Suspend until attend works at re-engaging job seekers |
| ✓ | DHS make financial penalty decisions |
| ✓ | Safeguards in place where capability issues exist |
| ✓ | Non-payment period for refusing suitable work |
| Cons | |
| ✗ | Financial penalties for serious failures are largely waived |
| ✗ | There is a lot of administrative effort with little impact, such as reports submitted in error or rejected by DHS after speaking with the job seeker |
| ✗ | Job seekers with similar patterns of behaviour are not treated consistently across the provider network |
| ✗ | No further penalties for non-compliance following triggering of a Comprehensive Compliance Assessment, and recipients can cycle through many of these assessments |
| ✗ | Penalties are inconsistent for similar behaviours, and compliance rules are complicated and difficult to understand |

The review therefore concluded that the compliance framework would be more effective if it applied stronger penalties that were better targeted to wilfully and persistently non-compliant job seekers who have no capability issues. This would necessitate more intensive screening to ensure that essentially genuine job seekers whose non-compliance was caused by difficult personal circumstances were not inappropriately penalised by these stronger penalties. Better targeting

would also reduce administrative churn, making the system more cost-effective as well as more effective in achieving its policy aims.

To improve the targeting of job seeker compliance, the review has therefore proposed a new framework which consists of two phases – a *personal responsibility phase* for the majority of job seekers who generally meet their requirements and an *intensive compliance phase* which will apply strong penalties to persistently non-compliant job seekers. The system will be bolstered by new technologies to assist job seekers in monitoring their requirements, and multiple interventions to identify when undisclosed barriers or inappropriate requirements may be preventing a genuine job seeker from meeting their requirements.

3 Recommendations

Most job seekers are genuine in their efforts to find work, and rarely fail to meet their requirements. For these job seekers, quick reengagement and a reminder are sufficient to ensure compliance, and the application of strong penalties is unnecessary, administratively expensive and may harm their employment prospects.

There are, however, a small group of job seekers who persistently fail to meet their requirements. In some cases, this is because the job seeker has significant factors which reduce their capability to meet their requirements which may not have been disclosed to their provider or DHS, or their mutual obligation requirements do not appropriately reflect the difficulties they face in looking for work. For these job seekers, better identification of the factors that reduce their capability and more appropriate requirements can ensure they are getting the support they need.

Other job seekers who fail to meet their requirements are not interested in finding work, either because they have other sources of undeclared income or because they see their payments as an entitlement for which they should not have to do anything in return. For these job seekers, strong penalties are required to send a clear message that those who are unwilling to meet their mutual obligation requirements will not receive income support.

Based on these findings, a new compliance system is proposed that will address the weaknesses of the current model and deliver the objectives of this review. This new framework will include:

- Greater autonomy and emphasis on personal responsibility for most job seekers.
- Better identification of factors impacting job seeker capability before penalties are applied.
- Targeting of significantly tougher compliance penalties at job seekers who have demonstrated they are not genuine in meeting their requirements.
- Greater simplicity through more consistency in the design and application of compliance rules for different types of failures.

Recommendation 1: Targeted Compliance Framework

The new approach will be based around a targeted compliance framework which consists of two phases – a *personal responsibility phase* for the majority of job seekers who generally meet their requirements and an *intensive compliance phase* which will apply strong penalties to persistently non-compliant job seekers. The system will be bolstered by new technologies to assist job seekers in monitoring their requirements, and multiple interventions to identify when factors impacting the job seekers ability to comply or inappropriate requirements may be preventing a genuine job seeker from meeting their requirements.

The proposed framework will consist of a number of key elements:

1.1 Job seekers take greater responsibility for recording compliance.

In regular workplaces, employees are responsible for completing timesheets and submitting them as input into the calculation and payment of wages. By extending this approach to unemployed people who receive regular fortnightly income support payments, job seekers will assume the same responsibility for providing confirmation that they have met all requirements of their job plan each fortnight.

Where possible, job seekers will be expected to use new technology via a smartphone app or online portal to record their attendance at appointments, approved activities and that the agreed number

of job searches had been completed. Where this technology is not available, the job seeker can ask their provider or activity host to record their attendance for them. Providers will be expected to record when a job seeker fails to attend an appointment or activity by close of business each day (pursuant to clause 120 of the jobactive Deed 2015-2020), but it will be job seeker's responsibility in the first instance to ensure that their attendance is recorded accurately. Job seekers will also be assisted in managing their compliance through a new online diary tool which will display all their requirements and attendance record in one place. Job seekers will be expected to contact their provider if they think there is an error in their record. To ensure that the online diary tool is effective, providers will be expected to record all job seeker requirements, including appointments, activities, job interviews etc. in the online diary.

The technology will need to be sophisticated enough to prevent job seekers from feigning attendance or completion of job searches. Timely recording of attendance is also paramount to ensure no disruption to a job seeker's payment. Job seekers should therefore be notified at the end of each day if appointment results or other activities that were due that day remain outstanding.

This approach will emphasise personal responsibility for job seekers, and reduced the administrative burden for providers associated with Participation Reports. It will also help improve the quality of recording of job seeker compliance and attendance, and reduce the large volumes of rejected compliance reports and the associated wasted administrative effort for providers and DHS.

1.2 Personal responsibility phase

Job seekers will initially enter the proposed new job seeker compliance framework in a *personal responsibility phase*. In this phase, each failure to meet a requirement without a reasonable excuse will result in a payment suspension and accrual of a demerit. No financial penalties will apply, except for refusing suitable work. The demerit will be added to the job seeker's record if they fail to record their attendance at an appointment or activity or if their provider records that they have failed to do so. If the job seeker believes the demerit should not have been accrued, they can approach their provider in the first instance to have it removed. If a job seeker feels they have been treated unfairly by their provider's decision not to remove a demerit, they can contact the National Customer Service Line (NCSL), which will have responsibility for resolving the dispute.

To assist job seekers in meeting their requirements, job seekers could also be given the ability to proactively reschedule appointments ahead of time when unforeseen issues arise for a limited number of times without a reasonable excuse.

The *personal responsibility phase* recognises that most job seekers rarely fail to meet their requirements and that payment suspension is an effective and proportionate tool to get them to reengage with their provider. Application of financial penalties against the majority of job seekers who are generally compliant is administratively expensive and does not improve their employment prospects. While it is possible that some job seekers may take advantage of this initially, by missing appointments and re-engaging just in time to avoid any delay in their payment, their capacity to do this will be greatly diminished, as they will quickly accrue enough demerits to put them into the *intensive compliance phase*, in which they would face strong penalties for any further failures.

1.3 Capability interviews and Capability Assessments

Once a job seeker accrues three demerits, their provider will conduct a *capability interview*, to try and determine the causes of non-compliance and adjust the job seeker's requirements as appropriate. If their requirements do need to be adjusted, their demerits are reset to zero.

If no adjustment is made because the job seeker's requirements are within their capacity, after one further demerit is accrued, DHS will conduct a detailed *capability assessment*. If the job seeker is found to have undisclosed issues affecting their capability to meet their requirements or if the requirements are otherwise inappropriate for the job seeker they will return to the *personal responsibility phase* with zero demerits. Providers will be required to adjust the job seeker's job plan to take into consideration new information about the job seeker's circumstances.

At either the capability interview or capability assessment, the Job Seeker Classification Instrument may be rerun for the job seeker or they may be referred for an Employment Services Assessment as appropriate. If no justification for the non-compliance is identified, the job seeker will enter the *intensive compliance phase*.

Rationale for the proposed demerit/capability assessment process

Three demerits are recommended before the first intervention as a balance between intervening unnecessarily early on the one hand¹ and, on the other, not allowing job seekers with undisclosed capability issues or inappropriate job plans to progress through the compliance framework before having a mandatory review of their circumstances. Recognising that not all jobactive or DES employment consultants have the skills or experience necessary to diagnose or elicit underlying issues when interviewing job seekers, a second assessment by DHS after one further demerit is recommended. Having two assessments in sequence will reinforce the requirement for job seekers to disclose any problems they have in complying with their job plan. It is also simpler for job seekers to understand than having more than one demerit gap between the two screening interviews. Two sequential capability discussions will send a strong and consistent message about the imperative for change in behaviour, or appropriate modification of job plans if financial penalties are to be avoided.

1.4 Intensive compliance phase

In the *intensive compliance phase*, job seekers will incur a strong financial penalty for each failure to meet a mutual obligation requirement. It is important that these penalties should be stronger than current penalties and not waivable, to ensure that the small minority of job seekers who consistently fail to meet their requirements without good reason face real consequences for their non-compliance. The penalties need to involve loss of a significant proportion of the job seeker's payment for a first failure, escalating to full loss of payment for repeated failures within a period. This will address the main weakness in the current compliance system whereby job seekers can continue to receive a significant proportion or all of their income support without meeting the majority of their requirements.

If the job seeker continues to demonstrate a pattern of non-compliance in the *intensive compliance phase* their payment would be cancelled and they would need to serve a waiting period before

¹ Analysis of job seeker compliance data for the period 1 October 2015 to 30 September 2016, indicates that approximately 75% of job seekers will never accrue three demerits within a six month window.

reapplying. Cancellation will stop job seekers who have persistently demonstrated they are not willing to meet their requirements continuing to receive income support. This will help remove those who do not want to work or are working but not declaring their income to DHS.

Job seekers who are cancelled at any time for any reason will have their compliance record maintained but the time off payment will be treated as a period of full compliance. This means they will return to the phase in which they would have been had they remained on payment, with their previous compliance history maintained.

To provide an incentive to remain compliant (other than to avoid immediate loss of payment), job seekers who are fully compliant for three months once they enter the *intensive compliance phase* will return to the *personal responsibility phase* with zero demerits.

Rationale for requiring three months of compliant behaviour

Behavioural science research and literature does not specify a rigid threshold for behavioural change to be considered permanent. The circumstances that lead to behavioural change are a significant influence on whether that change will be permanent or temporary. Common examples where permanent behavioural change can be achieved quickly include unanticipated life-threatening events (such as surviving electrocution after touching live electrical wires) where there is a strong connection between cause and effect, versus equally life-threatening behaviours such as smoking or having poor diet or exercise regimes where behavioural change can take years – arguably because the effect of that poor behaviour only manifests after a longer period, if at all.

Pragmatically, three months of compliant behaviour is recommended as being adequate to demonstrate the required change in behaviour required for a job seeker to return to the *personal responsibility phase*. The recommendation for three months of compliant behaviour is supported by the Department of Prime Minister and Cabinet's Behavioural Economics Team (BETA), who considered three months to be proximate enough to be perceived as an achievable goal that job seekers would strive for.

1.5 Employment-related failures

In either phase, job seekers who refuse or fail to commence a suitable job, leave a job voluntarily or are dismissed for misconduct would also have their payment cancelled and would need to serve a waiting period before reapplying. This is to reinforce the seriousness of such failures, since the most fundamental reason an unemployed person needs income support is because they are unable to find work. If a job seeker has refused or left work, this should immediately disqualify them from receipt of unemployment payments.

Duration of waiting period

Under the current framework, an eight week non-payment period applies for employment-related failures or persistent non-compliance applies, but the legislation allows the penalty to be waived in most circumstances, which means that it provides very little deterrence to job seekers who refuse or leave work without good reason.

Although non-waivable eight week non-payment periods were a long-standing feature of all job seeker compliance frameworks prior to the current one, the review also took into account the

experience in the United Kingdom, where overly harsh penalties appear to have had undesirable social impacts. For this reason, the review recommends that the waiting period following cancellation for persistent non-compliance or an employment-related failure should be four weeks – half the duration of currently applicable non-payment period. This is long enough to provide a deterrent to such behaviour and to encourage those who can find work to do so, while not prolonging the period without income support for longer than is necessary.

Legislative framework

Because of the demerit system and the repeated capability assessments, it is expected that only wilfully non-compliant job seekers will enter the *intensive compliance phase*. In order to create a strong distinction between this phase and the *personal responsibility phase*, where compliance and re-engagement arrangements are largely administrative and are managed by providers, the *intensive compliance phase* will be fully legislated. This is to reinforce to job seekers the seriousness of having reached this stage of non-compliance and to afford those job seekers their full statutory rights and protections. That is, any decision to apply a penalty will be made by a DHS officer and will be reviewable on request by a DHS Authorised Review Officer and will be able to be appealed to the Administrative Appeals Tribunal. As is currently the case, the decision-maker will be legally bound to give full consideration to any explanation the job seeker may provide and will not apply the penalty if they find that the job seeker had a reasonable excuse for their failure.

Changing job seekers' behaviour

A key goal of the proposed targeted job seeker compliance framework is to focus compliance-related interventions on job seekers who have a pattern of persistent non-compliance, with a view to improving support where capability issues are uncovered and changing the behaviour of wilfully non-compliant job seekers so that they meet the agreed activities prescribed in their job plan.

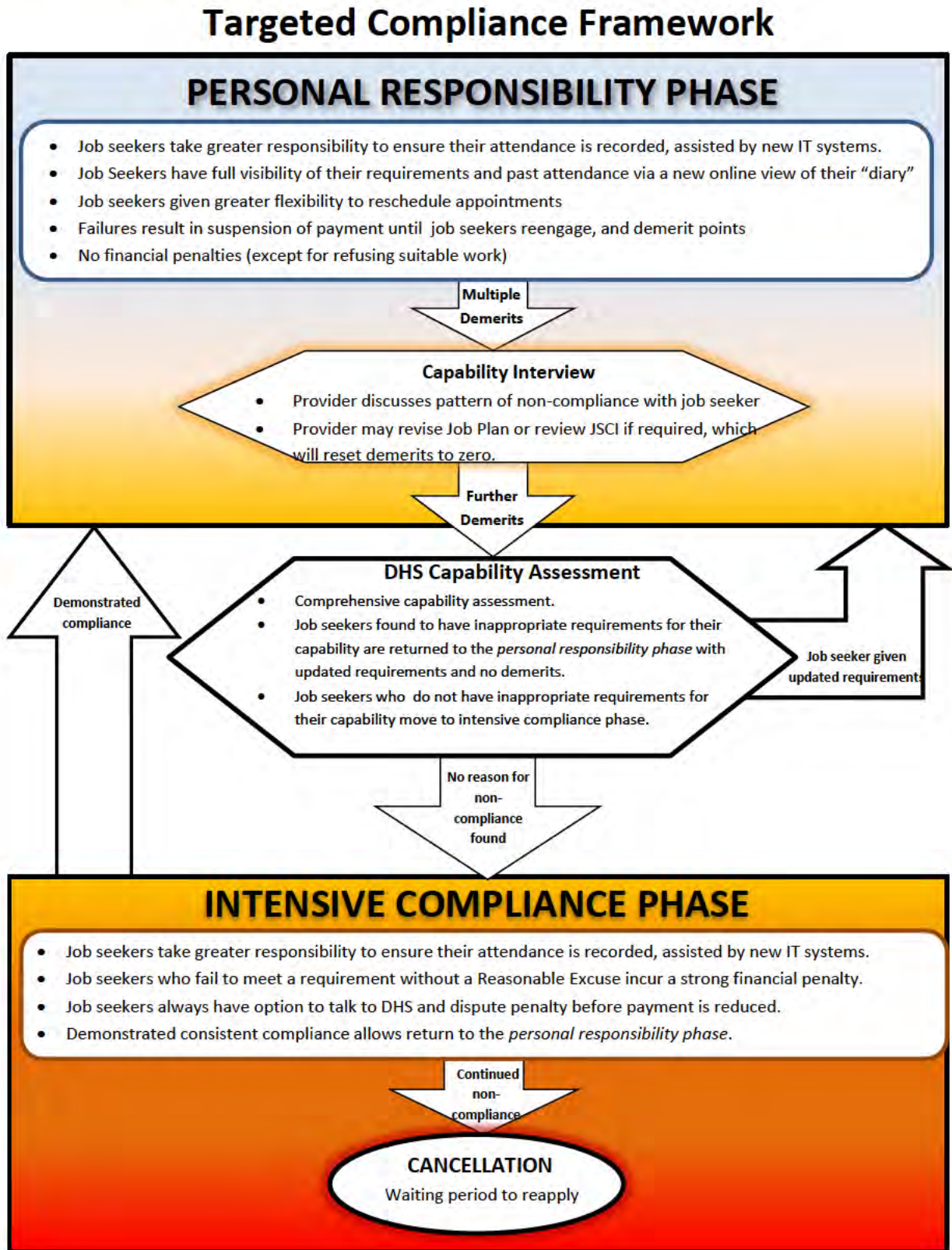
The introduction of a completely new compliance model, with associated educational material, is expected to drive a degree of underlying behavioural change in and of itself. Further changes in behaviour can reasonably be expected at various steps in the proposed targeted job seeker compliance framework, as the consequences of non-compliance loom and sanctions are imposed.

The first of these step changes in behaviour is likely to result from the face-to-face capability interview with the provider and the subsequent DHS capability assessment, once three and four demerits have been accrued respectively. The impact of having a very personal discussion about errant behaviour and reminding the job seeker how close they are to receiving a significant financial sanction could reasonably be expected to result in a markedly more significant change in behaviour than introducing the new model achieved in the first place.

Perhaps the largest changes in behaviour will flow from imposing financial penalties in the *intensive compliance phase*. There are two broadly comparable benchmarks that can be drawn on for comparison: Suspend until attend changes that were introduced in 2015 saw attendance rates at jobactive reconnection appointments rise from 65% to 88%, while the introduction of sanctions in the UK in 1996², saw job seeker exit rates increase from 21% to 28%.

² Social Security Advisory Committee Occasional Paper No. 1 (2006) *Sanctions in the benefit system: Evidence review of JSA, IS and IB sanctions*;

Figure 3.1 Targeted Compliance Framework



Recommendation 2: Strengthen reasonable excuse provisions

Current reasonable excuse provisions may allow inappropriate leniency, and should be more consistently applied. There is also an issue of concern where job seekers are able to repeatedly use a condition or issue as a reasonable excuse, while refusing to accept available assistance to address that condition or issue.

2.1 Amend Reasonable Excuse instrument

The review proposes that the Government amend the *Social Security (Reasonable Excuse—Participation Payment Obligations) (DEEWR) Determination 2009 (No. 1)* (or equivalent instrument under new compliance framework) to:

- encourage decision makers determining reasonable excuse to take into account only factors beyond the job seeker's control that significantly affected their ability to comply; and
- clarify that, where job seekers have elected not address issues despite treatments being available, the issues do not need to be taken into account in determining Reasonable Excuse.

2.2 Strengthened Reasonable Excuse training for DHS staff

Undertake additional training of DHS staff involved in penalty decision making to improve the consistency of Reasonable Excuse decision making by DHS staff. Compliance report rejection rates should also be actively monitored, taking into account regional differences. Those staff with inexplicably high rejection rates would receive appropriate follow up. Monitoring of rejection rates would not be used to set targets or benchmarks, and these would not be made widely available to staff.

2.3 Requirement for job seekers to be proactive in advising of a Reasonable Excuse

Under the proposed targeted compliance framework model (Recommendation 1), the onus would be on job seekers to be proactive in satisfying their provider or DHS that they had a reasonable excuse for their failure in order to avoid incurring a demerit or loss of payment. However if this broader recommendation is not adopted, the same approach should be adopted within the current framework. This would not require any amendment to the legislation or the Reasonable Excuse determination.

For most failures under the current framework, this would involve system changes so that job seekers are prompted at the time of reporting that they have an outstanding penalty, and can either accept the penalty or contact DHS to discuss.

Recommendation 3: Administrative systems support

To support a simplified and streamlined job seeker mutual obligation and compliance framework, changes to the Employment and DHS IT systems will be required to enable new processes and reduce provider administration. Supporting changes are also recommended to the current processes for administering job plans, handling complaints from job seekers and educating job seekers and providers.

There are three main areas where IT support is required to maximise the effectiveness of the model described in recommendation 1. However, these options are likely to be beneficial even if recommendation 1 is not pursued.

3.1 Innovative job seeker technologies

Expanding existing job seeker mobile device App and online service (accessed through MyGov) technologies would allow more job seekers to self-reschedule their provider appointments where appropriate and record their attendance at appointments and activities. This would empower job seekers who generally meet their requirements to have greater flexibility and reflects work-like and society norms associated with giving prior notice when you cannot make an appointment. Personal responsibility would be emphasised through job seekers self-reporting their attendance at appointments and activities where possible to demonstrate that they have complied with their requirements. This would make the direct link between access to income support and meeting requirements clear and immediate to job seekers as well as reduce some of the provider administration in recording attendance results in the system.

3.2 Mutual obligation requirements

Existing workflows connected to the Job Plan, diary booking processes and notification should be strengthened to support providers to appropriately set, schedule and notify job seekers of their requirements. This would ensure job seekers' requirements take into account their personal circumstances and give them the best chance of meeting their requirements. Additional supports including consolidating the booking processes for appointments and activities, further checks in the Job Plan, increased visibility of relevant job seeker circumstance information, better automation of information where possible between different parts of the system and increased tailoring of notification would also support providers in the administration involved in monitoring and managing job seeker requirements.

3.3 Non-compliance reporting and re-engagement

To reduce administrative errors associated with using the job seeker compliance framework, increased checks and provider confirmations will be required prior to reporting any non-compliance to DHS. This will ensure that DHS have the information needed to investigate any non-compliance disputed by job seekers. At any point of the job seeker's servicing, refinements to compliance workflows will be needed to support prompt job seeker re-engagement, appropriate lifting of payment suspension and failure reporting. These workflows will be streamlined to make processes simpler and more intuitive for providers to use. Enhanced information sharing of pertinent job seeker information (for example, undisclosed vulnerabilities, reduced capability, reasons for not applying failures) between providers and DHS will also support both parties in providing tailored services to job seekers. Furthermore, increased channels to report non-genuine job seekers such as those who are working but not declaring, won't accept referrals to job interviews or have left

employment will be made available to providers to ensure that only job seekers who need income support as a safety net are eligible.

There are four key areas where changes to supporting administration are also recommended:

3.4 Relax the 6 month rule for JSCI Change of Circumstances

The current rule that prevents providers from undertaking a Change of Circumstances Reassessment for Stream A and B job seekers during their first six months of service (refer Clause 79.1(a) of the jobactive Deed) should be revisited given the purpose and focus of the capability interview. The number of Change of Circumstances Reassessments that has occurred for job seekers with more than six months service has decreased significantly since this rule was introduced on 1 July 2015. Provider feedback from all sites visited suggested a strong deterrence effect from the inclusion of audit outcomes for these transactions into star ratings calculations. The Department will need to reinforce the importance of tailoring job plans to meet individual job seeker's capabilities. It should consider strengthening current programme assurance arrangements to ensure providers are appropriately responding to issues that emerge from capability interviews and DHS capability assessments.

3.5 Educating providers and job seekers

Ensuring all job seekers and employment consultants are familiar with the operation of the proposed targeted compliance framework will be critical to achieving the desired change in job seeker behaviour. According to an Industry survey that was conducted by the National Employment Services Association in November 2016, the prevailing annual turnover rate for staff across all Employment Services contracts is 41.9%. Although some providers have dedicated staff training resources, it is highly recommended that the department expand its current program of training work to ensure that employment consultants are kept abreast of how the new framework operates, what the Department's expectations of providers are and how the framework impacts job seekers.

3.6 Ensuring job plans are tailored to the unique capabilities of each job seeker

There is evidence to suggest that some jobactive providers are not appropriately tailoring job plans to meet individual's circumstances and capabilities in accordance with clause 87.6(b) of the jobactive Deed 2015-2020. Accordingly it is recommended that the Department expands its program assurance work to include checks on whether reasonable amendments are being made to job plans in response to provider interviews or DHS capability assessments. For maximum effect, the results of those checks should influence star rating scores via established programme assurance practices.

3.9 Prepare for an increase in job seeker complaints arising from the accrual of demerits

Although the accrual of demerits is not intended to be subject to legislation, and therefore not appealable, it is likely that some job seekers will complain when they accrue a demerit. The decision to not over-ride a system generated demerit whenever a job seeker fails to attend an appointment, approved activity or complete the agreed number of job searches, rests with each provider. The existing complaints handling process as outlined in clause 30 of the jobactive Deed 2015-2020 includes referral of the matter to the department's National Customer Support Line (NCSL) for resolution. It is therefore recommended that the NCSL prepare for increased call volumes and receive training on how to resolve complaints regarding a default against the proposed targeted compliance framework.

4 Background

The current job seeker compliance framework

Australia has an unemployment payments system which is universal, income tested and funded from general revenue, unlike most nations which are part of the Organisation for Economic Co-operation and Development (OECD), which rely primarily on contributory insurance schemes. For this reason unemployment payment recipients in Australia have always been subject to mutual obligation requirements (also referred to as activity test or participation requirements) and compliance arrangements, both to encourage them to find work and leave income support as quickly as possible and to maintain community support for the taxpayer-funded system.

The job seeker compliance framework is intended to encourage job search and participation in employment services and other activities by income support recipients in receipt of participation payments. This currently means Newstart Allowance recipients, job seekers on Youth Allowance, Parenting Payment recipients who have participation requirements and Special Benefit recipients holding temporary protection visas. (Some Disability Support Pension recipients also have participation requirements and are subject to sanctions but these arrangements are not part of the job seeker compliance framework.)

Under the job seeker compliance framework, participation payment recipients may be subject to sanctions for failing to meet their mutual obligation requirements without good reason. The current framework has been in place since 2009, although it has been modified from time to time since then, most recently in July 2015. It is underpinned by legislation (contained in the Social Security (Administration) Act 1999) and includes the following features:

- **Suspension of payment** for any reported invalid non-attendance at an appointment with a provider, with full back payment on attendance unless the Department of Human Services (DHS) determines that a non-attendance failure should be applied.
- **Non-attendance failure penalties** for job seekers who did not have a Reasonable Excuse or did not give prior notice of a Reasonable Excuse for their non-attendance at a provider appointment (the penalty is equal to one tenth of the job seeker's fortnightly income support payment for each business day from the date the job seeker was notified of their payment suspension until they attend a re-engagement appointment.)
- **Reconnection penalties** for further non-attendance at appointments without giving prior notice of a Reasonable Excuse (the penalty is equal to one tenth of the job seeker's fortnightly income support payment for each business day from the date the job seeker failed to attend their reconnection appointment until they attend a further re-engagement appointment.)
- **Connection failures** for refusing to enter into a Job Plan or inadequate job search. A connection failure has no immediate penalty, but the job seeker is given a reconnection requirement. (Connection failures were originally also applied for missing an initial appointment with a provider, but were replaced by the suspension process from 1 July 2014. Legislation that would replace them with payment suspension for all failure types has failed to pass parliament.)

- **No Show, No Pay penalties** for not attending or behaving inappropriately while in an activity (eg. Work for the Dole, training, work experience) or a job interview (the penalty is equal to one tenth of the job seeker's fortnightly income support payment for each day on which they fail to attend the activity or interview)
- **Eight week non-payment penalties** for refusing work or for persistent and wilful non-compliance (that is, repeated connection, reconnection or no show no pay failures) and
- Eight week **unemployment non-payment periods** for leaving a job voluntarily or being dismissed for misconduct, even prior to claiming income support (the period is twelve weeks if the job seeker received relocation assistance to take up the job)

Mutual obligation requirements are tailored to the individual capacity and circumstances of the job seeker, to ensure that they are achievable so that the job seeker is not penalised for failing to meet requirements that are unreasonable.

Providers are primarily responsible for monitoring and reporting non-compliance to DHS. However, DHS has sole responsibility for determining whether or not a financial penalty should be applied. Social Security Law requires Human Services to consider whether or not a job seeker had a Reasonable Excuse for their actions before imposing any penalty. For this reason they will always talk to the job seeker where possible before deciding whether to apply a penalty. It is not necessary for DHS to establish whether or not the job seeker had a Reasonable Excuse before applying a payment suspension, because a payment suspension is just a delay in payment rather than a financial penalty.

Providers have the discretion not to report non-compliance to DHS if they believe such action would be counterproductive and not the best means of securing the job seeker's re-engagement at that particular point in time.

Before an eight week non-payment penalty can be applied for persistent and wilful non-compliance, the job seeker must undergo a Comprehensive Compliance Assessment (CCA), designed to identify any previously undisclosed barriers that they might have. Where such barriers are identified, the job seeker can be referred for additional assistance rather than be penalised. Where no barriers are identified that have prevented compliance, an eight week non-payment penalty may be applied.

Eight week non-payment penalties for refusing work or persistent non-compliance can be waived if the job seeker agrees to participate in a more intensive level of activities. Unemployment non-payment periods can be waived for certain categories of job seeker (including parents) who are in severe financial hardship.

More detailed information can be found in the *Guide to Social Security Law*, on the Department of Social Services' internet site, at:

<http://guides.dss.gov.au/guide-social-security-law/3/1/13>

See also [Table 4.1](#) ~~Table 4.1~~

Table 4.1 Compliance Failures and Consequences

| Failure Type | How it occurs | Consequences |
|-------------------------------|---|---|
| Non-attendance failure | <ul style="list-style-type: none"> - job seeker fails to attend an appointment with their provider without a Reasonable Excuse or without giving prior notice of a Reasonable Excuse | <ul style="list-style-type: none"> - Income support payment suspended when DHS receives a non-attendance report (NAR), prior to any consideration of the job seeker's reason for non-attendance. Payment suspension is lifted and job seeker is back paid when the job seeker attends a re-engagement appointment. - If the provider also recommends the application of a financial penalty and DHS determines that the job seeker did not have a Reasonable Excuse or did not give prior notice of one, a non-attendance failure is applied, which means the job seeker does not receive back payment. |
| Connection Failure | <ul style="list-style-type: none"> - refusing to enter into a Job Plan; or - failure to look for an appropriate number of jobs. | <ul style="list-style-type: none"> - No immediate financial consequence for connection failure but failures count towards automatic trigger for a Comprehensive Compliance Assessment. - Income support payment suspended when provider reports refusal to enter a Job Plan to DHS and DHS finds no Reasonable Excuse. Income support payment is reinstated when job seeker agrees to attend a re-engagement appointment to enter a Job Plan. If job seeker still fails to enter into a Job Plan, payment cancelled. - If DHS decides that job seeker has no reason for unsatisfactory job search, DHS issues a Job Seeker Diary (JSD). If the JSD is not satisfactorily completed and returned after 12 weeks then DHS issues Employer Contact Certificates (ECCs). Job seekers start to lose their income support payment immediately pending the return of the satisfactorily completed ECCs. |
| Reconnection Failure | <ul style="list-style-type: none"> - not attending their re-engagement appointment; | <ul style="list-style-type: none"> - Where DHS receives a NAR for non-attendance at re-engagement appointments, the job seeker's income support payment is immediately suspended. - On contact with job seeker, DHS determines whether the job seeker gave prior notice of a Reasonable Excuse. If not, job seeker incurs a reconnection failure. - The financial penalty is equal to one tenth of the job seeker's fortnightly income support payment for each business day from the date of the missed re-engagement appointment until they attend a further reconnection appointment. |

| Failure Type | How it occurs | Consequences |
|--|--|--|
| No Show No Pay failure | <ul style="list-style-type: none"> - not attending or misconduct at a job interview or activity (e.g. Work for the Dole). | <ul style="list-style-type: none"> - Where a PR is received for non-attendance at an activity (only) and the Provider indicates the job seeker has become disengaged from the activity, payment suspension may occur. Payment suspension is lifted when the job seeker agrees to attend a re-engagement appointment. - No Show No Pay failure is determined separately by DHS. If no Reasonable Excuse, job seeker loses one tenth of their fortnightly income support payment for every day they do not participate. |
| Serious Failure | <ul style="list-style-type: none"> - refusing to commence or accept a suitable job; or - persistent non-compliance. | <ul style="list-style-type: none"> - An eight week non-payment penalty may be applied if DHS finds job seeker had no Reasonable Excuse for refusing work or finds job seeker has been persistently non-compliant following a Comprehensive Compliance Assessment. - Job seekers can have this penalty waived if they agree to undertake a Compliance Activity. - A Compliance Activity typically involves 25 hours participation per week for up to eight weeks in an activity such as Work for the Dole, study/training, voluntary work, intensive job search. - If they do not have the capacity to undertake a Compliance Activity, they can have the penalty waived if serving the penalty will cause severe financial hardship. |
| Unemployment Non-Payment Period | <ul style="list-style-type: none"> - leaving a suitable job without a valid reason; or - dismissed from job due to misconduct. | <ul style="list-style-type: none"> - An eight week non-payment penalty may be applied. - Can only have this penalty waived if they fall into a vulnerable job seeker category (e.g. they have significant caring responsibilities) and if serving the penalty will result in severe financial hardship. |

The development of the current job seeker compliance framework

Underpinning the current framework is the concept that the duration of a suspension or penalty (and hence the size of the financial loss) should be in the hands of the job seeker, with all non-payment periods able to be ended once the job seeker re-engages. This concept was first adopted in a substantial way in 2006, with the introduction of the Welfare to Work compliance framework, which allowed job seekers to end (or totally avert) some penalties through re-engagement.

Penalties were originally for fixed terms

Prior to this, all penalties had been for fixed terms and could not be shortened regardless of any subsequent compliance by the job seeker. Initially all penalties involved complete loss of payment for a specified period. Under the Labor Government's Working Nation initiative, non-payment periods increased with duration on payment and with each subsequent breach within a three year period. The rationale for these changes was that it was reasonable that the penalties for job seekers who did not meet their "reciprocal obligations" should increase with duration on income support because the assistance provided by the Government to job seekers intensified with duration, culminating in the offer of a job after 18 months (though the initiative only lasted for two years, until a change of government in 1996).

The introduction of rate reduction periods drives up penalty numbers

In 1996 the Coalition Government introduced legislation to simplify and strengthen compliance arrangements. This legislation introduced rate reduction periods, rather than complete loss of payment, for first and second breaches. The changes were intended to meet an election commitment "to improve and tighten administration of the activity test for unemployment payments" and thus "increase community support for assistance to the unemployed by enhancing the integrity of the program" (*Social Security Legislation Amendment (Budget and Other Measures) Bill 1996 (No. 84) Second Reading Speech*).

Following these changes, the penalty rate began to climb until it reached a peak of 386,946 in 2000-01 (347,199 rate reduction periods and 39,747 eight week non-payment periods). The first significant increase was a doubling in 1998-99, which coincided with the introduction of the Job Network and the Mutual Obligation Initiative, under which job seekers between 18 and 34 years of age were required to undertake additional activities (with Work for the Dole as the default) after a specified period of unemployment (see [Table 4.3](#)). A further doubling in breach numbers in the following year was not accompanied by any significant policy changes but did coincide with the 2000 Sydney Olympics and may reflect a tendency by employment services providers and Centrelink to be less tolerant of non-compliance when work is more readily available. This was possibly encouraged by public statements along those lines from the then Minister for Employment. This is supported by the fact that eight out of the ten Centrelink Customer Service Centres with the highest breach rates for 1999-2000 were in Sydney, as well as departmental research from the time that showed that breach rates were highest among job seekers in or near strong labour markets.

Community concern prompts the Government to take action to reduce penalty numbers

The increasing penalty rate caused much concern among the welfare sector and the broader community, resulting in a series of enquiries and an Ombudsman investigation³. The “Independent review of Breaches and Penalties in the Social Security System”, conducted by former Ombudsman Emeritus Professor Dennis Pearce and commissioned by peak welfare organisations, was highly critical of the administration of the system. The review found that breaches were often imposed arbitrarily, without sufficient regard for relevant legislation or adequate investigation and consideration of individual circumstances, which resulted in breaches being imposed too frequently.

By the time the “Pearce Report” was released in March 2002, many of its recommendations relating to the administration of the system and improved communication with job seekers had already been implemented, largely as a result of Centrelink’s own internal review. From June 2001, Centrelink also introduced the requirement for decision-makers to consult with a social worker or occupational psychologist before applying an eight week penalty for a third breach. Legislation was also changed. Commencing from July 2002, the penalty rate applicable for failing to attend an appointment with an employment services provider was reduced.

Around this time, as part of the *Australians Working Together* initiative, requirements on job seekers were also increased, with the commencement of mutual obligation requirements being brought forward to six months duration on income support and extended to 35-49 year olds. This had the potential to increase penalty numbers. Despite this, the penalty rate fell significantly in 2001-02 and then halved in 2002-03 (see [Table 4.3](#) ~~Table 4.3~~). As well as the administrative changes, it is probable that a significant contributor to this decline in the application of penalties from 2001 to 2003 was that community concern and departmental and government messaging (including a letter from the Centrelink CEO to Area Office Managers) had a strong behavioural impact on decision-makers. The influence of messaging on decision makers was also apparent – and more demonstrably so in a later but less marked decline in penalty application numbers in 2008-09 (see below).

Rewarding compliance – the 2006 Welfare to Work compliance framework

In further response to community and welfare sector concerns about the high penalty rate, the Government also included legislative changes in the *Australians Working Together* Bill that took a preliminary step towards the replacement of the fixed term penalty framework with one that sought to provide an incentive for non-compliant job seekers to re-engage by ending penalties when they did so. As result, from September 2003, when a job seeker incurred a first breach within two years (excluding more serious breach types), the rate reduction period could be shortened to 8 weeks if the job seeker complied with a reconnection requirement set by Centrelink.

An amendment to the *Australians Working Together* Bill moved by the Democrats required the Government to establish a Breaching Review Taskforce to look at the impact of the breaching system following the changes and make recommendations for its improvement. The taskforce was made up

³ ACOSS/NWRN discussion paper: “Breaching the safety net: the harsh impact of social security penalties”. (August 2001); Centrelink’s Review of Breaching Practices and Guidelines (released November 2001); Independent review of Breaches and Penalties in the Social Security System (“The Pearce Report”) (released March 2002); The Commonwealth Ombudsman’s Office conducted an “Own Motion Investigation” (released August 2002).

of representatives from the welfare sector, the employment services industry and the relevant government departments. The report of the taskforce was tabled in parliament in May 2005.

The work of the taskforce contributed to a complete redevelopment of the compliance framework from 1 July 2006, to coincide with the Welfare to Work reforms, which involved the activation of a much broader group of parents and people with a reduced capacity to work. As outlined in the Explanatory Memorandum for the supporting legislation⁴, the Welfare to Work compliance framework recognised that the previous regime of fixed-term penalties provided little incentive to comply once a penalty had been applied.

Instead, the new framework sought to encourage re-engagement by giving non-compliant job seekers an opportunity to avert or shorten a penalty by re-complying within the first fortnight after they were found to have failed to meet their requirements. If re-compliance did not occur, payment was lost from the start of that fortnight until the job seeker complied. To discourage job seekers from playing the system by repeatedly failing to meet their requirements then re-engaging before they lost money, an eight week non-payment period was automatically imposed for a third or subsequent failure within 12 months. Fixed-term eight week non-payment penalties were also retained for more serious failures, such as refusing work and voluntary unemployment.

These changes resulted in a large and immediate reduction in overall penalty numbers, from 132,000 in 2005-06 to less than 18,000 in 2006-07 (see [Table 4.3](#)). Despite this, the welfare sector grew concerned at the increase in eight week non-payment periods, which rose from 6,400 in the last year of the old framework, to 32,032 in the second year of the Welfare to Work framework (see [Table 4.3](#)). In 2007, welfare organisations began to put pressure on the newly elected Labor Government to reduce breach numbers.

Although little could be done pending legislative change, the Government was publicly critical of the Welfare to Work framework and Minister for Employment and Workplace Relations, Brendan O'Connor, wrote to the CEOs of all employment service providers seeking their cooperation in ensuring that their organisations adopt a fairer and more compassionate approach. This was followed up by directives from the Department. Again strong messaging from the Government, rather than any tangible policy or legislative change, appears to have influenced decision-makers to be more hesitant about applying penalties, and eight week penalty numbers fell by over a third in the following year.

The introduction of the current 'no show, no pay' framework

The compliance framework was again fundamentally reformed from 1 July 2009, to coincide with the introduction of Job Services Australia. A single compliance framework was created for all participation payment recipients and, to support this, all compliance-related legislation was removed from the individual payment provisions of the *Social Security Act (1991)* and was replaced by a single Division within the *Social Security (Administration) Act (1999)*.

While the previous framework had introduced the principle, for minor failures at least, that re-engagement should be encouraged by ending penalty periods on re-compliance, the bulk of

⁴ Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005 – Explanatory Memorandum, page 72.

penalties imposed were still irreversible eight week non-payment periods. These had been strongly criticised by the Welfare Sector as being too harsh and failing to encourage job seeker participation because the job seeker became disengaged from the system while serving the penalty.

The new framework therefore extended the principle that the duration of a penalty (and hence the size of the financial loss) should be in the hands of the job seeker, with all non-payment periods, including eight week penalties applied for serious failures, able to be ended once the job seeker re-engaged.

A further intention of the new framework was to encourage job seeker participation through the greater use of smaller penalties which are intended to be work like (e.g. if you miss an activity, you are docked a day's worth of income support). These penalties were intended to be as immediate as possible. However, in order to secure support for the passage of legislation from the Australian Greens, amendments were accepted that provided that a job seeker must receive at least one full payment before a penalty can be deducted. The purpose of this was to allow the job seeker to plan for the impending reduction in their payment, but it significantly undermined one of the deterrent effects of applying the penalty by distancing the consequences from the act of non-compliance.

The new framework also introduced much greater use of discretion by providers in deciding whether or not to initiate compliance action. In most cases, if they believe an alternative strategy will be more effective they do not have to report non-compliance to DHS. Alternative strategies can include giving the job seeker a second chance, requiring them to make up time in a missed activity or asking DHS to contact the job seeker without taking compliance action.

July 2011 – ‘Tougher Rules for Job Seekers’ – payment suspension for non-attendance at provider appointments

Payment suspension has always been a part of compliance processing, with the qualification provisions allowing payment to be withheld, and subsequently back paid, if a job seeker could not be contacted to discuss a potential compliance penalty. From July 2011, following Labor's 'Tougher Rules for Job Seekers' 2010 election commitment, a suspension mechanism was inserted into the compliance legislation to allow immediate suspension of a job seeker's income support payment if a provider notified DHS that the job seeker had failed to attend an appointment or had become disengaged from an activity. (Payment was not suspended in the first instance for job seekers identified as vulnerable). Suspension was lifted with back payment when the job seeker agreed to attend an appointment with their provider, but failure to attend the subsequent appointment (even for vulnerable job seekers) without prior notice of a valid reason resulted in loss of payment (ie. with no back payment) until they attended a rescheduled appointment. Legislation was also changed to allow this penalty to be deducted from the job seeker's next payment, to make the consequence more immediate.

Reasonable Excuse provisions were also tightened so that now, even if a job seeker has a Reasonable Excuse for not attending an appointment or activity on the day, that excuse is not accepted if they could have given advance notice of their inability to attend but failed to do so.

July 2014 – July 2015 – ‘Strengthening the Job seeker Compliance Framework’

Under the Coalition Government, the 'Strengthening the Job seeker Compliance Framework' Measure strengthened the suspension provisions by allowing suspension to be maintained until a

job seeker actually re-engaged, not just agreed to re-engage, while making it easier for them to do so by allowing providers to book re-engagement appointments directly with job seekers (which previously had to be done by DHS).

From 1 July 2015, as well as being suspended for not attending an appointment, the job seeker can also be denied back payment if DHS determines that the job seeker did not have a reasonable excuse (or did not give prior notice of one) for their non-attendance at any provider appointment. Previously this only applied if the job seeker failed to attend a reconnection appointment, not a regular contact appointment.

Lessons from History

Policy and legislative changes clearly have a significant impact on penalty numbers, as with the increase in penalties following the introduction the Job Network and strengthened activity test requirements in 1998 and with the reduction in short-term penalties following the introduction of the Welfare to Work framework in 2006. However, messaging from the Government and Department can also significantly affect penalty numbers without any accompanying legislative or policy changes, as occurred in the early 2000s and following the change of government in 2007.

Historically, no serious attempts have been made to gauge the impact of the application of compliance penalties on employment outcomes. It has generally been considered to be too difficult to draw a causal link between the two, as non-compliant job seekers, who incur most penalties, are by definition less engaged than compliant job seekers and as a result could also be expected to have poorer employment outcomes. The fact that the compliance system is legislated and applies equally to all unemployed income support recipients has also meant that it has never been possible, for reasons of equity, to establish a control group of job seekers who are not subject to the compliance framework. Comparisons of employment outcomes under different compliance frameworks are also difficult because each framework has been applied under different employment services systems and under different labour market conditions.

However, a fairly crude measure of the success or otherwise of successive compliance frameworks is provided by fluctuations in attendance rates at appointments with providers. Getting job seekers to attend appointments is one of the immediate purposes of any compliance framework so more of a causal link can be drawn between penalty application rates and attendance rates, although this too is complicated by the fact that different employment services systems have imposed different requirements on job seekers in terms of appointment attendance.

Figure 4.1 Participation reports and attendance rates

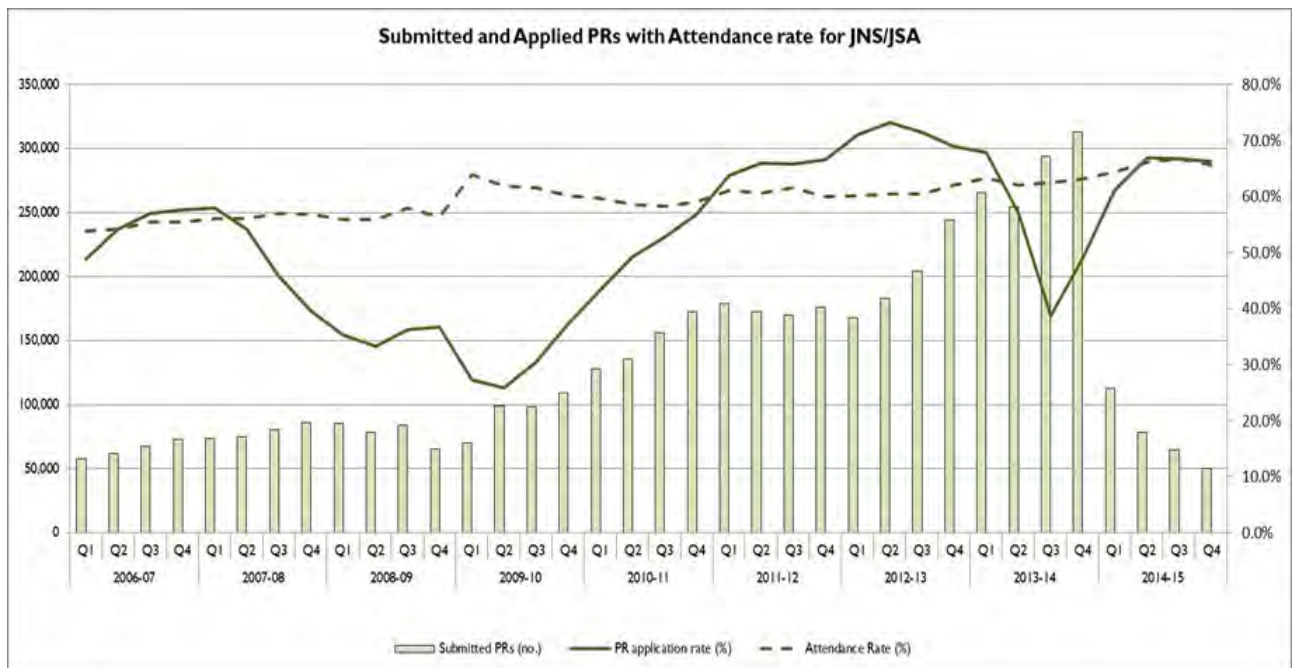


Figure 4.1 tracks participation reports against attendance rates at appointments with providers. The columns relate to the left axis ('000s). They indicate the number of Participation Reports submitted by Job Network and, from 2009, Job Services Australia providers to Centrelink in each quarter from 2006 to 2015. A Participation Report advises DHS that a job seeker has failed to meet their mutual obligation requirements in some way – generally by failing to attend an appointment with the provider, an activity or a job interview.

The solid line relates to the right axis (%). It indicates the percentage of Participation Reports applied by DHS (that is, where they assess a submitted Participation Report and decide to apply a failure, after having spoken to the job seeker and determined that they had no Reasonable Excuse for their failure).

The broken line also relates to the right axis. It indicates the percentage of appointments with providers that were attended throughout the period.

What the chart therefore indicates is that, while there have been quite significant changes in the level of Participation Reports submitted and applied over the years – there is little evidence of corresponding movements in the rate of appointment attendance. The most significant rise in attendance rates for mainstream providers, around the commencement of Job Services Australia in July 2009, coincided with a decline in both Participation Report submission and the penalty application rate, as providers and DHS were less inclined to use the compliance framework in transitioning to the new employment services and compliance arrangements. The sustained period of low participation report submission between 2006 and 2009 was also not accompanied by any decline in the attendance rate. A steady increase in both submissions and the application rate in the years following this also had little impact on the attendance rate (noting, however, that the bulk of Participation Reports applied after 2009 would have been for Connection Failures, for which there was no immediate financial penalty). The attendance rate began to improve in 2014-15, when submission rates fell dramatically. However, this coincided with the greater use of payment

suspensions (which are not shown on the chart) rather than failure to encourage attendance at appointments.

Table 4.2 Compliance penalty values since 1994 (at 2016 rates)

| Type of breach or failure | Penalty (unless specified, 100% of pay for period indicated) | Penalty Amount# |
|---|--|-------------------------------------|
| 1994-1996 | | |
| 1 st Administrative (within 3 years) | 2 weeks | \$528.70 |
| 2 nd Administrative | 6 weeks | \$1,586.10 |
| 3 rd Administrative | 12 weeks | \$3,172.20 |
| 4 th or subsequent Administrative | previous period plus 6 weeks | \$4,758.30+ |
| 1 st Activity Test (within 3 years) | 2-6 weeks, depending on job seeker duration | \$528.70 - \$1,586.10 |
| 2 nd Activity Test | 8-12 weeks, depending on job seeker duration | \$2,114.80 - \$3,172.20 |
| 3 rd Activity Test | 14-18 weeks, depending on job seeker duration | \$3,700.90 - \$4,758.30 |
| 4 th or subsequent Activity Test | previous period plus 6 weeks | \$5,287.00 - \$6,344.40+ |
| 1997-2006 | | |
| Administrative | 16% for 13 weeks [^] | \$549.85 |
| 1 st Activity Test (within 2 years) | 18% for 26 weeks [^] | \$1,237.16 |
| 2 nd Activity Test | 24% for 26 weeks | \$1,649.54 |
| 3 rd or subsequent Activity Test | 8 weeks | \$2,114.80 |
| 2006-2009 | | |
| 1 st Participation (within 12 months) | failure recorded. No penalty if compliance in next fortnight | nil unless continued non-compliance |
| 2 nd Participation | | |
| 3 rd Participation | 8 weeks | \$2,114.80 |
| 4 th or subsequent Participation | | |
| Serious failure | | |
| 2009-2016 | | |
| Connection | failure recorded | nil |
| Reconnection (pre-July 2012) | 1/14 th of fortnightly pay per day | \$37.76 per day <\$1,057.28* |
| Reconnection (post-July 2012) | 1/10 th of fortnightly pay per day | \$52.87 per day <\$1,165.40* |
| Non-attendance (post July 2015) | | |
| No Show No Pay | | \$52.87 per day (max. 3 days)** |
| 3 rd connection/reconnection or No Show No Pay (in 6 months or since last 8 week penalty if within 6 months) | 8 weeks if served (penalty ends once job seeker agrees to undertake compliance activity) | <\$2,114.80 |
| Serious failure | | |
| Unemployment non-payment period | 8 weeks if served (penalty ends for some job seekers in financial hardship) | |

Based on NSA rate (at 14/11/16) for single adult with no children

[^] from September 2003, penalty period reduced to 8 weeks if job seeker undertook additional activity

• Payment is cancelled if job seeker does not reconnect after 28 days

** CCA is triggered after three NSNP failures

Table 4.3 Compliance penalty numbers 1996-2016

| Year | Financial Penalties | | | | |
|--|--------------------------------|--------|-----------------------|-----------------|---------------------|
| 1996 - 2006 - Fixed term penalties and rate reduction periods | | | | | |
| | 8 week non-payment period | | Rate reduction period | Total penalties | |
| 1996-97 | <i>Breakdown not available</i> | | | 113,100 | |
| 1997-98 | | | | 120,718 | |
| 1998-99 | | | | 212,900 | |
| 1999-00 | 13,647 | | 288,847 | 302,494 | |
| 2000-01 | 39,747 | | 347,199 | 386,946 | |
| 2001-02 | 32,094 | | 237,809 | 269,903 | |
| 2002-03 | 9,656 | | 124,583 | 134,239 | |
| 2003-04 | 3,967 | | 94,425 | 98,392 | |
| 2004-05 | 3,813 | | 101,429 | 105,242 | |
| 2005-06 | 6,400 | | 125,600 | 132,000 | |
| 2006 - 2006 - Welfare to Work | | | | | |
| | 8 week non-payment period | | Short-term penalty | Total penalties | |
| 2006-07 | 16,403 | | 1,589 | 17,992 | |
| 2007-08 | 32,032 | | 3,589 | 35,621 | |
| 2008-09 | 19,406 | | 3,184 | 22,590 | |
| 2009 - 2016 - No Show No Pay | | | | | |
| | 8 week non-payment period | | Short-term penalty | Total penalties | Payment suspensions |
| | applied | served | | | |
| 2009-10 | 10,838 | 8,346 | 22,053 | 32,891 | |
| 2010-11 | 26,435 | 16,491 | 67,277 | 83,768 | |
| 2011-12 | 43,923 | 23,759 | 130,435 | 154,194 | 422,022 |
| 2012-13 | 48,131 | 21,157 | 161,511 | 182,668 | 534,100 |
| 2013-14 | 48,819 | 19,192 | 207,259 | 226,451 | 744,705 |
| 2014-15 | 36,866 | 16,268 | 222,821 | 239,089 | 1,210,241 |
| 2015-16 | 36,224 | 9,352 | 225,305 | 234,657 | 1,852,762 |

Note:

- From 1996-2006, compliance penalties were applied for under-declaring earnings, which accounted for around 14 per cent of total penalties. From 2006, penalties for under-declaring earnings and were removed from the compliance system and replaced by penalties administered under the debt recovery provisions.
- Waivers for eight week non-payment penalties commenced 1 July 2009. Prior to that all applied penalties were served.
- Legislated payment suspensions under the compliance framework commenced 1 July 2011

5 Data Analysis

Methodology

The analysis in this chapter draws on administrative data held by the Department of Employment, supplemented with an extract of breach data held by the Department of Social Services. All records relate to jobactive services only, and cover provider appointments and compliance actions that occurred between 1 October 2015 and 30 September 2016 inclusive. This period was chosen to exclude the first three months of jobactive, during which time providers and job seekers were transitioning from Job Services Australia and becoming familiar with the new requirements and systems of jobactive.

Provider appointments

The Department of Employment holds records of all jobactive provider appointment dates and outcomes, including whether the provider chose to submit a compliance report in cases of non-attendance. Each appointment is linked to an individual (de-identified) job seeker record, from which demographic patterns and longitudinal analysis can be studied.

Compliance reports

DSS breach data records information related to non-compliance incidents, including the outcome of breach investigations. An extract provided by DSS to the Department of Employment was linked to the appointments dataset and de-identified job seeker records.

Employment Outcomes

Employment outcomes data were calculated according to the methodology used in the Star Ratings, the primary performance measurement model for jobactive. This dataset was then linked with compliance reports to interrogate the possible effects of compliance actions on subsequent employment outcomes.

For job seekers who claimed a job placement, only compliance actions that occurred before the placement date (if any) were counted, and only one placement was counted per individual.

Data gaps

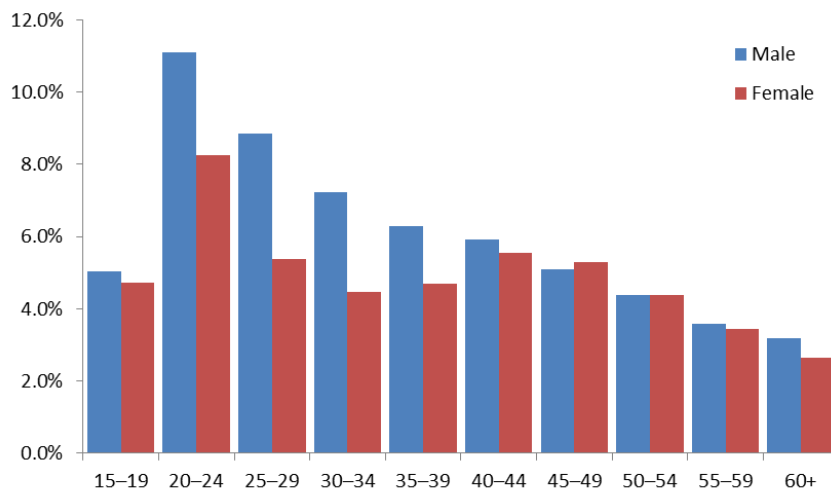
A significant limitation to this analysis is the inconsistent and incomplete coverage of job seeker attendance at events other than provider appointments—such as Work for the Dole activities, part-time work or study, job interviews, voluntary work and other third party appointments. Providers have the option of submitting a breach report for any failure to meet mutual obligations; however, this is not mandatory and positive attendance is not recorded in a format that facilitates whole-of-program data analysis.

Job seeker profile

During the 12 month period from October 2015 to September 2016, 1,145,000 job seekers received services under jobactive. Around half had transitioned into jobactive from Job Services Australia while 44% commenced into jobactive on or after October 2015.

Younger people are over-represented in jobactive, accounting more than one-quarter of job seekers in the program but only 17% of the total labour force in October 2016⁵. Job seekers were also disproportionately male (55%), with the gender gap widest among those aged in their 20s and 30s.

Figure 5.1 Age and sex of job seekers in jobactive



Provider appointments

Attendance patterns

Between October 2015 and September 2016, 11.4 million provider appointments were recorded (Table 5.1) with a median of eight appointments per job seeker. One in seven job seekers (14%) had 20 or more appointments scheduled over the period.

Table 5.1 Number of provider appointments per job seeker, October 2015–September 2016

| Number of appointments | Number of job seekers | Per cent of job seekers | Total appointments ('000) |
|------------------------|-----------------------|-------------------------|---------------------------|
| 1 | 160,479 | 14.0 | 160.5 |
| 2 | 104,455 | 9.1 | 208.9 |
| 3 | 78,745 | 6.9 | 236.2 |
| 4 | 66,655 | 5.8 | 266.6 |
| 5 | 58,424 | 5.1 | 292.1 |
| 6 | 53,249 | 4.6 | 319.5 |
| 7 | 48,552 | 4.2 | 339.9 |
| 8 | 45,261 | 4.0 | 362.1 |
| 9 | 42,262 | 3.7 | 380.4 |
| 10–19 | 324,515 | 28.3 | 4,533.8 |
| 20 or more | 162,889 | 14.2 | 4,333.9 |
| Total | 1,145,486 | 100.0 | 11,433.8 |

Note: Excludes appointments that were cancelled in advance and rescheduled

⁵ ABS 6202.0 - Labour Force, Australia, Nov 2016.

Almost two-thirds (65%) of appointments with jobactive providers were attended, with another 10% missed for valid reasons such as illness or conflict with work or other activities (Table 5.2).⁶

The large majority of appointments were 'contact' appointments in which job seekers who have been commenced into the program receive services and maintain ongoing engagement with their provider. Around one in four (26%) contact appointments were missed without a valid reason, with 63% attended. Attendance rates were poorest for a job seekers' initial⁶ appointment (60% attended, and almost one in three missed without a valid reason), and highest for re-engagement appointments (87% attended and one in ten missed without a valid reason).

Table 5.2 jobactive provider appointment results, October 2015-September 2016 (per cent)

| Appointment type | Attended | Did not attend % | | | Total ('000) |
|------------------|-------------|------------------|----------------|------------|-----------------|
| | | Valid reason | Invalid reason | Discretion | |
| Initial | 59.6 | 9.2 | 23.4 | 7.7 | 926.6 |
| Contact | 62.8 | 11.2 | 18.8 | 7.2 | 9,178.9 |
| Re-engagement | 87.1 | 2.1 | 10.7 | 0.0 | 1,329.4 |
| All | 65.4 | 10.0 | 18.2 | 6.4 | 11,433.8 |

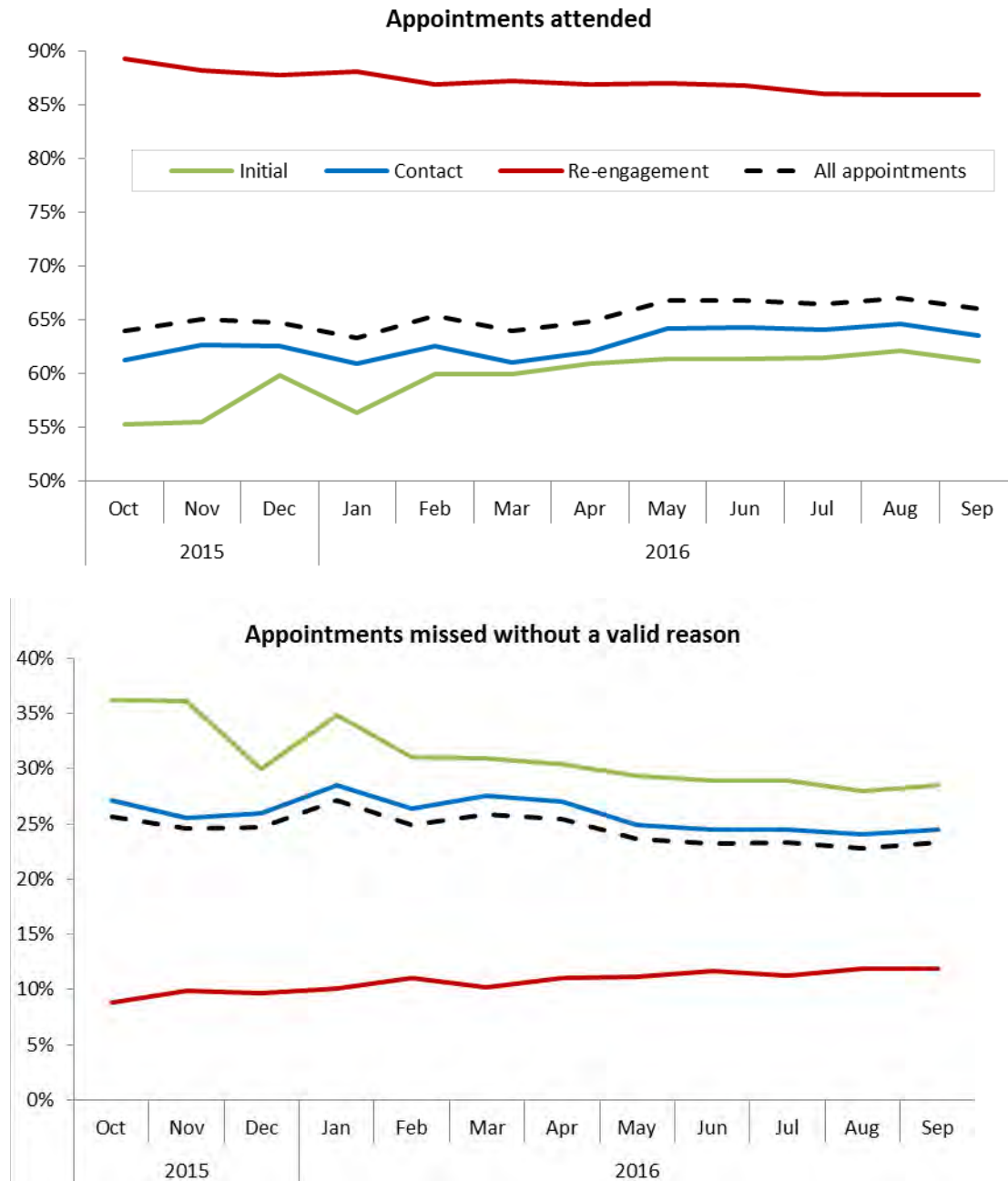
Note: Excludes appointments that were cancelled in advance and rescheduled.

Job seeker engagement with initial appointments improved over the 12 month period, with a positive trend in appointment attendance and a corresponding decline in the proportion of appointments missed without a valid reason (Figure 5.2). A similar, albeit smaller, improvement in attendance rates at regular contact appointments was also observed. However, job seeker attendance at re-engagement appointments fell by three percentage points between October 2015 and September 2016, with the percentage of re-engagements missed without a valid reason growing by the same margin.

Averaged across all appointment types, attendance rates increased over the year studied from 64% to 66%, while invalid non-attendance fell from 26% to 23%. The percentage of appointments missed for valid reasons remained stable at 10% throughout the period.

⁶ An initial appointment is a job seeker's first appointment with a specific provider, but not necessarily their first in jobactive as they may have transferred between providers.

Figure 5.2: Appointments attended, or missed without a valid reason, by date and appointment type



High and low attendance cohorts

Most job seekers attended all, or almost all their appointments or had a valid reason, with a minority demonstrating a persistent failure to attend.

One third of job seekers (34%) did not miss any appointments without a valid reason, and another 23% missed only one. At the other end of the spectrum, 18% of job seekers missed five or more appointments in 12 months without a valid reason (Table 5.3).

Table 5.3: Number of appointments missed without a valid reason (per cent of job seekers)

| | 0 | 1 | 2 | 3 | 4 | 5+ |
|-------------------------------|------|------|------|-----|-----|------|
| Any missed appointment | 34.0 | 22.7 | 12.3 | 7.7 | 5.3 | 17.9 |

Attendance rates varied between demographic groups, most notably job seeker age. Only 60% of appointments for job seekers aged 15–34 were attended, compared to 80% of those for job seekers aged 55 or over (Figure 5.3). The older cohort was marginally less likely to have a valid reason for non-attendance, but most of the difference in attendance rates was due to a much higher proportion of appointments missed without a valid reason by younger job seekers: 30% of appointments for job seekers aged under 35 were missed without a valid reason, compared to 11% of appointments for job seekers aged 55 years or older.

Males had poorer attendance results than females in all age groups up to 55 years. On average, attendance rates were two percentage points lower and rates of invalid non-attendance five percentage points higher.

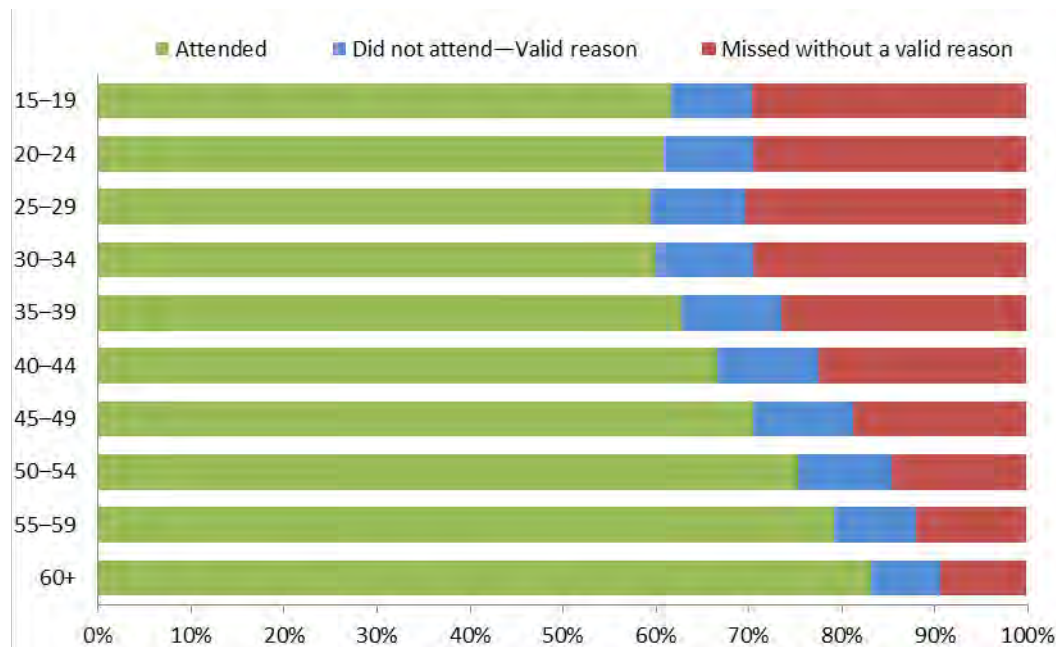


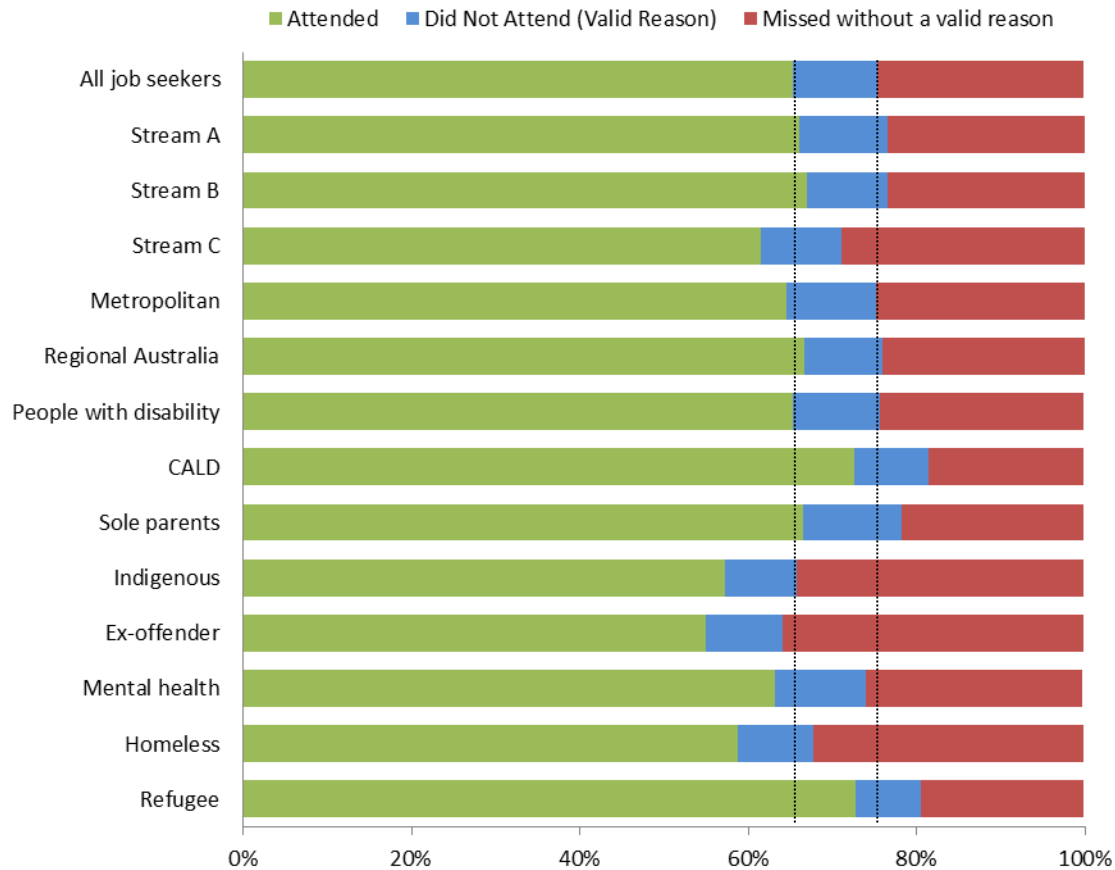
Figure 5.3: jobactive provider appointment results, by job seeker age

Job seekers in Stream C had lower than average rates of attendance at provider appointments (61%) and a higher proportion of appointments missed without a valid reason (29%). Stream C job seekers also tended to have more intensive servicing, with a median of 13 appointments scheduled for job

seekers in this Stream over the 12 months studied, compared to 8 appointments for Stream B job seekers and 5 for those in Stream A (including volunteers).

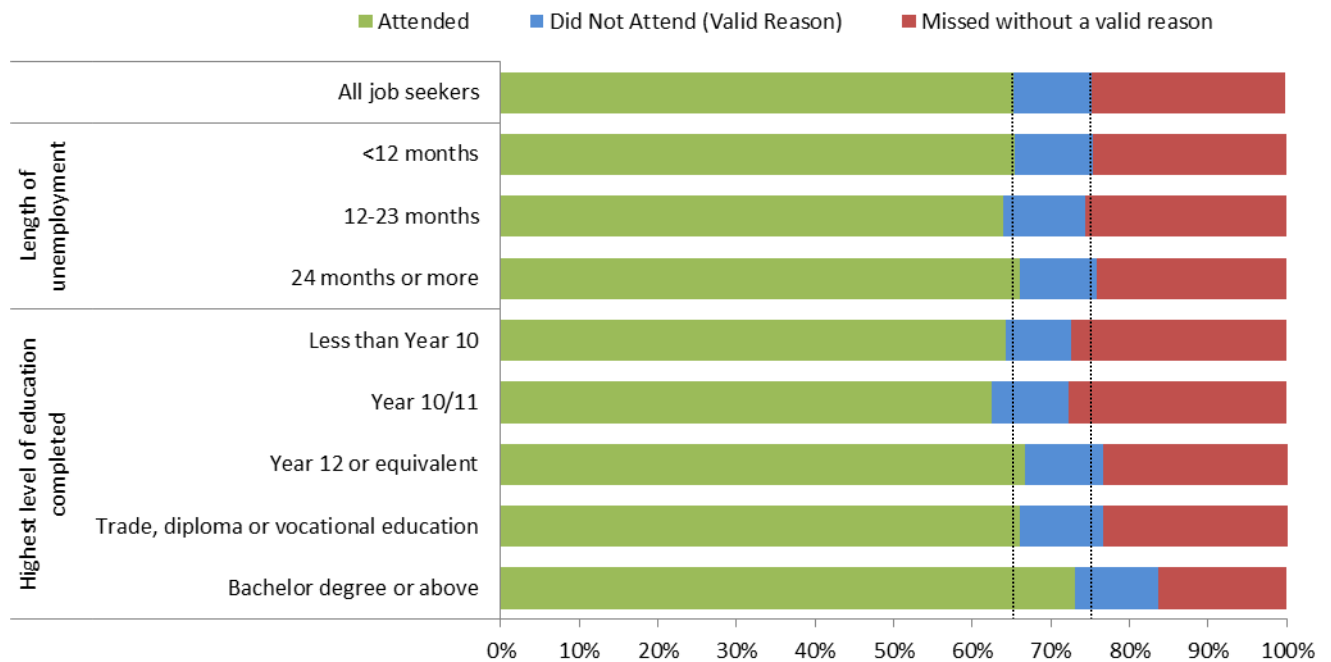
Attendance rates were particularly low for ex-offenders (55%), Indigenous job seekers (57%) and those who were homeless (59%). For each of these cohorts roughly one in three appointments was missed without a valid reason, compared to one in four appointments among the jobactive caseload generally. On the other hand, refugees had a particularly high attendance rate (73%), with one in five appointments missed without a valid reason (Figure 5.4).

Figure 5.4: jobactive provider appointment results for key job seeker cohorts



There was little relationship between a job seeker's length of unemployment and their likelihood of attending provider appointments. However, education was positively correlated with attendance: job seekers who had not completed Year 12 (or its equivalent) attended 63% of appointments, on average, compared to 66% for those who had completed Year 12 or who had a trade, diploma or vocational certificate, and 73% of appointments attended by job seekers with a Bachelor degree (Figure 5.5).

Figure 5.5: jobactive provider appointment results by length of unemployment and level of education



Variation between providers

Average appointment attendance rates varied considerably between providers, from 59% to 72%. Some of this can be attributed to the differences in caseload composition and the different Employment Regions that providers operate in. As well as variations in attendance between job seeker cohorts discussed above, the percentage of appointments attended varies between Employment Regions, from 53% to 71%, with the lowest attendance rates observed in regional areas of Western Australia and the Northern Territory. These differences cannot be entirely explained by demographic and other characteristics of job seekers discussed above.

However, there is also large variation between providers *within* Employment Regions. Figure 5.6 shows that the range of appointment attendance within a region is as high as 19 percentage points.

Figure 5.6: Lowest, median and highest attendance rate for providers in each of the 51 jobactive Employment Regions



Early engagement

More than two thirds of job seekers (68%) attended their first jobactive provider appointment (excluding appointments rescheduled in advance). This rose to 88% who had attended either their first or second appointment and 94% of job seekers had engaged by the third appointment⁷. Among the cohorts with the poorest overall attendance patterns—Indigenous job seekers, ex-offenders, and those who were homeless—only half (47–53%) attended their first appointment.

Early engagement with jobactive providers appears to be predictive of future attendance. Job seekers who attended their first appointment went on to record an overall attendance rate of 74% compared to 58% for job seekers who missed the appointment for valid reasons and 55% for those who missed the appointment without a valid reason (Table 5.4).

Table 5.4: Attendance at jobactive provider appointments given the result of first appointment

| Result of first appointment | Result of all appointments (per cent) | | |
|-------------------------------|---------------------------------------|----------------------------|-------------------------------|
| | Attended | Missed with a valid reason | Missed without a valid reason |
| Attended | 73.5 | 8.7 | 17.7 |
| Missed with a valid reason | 58.1 | 17.6 | 24.2 |
| Missed without a valid reason | 55.0 | 8.1 | 36.9 |

Note: Analysis of job seekers whose first jobactive appointment was on or after 1 October 2015, and who had at least 10 appointments scheduled over the period 1 October 2015–30 September 2016.

⁷ This analysis is based on job seekers whose first jobactive provider appointment was on or after 1 October 2015 who had 3 or more appointments scheduled before 1 October 2016.

Use of discretion by providers for non-attendance

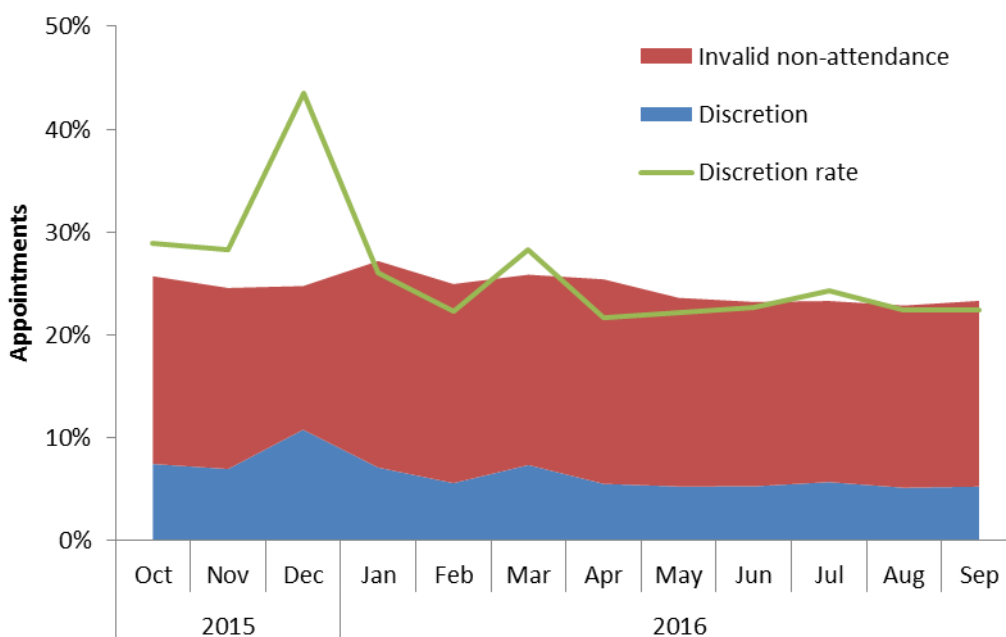
Providers may choose whether or not to submit a NAR, resulting in a payment suspension, when a job seeker fails to attend an appointment without a valid reason. The proportion of instances where a provider opts to exercise discretion rather than use the compliance framework and submit a NAR is referred to here as the *discretion rate*—appointments for which discretion was exercised divided by all appointments that were missed without a valid reason.

As noted in [Table 5.2](#), 25% of appointments were missed without a valid reason. Providers chose to apply discretion for 6.4% of all appointments (a discretion rate of 26%)—noting that this option is not available for re-engagement appointments and some initial appointments.

As the overall percentage of appointments missed without a valid reason has declined since the early months of jobactive, so has the use of discretion. 5.3% of appointments scheduled in the third quarter of 2016 had a result of *Did not attend—discretion*, down from 7.2% in October/November 2015. The corresponding drop in the discretion rate was from 29% to 23% (Figure 5.7).

Use of discretion tends to peak around public holidays.

Figure 5.7: Use of discretion for appointments missed without a valid reason



Feedback from providers indicated that they saw discretion as a useful tool to engage job seekers early in the client/provider relationship. However, aggregate appointment data shows that discretion rate was lower for a job seeker's first scheduled appointment (27%) than their second (32%)—or, in fact, any of the job seeker's first 10 appointments. Discretion was also more likely to be used for regular contact appointments (in 28% of appointments missed without a valid reason) than for appointments coded as *initial* (25%).

The rate at which discretion was used for non-attendance at appointments - and conversely, the likelihood of receiving a payment suspension - varied between job seeker cohorts. This was true

even for job seekers' first appointment in jobactive - that is, before the individual had built a personal history of either high or low compliance. Most notably, older job seekers were significantly more likely than younger job seekers to have discretion used if they missed their first appointment without a valid reason (Table 5.5).

Table 5.5: Discretion rate for selected job seeker cohorts

| Job seeker cohort | First appointment | All initial & contact appointments |
|--------------------------|--------------------------|---|
| Stream A | 27% | 27% |
| Stream B | 24% | 27% |
| Stream C | 30% | 28% |
| Metropolitan | 32% | 26% |
| Regional Australia | 26% | 26% |
| People with disability | 30% | 30% |
| CALD | 32% | 29% |
| Sole parents | 27% | 28% |
| Indigenous | 33% | 31% |
| Ex-offender | 26% | 26% |
| Mental health | 26% | 24% |
| Homeless | 32% | 29% |
| Refugee | 27% | 25% |
| Age group | | |
| 15–19 | 24% | 26% |
| 20–24 | 25% | 26% |
| 25–29 | 25% | 25% |
| 30–34 | 26% | 26% |
| 35–39 | 27% | 27% |
| 40–44 | 27% | 29% |
| 45–49 | 29% | 31% |
| 50–54 | 31% | 34% |
| 55–59 | 34% | 37% |
| 60+ | 36% | 41% |

Among job seekers who had at least 10 appointments scheduled, those with a poor attendance history received discretion slightly less often than those with generally high attendance, but even in the high attendance group discretion was exercised in a minority of cases (Table 5.6).

Table 5.6: Discretion rate for job seekers with 10 or more appointments scheduled

| Number of appointments missed | Discretion rate for missed appointments |
|--------------------------------------|--|
| 1 | 33% |
| 2 | 32% |
| 3 | 30% |
| 4 | 28% |
| 5 or more | 24% |

Effect of discretion on subsequent attendance

As noted above (Table 5.4), job seekers who failed to attend their first appointment without a valid reason went on to have significantly poorer than average attendance at subsequent appointments, and a high proportion of future appointments missed without a valid reason. Table 5.7 takes this analysis further, looking at the relationship between the treatment of early non-attendance and subsequent behaviour.

There was no significant difference in overall rates of appointment attendance, or non-attendance without a valid reason, between job seekers whose first appointment resulted in a NAR and those whose received provider discretion. Similar results are observed when looking at job seekers who missed any of their first three appointments (not shown), those who received discretion and those who had their payment suspended as a result of a NAR had equivalent attendance behaviour over the long term.

Table 5.7: Attendance at jobactive provider appointments given non-attendance at first appointment

| Result of first appointment | Result of all appointments (per cent) | | |
|------------------------------------|--|-----------------------------------|--------------------------------------|
| | Attended | Missed with a valid reason | Missed without a valid reason |
| Discretion | 53.9 | 9.0 | 37.1 |
| NAR | 55.6 | 7.7 | 36.8 |
| All missed without a valid reason | 55.0 | 8.1 | 36.9 |

Note: Analysis of job seekers whose first jobactive appointment was on or after 1 October 2015, and who had at least 10 appointments scheduled over the period 1 October 2015–30 September 2016.

Variation between providers

Use of discretion varied markedly between providers and Employment Regions, from 2% to 50% of appointments missed without a valid reason (Figure 5.8). There was no correlation, either positive or negative, between the rate at which a provider used discretion and the overall appointment attendance rate the provider recorded.

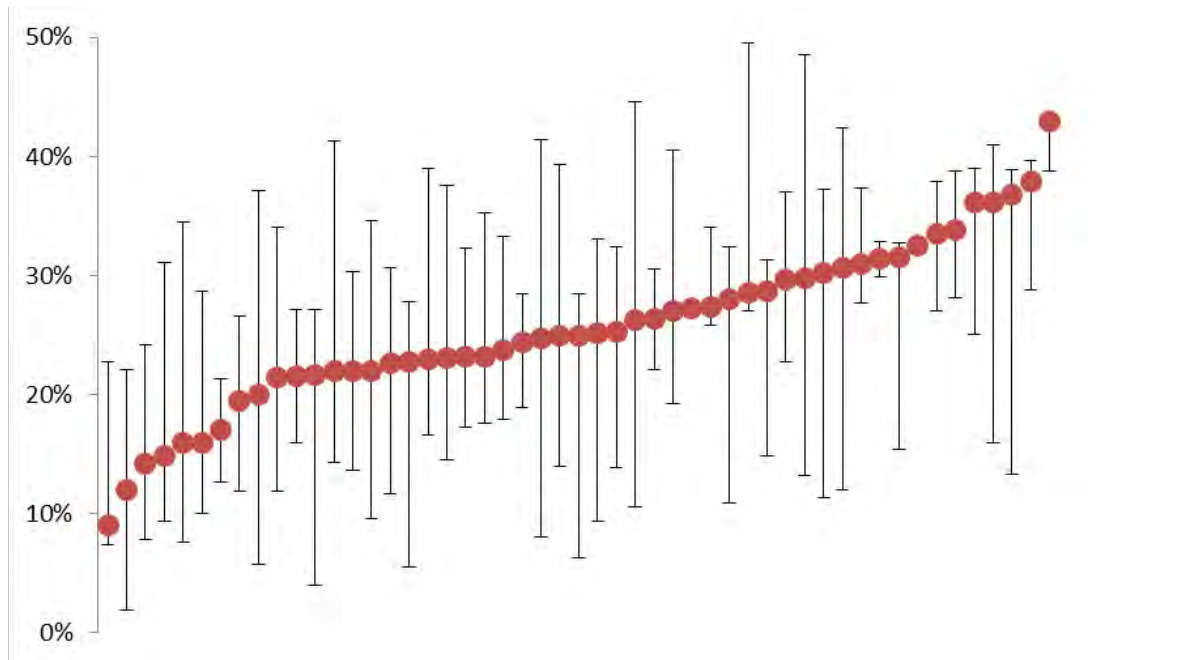


Figure 5.8: Lowest, median and highest discretion rate for providers in each of the 51 jobactive Employment Regions

Wide variation in use of discretion was similarly seen within high attendance job seeker cohorts—for example, among those job seekers who had 10 or more appointments scheduled and missed only one without a valid reason, their likelihood of receiving discretion ranged from 7% to 59%, depending on which provider they received services from.

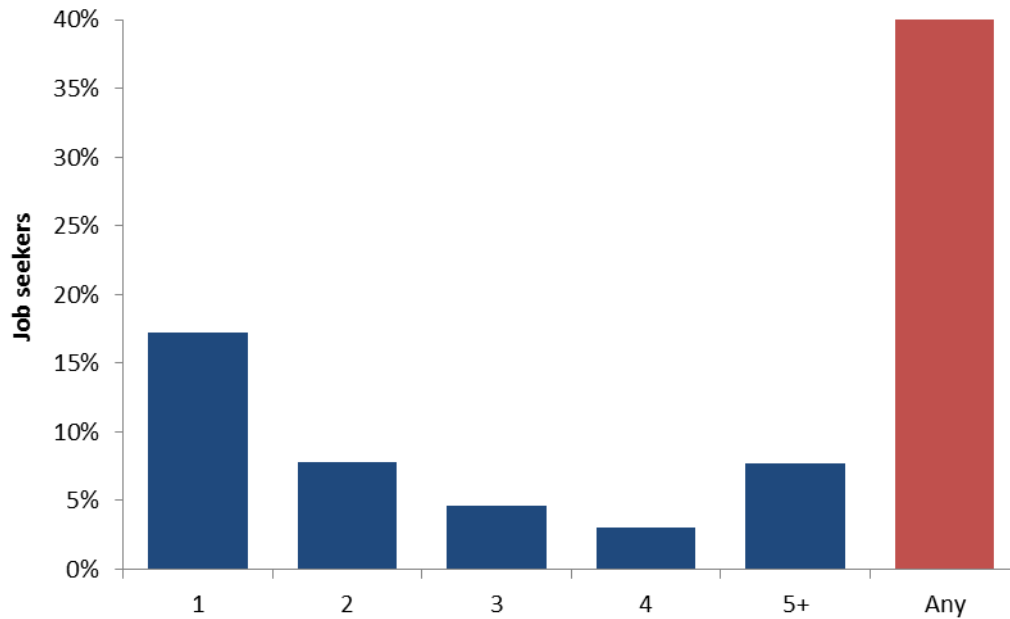
Qualitative analysis of selected jobactive sites found that this difference can be, at least in part, attributed to some providers adopting additional internal policies or failing to apply program policies and processes correctly. Examples include requiring job seekers to provide written evidence of valid reasons for non-attendance (otherwise coding the appointment as invalid non-attendance), recording appointments rescheduled in advance as valid non-attendance, and recording non-attendance for job seekers whose mutual obligations had been suspended as ‘discretion’ rather than a cancelled appointment.

Re-engagement following a missed appointment

A re-engagement appointment is scheduled following a NAR for non-attendance at a provider appointment. If a job seeker is unable to attend within 2 business days of making contact with the provider—for example, due to work commitments—providers record this outcome to trigger the restoration of the job seeker’s payment by DHS. Therefore not all missed appointments resulting in a NAR lead to a re-engagement appointment. However, in all cases providers are required to monitor the job seeker’s engagement and ensure they complies at the next available opportunity.

40% of job seekers (462,300 people) had at least one re-engagement appointment scheduled between October 2015 and September 2016 (Figure 5.9); 8% of job seekers (88,000) had five or more.

Figure 5.9: Number of re-engagement appointments scheduled per job seeker



Persistent non-compliance

When a job seeker attends a re-engagement appointment, their payment suspension is lifted and any withheld income support is released on their next regular payment date (subject to any other penalties the job seeker may incur). There is no systematic limit to the number of times this can occur, and as long as the job seeker re-engages within 28 days of the missed appointment, full backpay may be released. Providers have the option of recommending a financial penalty for the non-attendance through submitting a PAR where the provider believes this is the best way to encourage future attendance and the job seeker did not have a reasonable excuse for the non-attendance. This is not an automatic process, and providers must complete and submit the PAR on the same day that they book the job seeker's re-engagement appointment⁸. As a result, it is possible for a job seeker to fail to attend provider appointments, without a valid reason, frequently or in high volume without incurring a penalty beyond temporary payment suspension.

Comparing attendance patterns at re-engagement appointments versus to contact appointments provides some insights into a small but significant percentage of job seekers who appear to take advantage of the existing compliance framework as it relates to engagement with jobactive provider appointments.

As discussed above, 63% of all contact appointments were attended ([Table 5.2](#)~~Table 5-2~~). The average attendance rate is lower among those job seekers who had two or more re-engagement appointments, but even among these less compliant job seekers the majority of appointments (55%) were attended. However, there is a subset of job seekers with very poor attendance at regular contact appointments (25% or less) but who attend every re-engagement appointment - 33,600 people or 3.0% of all job seekers (Table 5.8). Compared to the average jobactive client, people in this

⁸ PARs are discussed in detail later in this chapter.

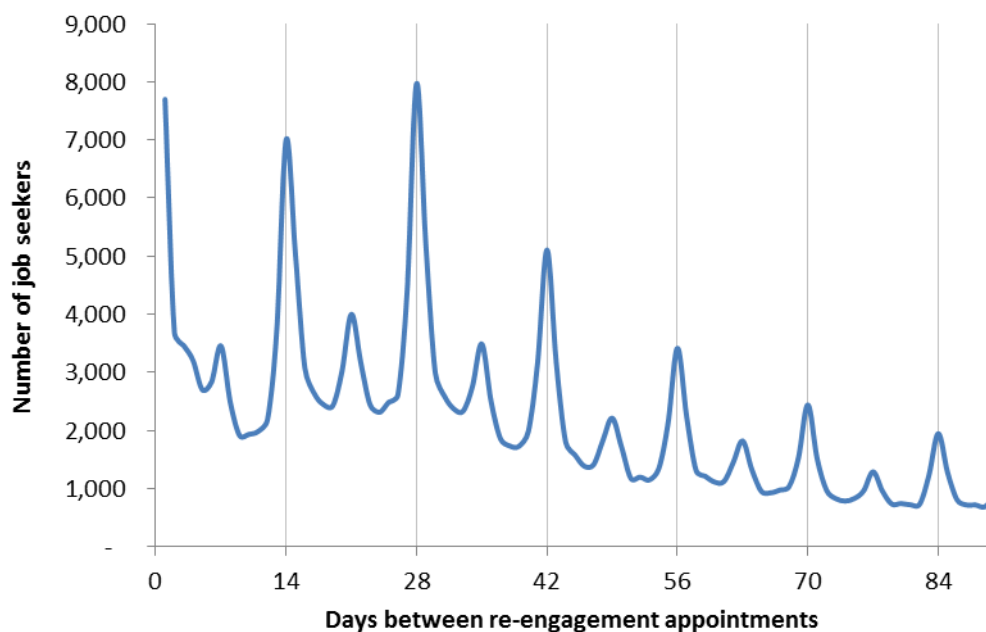
cohort were twice as likely to be homeless or Indigenous, 2.7 times as likely to be an ex-offender; and disproportionately male and aged between 25–34.

Table 5.8: Job seekers with 2 or more re-engagement appointments: attendance rate by appointment type

| Contact appointments | Re-engagement appointments | | | |
|----------------------|----------------------------|--------|--------|---------|
| | 0–24% | 25–74% | 75–99% | 100% |
| 0–24% | 720 | 19,295 | 16,271 | 33,593 |
| 25–74% | 613 | 26,978 | 27,158 | 113,648 |
| 75–99% | 63 | 3,056 | 827 | 20,908 |

Similarly, approximately 3% of job seekers had multiple re-engagement appointments that fell on fortnightly cycles (Figure 5.10). This pattern is consistent with a behaviour of scheduling and attending re-engagement appointments to lift a payment suspension in time for income support payment dates, then lapsing back into non-attendance at regular contact appointments.

Figure 5.10: Calendar days between consecutive re-engagement appointments for job seekers with multiple re-engagement appointments



Use of the compliance framework

Non-Attendance Reports

In the 12 months between October 2015 and September 2016, almost 2.0 million NARs were submitted by jobactive providers (Table 5.9). Two-thirds (66%) resulted in a re-engagement appointment being booked, while for 15% of cases a re-engagement appointment was not required, most commonly because the job seeker was not able to attend within two business days due to work, illness or another Reasonable Excuse.

One in ten NARs were submitted for a job seeker who subsequently exited or was suspended from employment services—although not necessarily as a consequence of the compliance action.

More than 160,000 NARs (8%) were found to be invalid or submitted in error. In many of these cases the report's validity was determined at the point of submission through an automatic check by DHS systems which confirm whether the job seeker was in receipt of payment or had activity test requirements on the date of the NAR, among other checks. However, around 5% of all NARs submitted passed the validity check and triggered a payment suspension, but were later finalised for the reason 'provider error'.

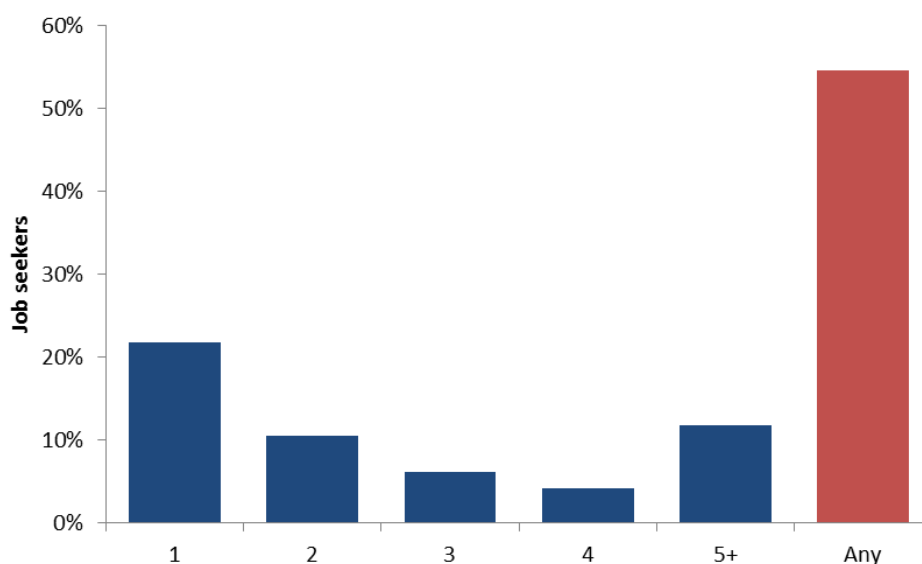
Table 5.9: Finalised Non-Attendance Reports, October 2015 to September 2016

| | Reports | % of NARs | Job seekers | % of job seekers |
|---|------------------|--------------|----------------|------------------|
| <i>Re-engagement appointment booked</i> | 1,291,311 | 66.2 | 457,551 | 39.9 |
| Attended or valid non-attendance | 1,158,091 | 59.3 | 450,516 | 39.3 |
| Missed without a valid reason | 133,169 | 6.8 | 85,992 | 7.5 |
| <i>Re-engagement appointment not required</i> | 301,991 | 15.5 | 216,090 | 18.9 |
| Reasonable Excuse | 268,198 | 13.7 | 194,441 | 17.0 |
| Administrative reasons | 33,793 | 1.7 | 32,617 | 2.8 |
| <i>Job seeker exited/suspended from jobactive</i> | 190,597 | 9.8 | 166,668 | 14.5 |
| <i>NAR invalid</i> | 162,717 | 8.3 | 132,616 | 11.6 |
| No suspension (failed automatic check) | 69,928 | 3.6 | 59,444 | 5.2 |
| Suspension triggered (provider error) | 92,789 | 4.8 | 78,586 | 6.9 |
| Total NARs | 1,952,068 | 100.0 | 624,247 | 54.5 |

55% of job seekers (624,200 people) had at least one NAR submitted between October 2015 and September 2016 (

[Figure 5.11](#) [Figure 5.11](#)); 12% of job seekers (135,000 people) had five or more.

Figure 5.11: Number of NARs per job seeker



Provider Appointment Reports

As noted above, providers may recommend that a job seeker receive a financial penalty for appointment non-attendance by submitting a Provider Appointment Report (PAR). Over the 12 month period studied 47,000 PARs were submitted by jobactive providers relating to 34,000 job

seekers (Table 5.10). Almost two-thirds resulted in a failure being applied; in 2,255 instances of failure the financial penalty was waived - a waiver rate of 7.4%.

For 9,080 cases where a failure was applied the job seeker was working or otherwise unable to attend the appointment, but didn't advise their provider in advance. In the remaining 70% of failures, the job seeker had no reasonable excuse for non-attendance.

Table 5.10 Outcome of jobactive Provider Appointment Reports

| | Reports | | Job seekers | |
|-----------------------------|---------------|--------------|---------------|------------|
| | Number | Per cent | Number | Per cent |
| Failure applied | 30,508 | 64.7 | 23,490 | 2.1 |
| Rejected | 15,091 | 32.0 | 13,120 | 1.1 |
| Revoked | 1,345 | 2.9 | 1,232 | 0.1 |
| Pending/Under investigation | 220 | 0.5 | 157 | <0.1 |
| Total | 47,164 | 100.0 | 33,774 | 2.9 |

The majority of rejected PARS (57%) were rejected for 'reasonable excuse', most commonly a medical condition affecting the job seeker's capacity to participate, or participation conflicts with work or other activities (Table 5.11). Around 6,500 reports (43%) were withdrawn or rejected for procedural errors.

Table 5.11 Reasons for PAR rejection

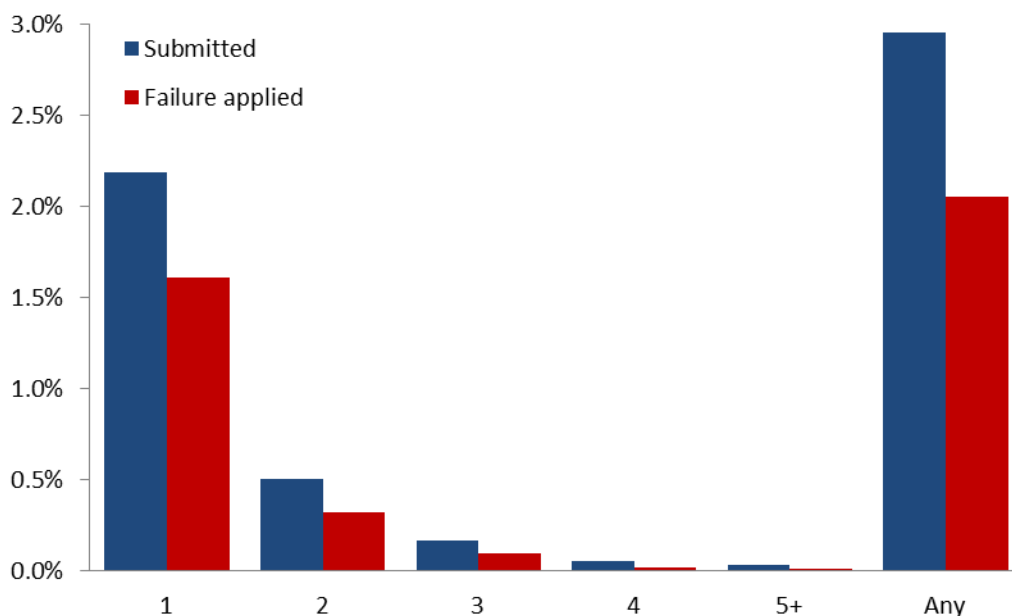
| Reason | Number | % of rejected PARs | % of all PARs |
|--|---------------|--------------------|---------------|
| Withdrawn | 2,385 | 15.8 | 5.1 |
| Procedural error | 4,162 | 27.6 | 8.8 |
| All 'reasonable excuses'¹ | 8,544 | 56.6 | 18.1 |
| <i>Circumstances affecting capacity to participate</i> | 6,866 | 45.5 | 14.6 |
| Medical condition ² | 3,229 | | |
| Major personal crisis affected capacity to comply | 777 | | |
| Homelessness affected capacity to comply | 686 | | |
| Unforeseeable transport difficulties | 600 | | |
| Care for sick/elderly family member | 510 | | |
| Bereavement | 339 | | |
| Legal requirement or restriction | 282 | | |
| Childcare responsibilities | 281 | | |
| <i>Participation conflicts</i> | 1,432 | 9.5 | 3.0 |
| Working at the time of requirement | 1,010 | | |
| Undertaking other approved/acceptable activity | 290 | | |
| Attending job interview at time of requirement | 132 | | |
| <i>Penalty not applicable</i> | 246 | 1.6 | 0.5 |
| Nil entitlement for failure period | 246 | | |
| Total rejected PARs | 15,091 | 100.0 | 32.0 |

¹ Reasonable excuse reasons applied in fewer than 100 cases are not shown

² Evidence such as a medical certificate was provided in 40% of cases where medical condition was accepted as a reasonable excuse. Includes admitted to hospital.

While 40% of job seekers had at least one re-engagement appointment booked, only 2.9% were ever the subject of a PAR, indicating that providers do not consider PARs to be the preferred option for managing non-attendance at appointments. Less than 1% of job seekers (8,700 people) received multiple PARs, and just over 5,000 job seekers (0.4%) had a failure applied on more than one occasion (Figure 5.12).

Figure 5.12 Number of PARs submitted, and with failure applied, per job seeker



Participation Reports

Almost 330,000 Participation Reports were submitted by jobactive providers in the 12 months from 1 October 2015. These reports related to 12% of all job seekers who were on the caseload at some point over the year. Provider-submitted Participation Reports can be divided into four categories (Table 5.12):

- 'No Show No Pay' failures (NSNP).** Providers may submit a Participation Report when a job seeker fails to attend an in-scope activity, resulting in a 10% payment deduction for each attendance failure. For activities spanning multiple days, a new PR applies for each day the job seeker did not attend. Other PRs that result in a 'No Show No Pay' penalty being applied relate to failure to attend a job interview, and failure to behave appropriately at an activity or job interview. 'No Show No Pay' failures account for 71% of PRs submitted by providers, with 7% of job seekers being the subject of one or more of these reports.
- Connection failures.** If a provider determines that a job seeker has not adequately complied with their job search requirements, failed to agree to a Job Plan/EPP or Job Plan variation, or missed a third party appointment (excluding provider appointments, job interviews and activities), they may submit a PR for Connection failure. This results in payment being withheld until the job seeker makes contact with DHS to discuss the issue, and in some cases attend a reconnection appointment. Connection failures accounted for 22% of PRs, with 5% of job seekers being subject to one or more of these reports.

- **Unemployment Non-Payment Period (UNPP).** Individuals who leave a suitable job voluntarily, or who are dismissed for misconduct, generally face a non-payment period before they are eligible to receive income support. Where the individual is an existing jobactive client, their provider may trigger this period through a PR. Almost 20,000 UNPPs were submitted by jobactive providers, relating to 1.7% of job seekers.
- **Serious failures.** Failure to accept or to commence a suitable job are classified as ‘Serious failures’ which may result in an eight week non-payment penalty being applied if DHS finds that the job seeker had no Reasonable Excuse. Job seekers can have this penalty waived if they agree to undertake a Compliance Activity, or where the penalty would cause severe financial hardship. Only 1% of PRs fell into this category (2,800 reports), applied to 0.2% of job seekers.

Table 5.12: Participation Reports submitted by jobactive Providers, 1 October 2015–30 September 2016

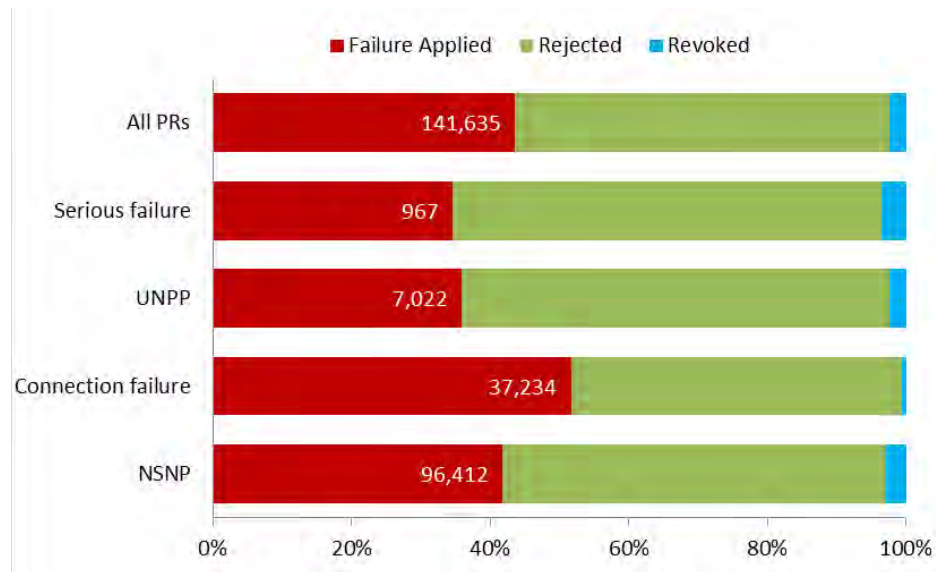
| Failure type | Participation Reports | | Job seekers | |
|----------------------------------|-----------------------|--------------|----------------|-------------|
| | Number | Per cent | Number | Per cent |
| No Show No Pay | 231,541 | 70.9 | 81,929 | 7.2 |
| Connection failure | 72,407 | 22.2 | 53,108 | 4.6 |
| Unemployment Non-Payment Period | 19,670 | 6.0 | 19,146 | 1.7 |
| Serious failure | 2,837 | 0.9 | 2,691 | 0.2 |
| All Participation Reports | 326,455 | 100.0 | 137,052 | 12.0 |

Participation Report outcomes

Fewer than half (44%) of all PRs that were submitted by providers had an outcome of ‘Failure applied’ with more than half being rejected, or an original adverse finding revoked on appeal—142,000 reports in total (Figure 5.13). Only one in three PRs in the categories Serious failure and Unemployment Non-Payment Period resulted in the outcome of ‘Failure applied’, with 62% of reports rejected in each case. Connection failures and NSNP reports were slightly less likely to be rejected—a failure was applied in 52% and 42% of cases, respectively. The reasons for PRs being rejected are examined in detail against each report category below.

While 12% of job seekers had a PR submitted, the proportion was significantly higher among some cohorts. One in five job seekers who were Indigenous (20%), homeless (20%), or an ex-offender (21%) had a PR, as did one in six job seekers aged 20–29 (16%). Males were more likely to have a PR submitted than females (15% vs 9%).

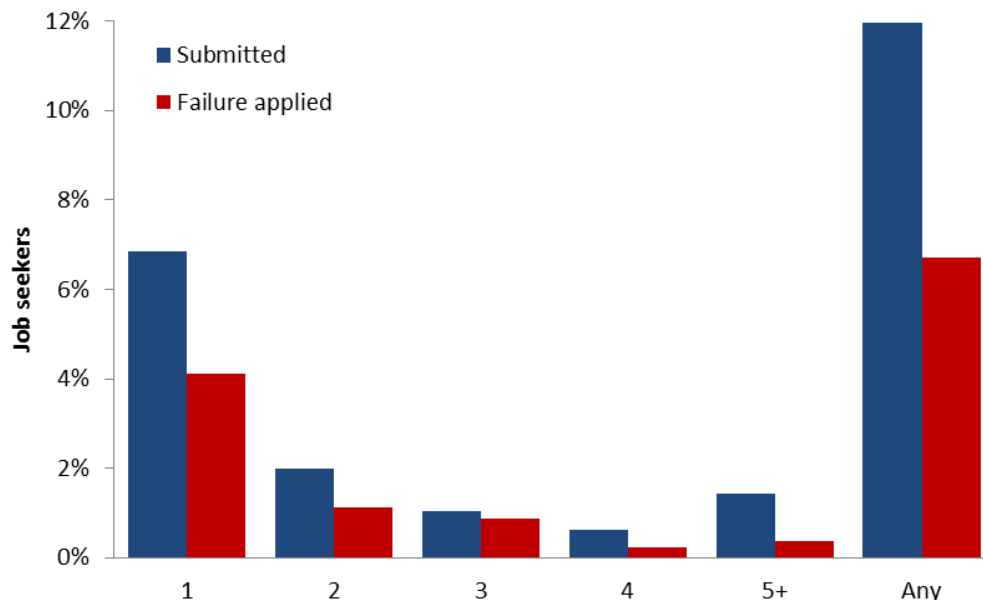
Figure 5.13: Outcome of jobactive Participation Reports



Note: Excludes reports under investigation or review as at 30 September 2016 (0.3% of all PRs)

One in twenty-five job seekers (4%) had multiple PRs submitted over the 12 month period, with 1.4% (around 16,500 individuals) having five or more PRs submitted (Figure 5.14). One in forty job seekers (2.6% or 30,000 people) had an adverse finding on multiple occasions, with 0.4% (4,200 people) being the subject of a PR with an outcome of 'failure applied' at least 5 times. In total, 7% of job seekers had a failure applied.

Figure 5.14: Number of PRs submitted, and with failure applied, per job seeker



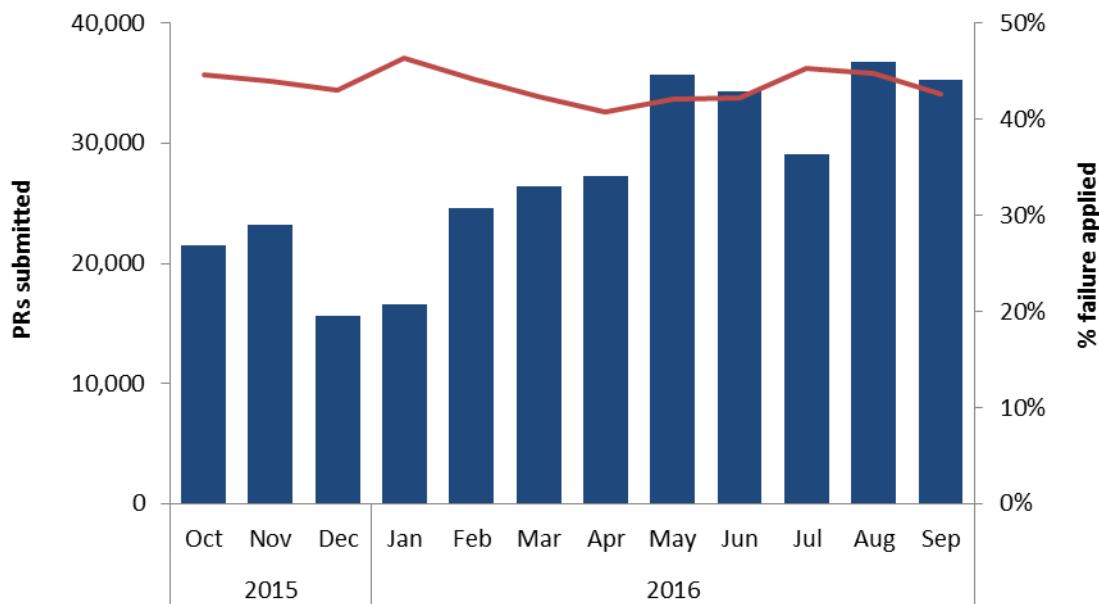
Increasing use of Participation Reports

The number of Participation Reports submitted by jobactive providers has been growing over the course of the program (Figure 5.15). This is likely to be due to:

- providers completing the transition from Job Services Australia to jobactive and shifting focus to arranging activities and placing job seekers;
- the movement of increasing numbers of job seekers into the Work for the Dole phase from mid-2016; and
- increased monitoring of activity participation by the Department of Employment, especially in the Work for the Dole phase.

The proportion of PRs that result in a penalty being applied has been relatively stable throughout the period.

Figure 5.15: Number of PRs submitted by jobactive providers, and percentage resulting in failure applied



'No Show No Pay' failures

Between October 2015 and September 2016 more than 230,000 Participation Reports relating to 'no show no pay' failures had been submitted by jobactive providers. The overwhelming majority related to failure to attend an activity in Job Plan/EPP.

Around two in five PRs relating to *failure to attend an activity in Job Plan/EPP* resulted in a penalty being applied; for the less common reports, between 48% and 59% had a failure applied (Figure 5.16). In total, more than 96,000 penalties were applied across the four failure categories (Figure 5.13).

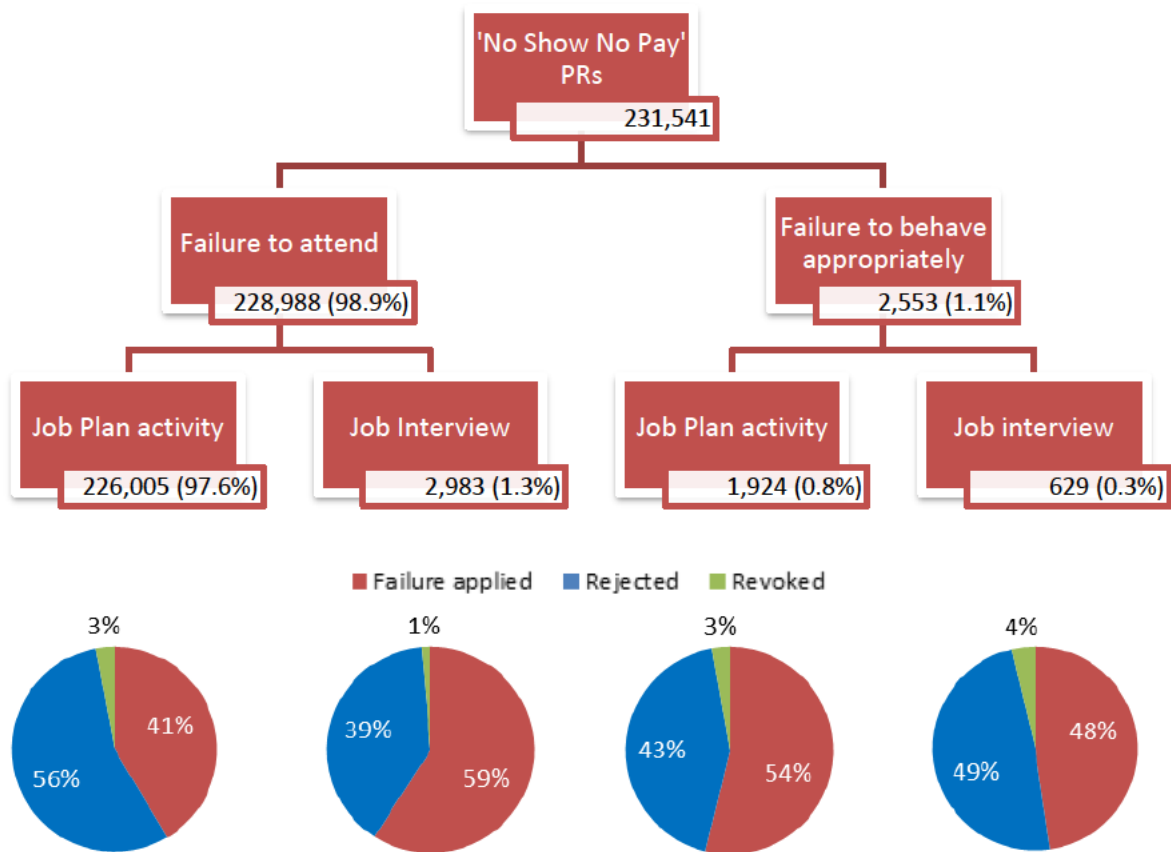


Figure 5.16: Outcome of No Show No Pay Participation Reports

In some cases where a failure to attend an activity or job interview was applied, the job seeker was unable to attend—for example, they had work or other conflicting commitments—but did not advise the provider in advance, despite a reasonable expectation that they do so. This was the case for:

- 36% of failures related to non-attendance at Job Plan/EPP activity (33,400 penalties), and
- 24% of failures related to non-attendance at a job interview (430 penalties).

The remaining 63,500 failures were applied in situations where it was determined that the job seeker had no Reasonable Excuse for their inappropriate behaviour.

'No Show No Pay' Participation Reports rejected by DHS

Participation reports are rejected by DHS for reasons summarised here as procedural error, Reasonable Excuse, or withdrawn reports (Table 5.13). Around 128,000 No Show No Pay PRs were rejected, comprising 50,000 withdrawn reports (21% of NSNP reports), 38,000 rejected because of procedural errors (16%), and more than 40,000 rejected because DHS determined that the job seeker had a Reasonable Excuse.

Table 5.13: Rejected Participation Reports for 'no show no pay' failures

| | Total | Withdrawn | Investigated | |
|--|----------------|---------------|------------------|-------------------|
| | | | Procedural error | Reasonable Excuse |
| Failure to attend an activity in Job Plan/EPP | 125,595 | 49,089 | 36,581 | 39,925 |
| Failure to attend a job interview | 1,175 | 249 | 588 | 338 |
| Failure to behave appropriately at an activity | 836 | 131 | 514 | 191 |
| Failure to behave appropriately at a job interview | 306 | 22 | 230 | 54 |
| Total for No Show No Pay PRs | 127,912 | 49,491 | 37,913 | 40,508 |

Withdrawn reports were rejected following routine validity checks or cancelled by the provider. They did not require DHS investigation but represent fruitless administrative work on the part of providers. The most common reasons for NSNP PRs being withdrawn were that the job seeker had an outstanding CCA on record (21,000 reports) or that the job seeker was not on payment at the time of failure (16,000).

Of the reports rejected for reasons categorised as 'procedural error', the most common issues were that the failure was incorrectly reported (in 10,000 cases), the report was returned for update to include further evidence (8,800), or that the requirement was not supported by policy or the job seeker's Job Plan (8,700). Procedural errors accounted for the majority of rejected PRs for inappropriate behaviour as well as half the rejected PRs related to failure to attend a job interview.

Approximately one-third of PR rejections for No Show No Pay failures (representing one in six of these reports submitted were rejected by DHS because the job seeker was determined to have had a Reasonable Excuse for not attending the activity (Table 5.14). These reasons can be grouped as follows:

- the job seeker experienced personal circumstances affecting their capacity to participate in the specified activity, most commonly illness or injury (representing 24% of rejected PRs, or 13% of all PRs).
- the job seeker was unable to attend the activity due to a scheduling conflict with work, another activity or a job interview (6% of rejected PRs, or 3% of all PRs)
- penalty was not applicable because the job seeker had no entitlement, or an activity exemption, at the time of the failure.

Table 5.14: NSNP Participation Reports rejected due to 'Reasonable Excuse'

| Reason | Number | % of rejected PRs | % of all PRs |
|--|---------------|-------------------|--------------|
| All 'Reasonable Excuses'¹ | 40,508 | 31.7 | 19.5 |
| Circumstances affecting capacity to participate | 30,859 | 24.1 | 13.3 |
| Medical condition ² | 19,625 | | |
| Major personal crisis affected capacity to comply | 2,211 | | |
| Homelessness affected capacity to comply | 1,965 | | |
| Care for sick/elderly family member | 1,777 | | |
| Bereavement | 1,377 | | |
| Unforeseeable transport difficulties | 1,377 | | |
| Childcare responsibilities | 1,225 | | |
| Legal requirement or restriction | 759 | | |
| Language/literacy/numeracy issues | 205 | | |
| Cultural diversity issues | 200 | | |
| Disastrous event or severe weather conditions | 128 | | |
| Participation conflicts | 7,538 | 5.9 | 3.3 |
| Working at the time of requirement | 4,680 | | |
| Undertaking other approved/acceptable activity | 2,072 | | |
| Attending job interview at time of requirement | 786 | | |
| Penalty not applicable | 2,111 | 1.7 | 0.9 |
| Nil entitlement for failure period | 2,047 | | |

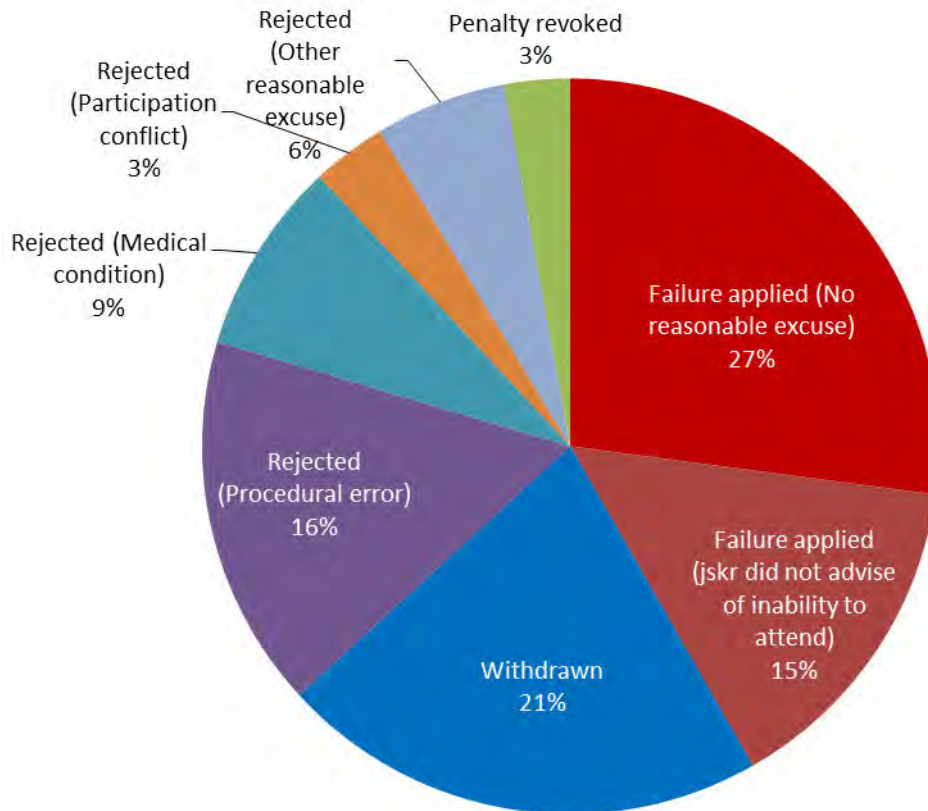
¹ Reasonable Excuse reasons applied in fewer than 100 cases are not shown

² Evidence such as a medical certificate was provided in 62% of cases where medical condition was accepted as a Reasonable Excuse

Around 6,600 NSNP PRs were revoked—that is, an applied failure was appealed and subsequently overturned. Just under half (45%) had a 'Reasonable Excuse' recorded—primarily medical (23% of revoked reports).

Figure 5.17 summarises the outcomes of NSNP PRs at this finer level of detail. It shows that while 55% of reports have the outcome Rejected, only 18% of PRs are rejected because DHS accepts that the job seeker had a Reasonable Excuse. The majority of rejected PRs represent administrative burden on jobactive providers and, in many cases, DHS.

Figure 5.17: Detailed outcomes of NSNP Participation Reports



Connection failures

The large majority (more than 90%) of PRs for Connection Failures related to a job seeker failing to comply with their Job Search requirement—around 66,000 PRs submitted. Half of all connection failures PRs were applied, with 48% rejected (Table 5.15). Connection failures have the lowest rejection rate of the PR categories.

Table 5.15: Outcome of Participation Reports submitted by jobactive providers for connection failures

| | Submitted | Failure applied | | Rejected | |
|---|---------------|-----------------|-------------|---------------|-------------|
| | | Number | Per cent | Number | Per cent |
| Failure to comply with Job Search requirement | 65,983 | 34,605 | 52.7 | 30,694 | 46.5 |
| Failure to attend appointment (other) | 4,133 | 1,476 | 35.8 | 2,603 | 63.0 |
| Failure to enter into/vary Job Plan or EPP | 2,291 | 1,153 | 50.4 | 1,122 | 49.0 |
| Total | 72,407 | 37,234 | 51.6 | 34,419 | 47.5 |

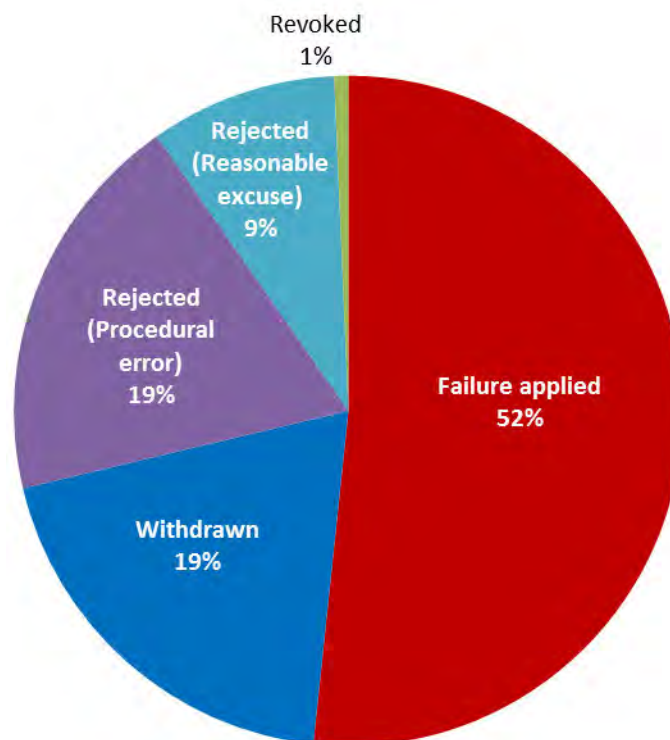
Note: 1.0% of PRs for Connection failures had an outcome of 'revoked' or were under investigation as at 20 September 2016.

The large majority of rejected Connection Failure PRs were reports withdrawn or rejected due to procedural errors (Table 5.16; Figure 5.18). Only 6,500 PRs (representing 9% of Connection Failure PRs) were rejected because DHS determined that the job seeker had a Reasonable Excuse. The most common reasonable excuses accepted were that the job seeker was unable to comply due to a medical condition (6.5% of rejections), had a participation conflict such as work or a job interview (3.0%), or that they had no payment entitlement in the failure period (1.8%).

Table 5.16: Rejected Participation Reports for connection failures

| | Total rejected | Withdrawn | Investigated | |
|---|----------------|---------------|------------------|-------------------|
| | | | Procedural error | Reasonable Excuse |
| Failure to comply with Job Search requirement | 30,694 | 13,388 | 11,526 | 5,780 |
| Failure to attend appointment (other) | 2,603 | 423 | 1,710 | 470 |
| Failure to enter into/vary Job Plan or EPP | 1,122 | 355 | 489 | 278 |
| Total | 34,419 | 14,166 | 13,725 | 6,528 |
| Total (per cent of submitted reports) | 47.5 | 19.6 | 19.0 | 9.0 |

Figure 5.18: Detailed outcomes of Connection Failure Participation Reports



Unemployment Non-Payment Period

UNPPs triggered by a provider-submitted PR relate to jobactive job seekers with part-time or casual work receiving a partial income support payment, or job seekers who are placed in a job that would take them off income support altogether, and who leave the job without a good reason or are dismissed for misconduct. People who are new to jobactive as a result of leaving or being dismissed from a job are also subject to a UNPP, but this is initiated by DHS rather the provider (as they are not yet connected to them).

Almost 20,000 UNPP PRs were submitted by jobactive providers over a 12 month period. Two thirds of these related to job seekers leaving a suitable job voluntarily, while one third were for a job seeker being dismissed from their job for misconduct. Just over 7,000 UNPPs were applied [Table 5.17](#) [Table 5-17](#)).

The non-payment period may be waived for certain vulnerable groups of job seekers who are experiencing severe financial hardship. A full waiver was granted in 2,560 cases (37% of cases with

an outcome of 'failure applied'), while 151 cases (2%) received a partial waiver. The full eight week non-payment period was served in the remaining 4,311 cases (61%).

Table 5.17: Outcome of jobactive provider-submitted Unemployment Non-Payment Periods

| | Submitted | Failure applied | | Rejected | |
|--------------------------------------|---------------|-----------------|-------------|---------------|-------------|
| | | Number | Per cent | Number | Per cent |
| Left suitable job voluntarily | 13,255 | 4,358 | 32.9 | 8,536 | 64.4 |
| Dismissed from job due to misconduct | 6,415 | 2,664 | 41.5 | 3,569 | 55.6 |
| Total | 19,670 | 7,022 | 35.7 | 12,105 | 61.5 |

Note: 2.8% of UNPP PRs had an outcome of 'revoked' or were under investigation as at 20 September 2016. The number of reports with an outcome of 'failure applied' includes failures re-applied after appeal.

As in

[Table 5.18](#) ~~Table 5.18~~, 12,000 UNPP PRs were rejected: 64% of PRs relating to leaving a suitable job voluntarily, and 56% of those related to dismissal for misconduct. The most common reasons for reports being rejected differed between the two failure types:

- 30% of rejected PRs related to an individual having left a suitable job voluntarily rejected due to procedural errors, while in 70% of cases the job seeker was determined to have a Reasonable Excuse. In most cases the DHS investigated found that the job seeker did not leave voluntarily, or left for good reasons.
- For PRs related to job seekers being dismissed for misconduct, 41% of rejected reports had procedural errors and another 9% were withdrawn. Most commonly, the DHS investigation determined that the job seeker had not actually been dismissed for misconduct.

Table 5.18: Rejected Participation Reports for UNPPs

| | Total rejected | Withdrawn | Investigated | |
|--|----------------|------------|------------------|-------------------|
| | | | Procedural error | Reasonable Excuse |
| Left suitable job voluntarily | 8,536 | 630 | 1,939 | 5,967 |
| Dismissed from job due to misconduct | 3,569 | 324 | 2,626 | 619 |
| Total | 12,105 | 954 | 4,565 | 6,586 |
| Total (per cent of submitted reports) | 61.5 | 4.9 | 23.2 | 33.5 |

Serious Failures

Fewer than 3,000 Serious Failures PRs were submitted (Table 5.19), with one-third of these resulting in a failure being applied (967 cases).

Table 5.19: Outcome of Participation Reports submitted by jobactive providers for Serious Failures

| | Submitted | Failure applied | | Rejected | |
|----------------------------------|--------------|-----------------|-------------|--------------|-------------|
| | | Number | Per cent | Number | Per cent |
| Failure to accept suitable job | 1,740 | 545 | 31.3 | 1,122 | 64.5 |
| Failure to commence suitable job | 1,082 | 422 | 39.0 | 612 | 56.6 |
| Total | 2,822 | 967 | 34.3 | 1,734 | 61.4 |

Note: 4.3% of PRs for Serious failures had an outcome of 'revoked' or were under investigation as at 20 September 2016. The number of reports with an outcome of 'failure applied' includes failures re-applied after appeal.

Reports were largely rejected for procedural errors—most commonly, insufficient evidence or the failure being incorrectly reported (Table 5.20). Only 354 reports were rejected because the job seeker was determined to have a reasonable excuse for not accepting or commencing the job.

Table 5.20: Rejected Participation Reports for Serious failures

| | Total rejected | Withdrawn | Investigated | |
|--|----------------|-------------|------------------|-------------------|
| | | | Procedural error | Reasonable Excuse |
| Failure to accept suitable job | 1,122 | 96 | 846 | 180 |
| Failure to commence suitable job | 612 | 77 | 361 | 174 |
| Total | 1,734 | 173 | 1,207 | 354 |
| Total (per cent of submitted reports) | 61.4 | 10.0 | 69.9 | 20.4 |

Comprehensive Compliance Assessments

A Comprehensive Compliance Assessment (CCA) is automatically triggered when a job seeker receives three compliance failures of the same type—for example, three applied PARs, or three applied PRs of the same category. A CCA may also be triggered manually by a provider or DHS, although these represent just 4.3% (1,097) of the more than 25,000 CCAs submitted over the 12 month period studied (Table 5.21 Table 5.21).

The majority of CCAs (63%) were finalised without a penalty being applied, largely because the assessment determined that persistent non-compliance had not been demonstrated. Another 10% were withdrawn, rejected or revoked.

One in four CCAs had an outcome of 'failure applied'—6,573 reports relating to 4,052 job seekers (0.4% of all job seekers). However, for 3,705 of these findings there was no financial penalty imposed.

Table 5.21 Outcome of Comprehensive Compliance Assessments

| Outcome | Reports | | Job seekers | |
|--------------------------------|---------------|--------------|---------------|------------|
| | Number | Per cent | Number | Per cent |
| Failure applied ¹ | 6,573 | 26.1 | 4,052 | 0.4 |
| Finalised without penalty | 15,909 | 63.3 | 14,366 | 1.3 |
| Withdrawn, rejected or revoked | 2,510 | 10.0 | 2,296 | 0.2 |
| Total² | 25,142 | 100.0 | 19,171 | 1.7 |

¹ Includes failures re-applied after appeal.

² Total includes 150 reports under investigation or review at the end of the reference period.

1.7% of job seekers had been the subject of a CCA. These individuals tended to be long-term clients of jobactive with a large number of appointments:

- Half of all job seekers subject to a CCA had been in receipt of services for the full 12 month studied. This compares to a median of 6 months in assistance for the overall caseload.
- They had an average 22 provider appointments scheduled, with an attendance rate of only 55%. More than one-third (37%) of provider appointments scheduled for these job seekers were not attended without a valid reason.
- Job seekers subject to a CCA were 2.3 times as likely as the average jobactive client to be homeless; 2.4 times as likely to be an ex-offender, and 3 times as likely to be Indigenous.
- These individuals were disproportionately male and aged under 30.
- Use of CCAs was particularly high in outer regional areas, including Far North Queensland, regional Western Australia and South Australia, and the Northern Territory.
- Excluding the CCA, these job seekers had an average of 13 compliance reports submitted per person (including NARs, PRs and PARs).

There was no significant difference in the number of provider appointments missed, or breach reports submitted, between people whose CCA outcome was 'failure applied' and those for whom the CCA failed to confirm persistent non-compliance.

If an additional compliance report is submitted for a job seeker while that person has an outstanding CCA under investigation, the new report is automatically rejected. A substantial volume of administrative churn is associated with providers submitting breach reports for clients undergoing a CCA—in 12 months, more than 25,000 reports relating to almost 10,000 job seekers were rejected for this reason.

Employment outcomes

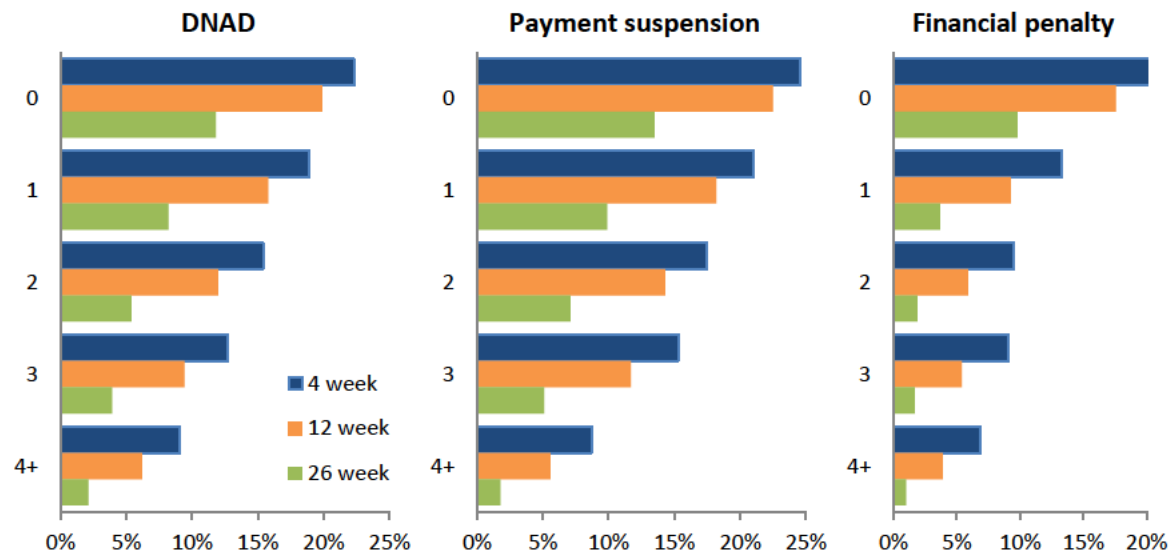
To determine whether there is any relationship between the application of compliance actions and people subsequently gaining employment, administrative data on breaches were linked to employment outcome records. Employment outcome rates refer to job seekers who achieved an employment outcome—of at least 4, 12, or 26 weeks—as a percentage of all job seekers who had been in receipt of services for long enough to have potentially achieved the outcome.

Job seekers who had never been the subject of a compliance action had higher rates of short, medium and long-term employment outcomes than those who had been breached. This was the case for both payment suspensions and financial penalties, as well as job seekers who had failed to

attend at least one appointment without a valid reason and been given discretion by their provider rather than a NAR (and associated suspension).

Among job seekers who had been the subject of a compliance action, more adverse findings were associated with a lower probability of going on to achieve an employment outcome ([Figure 5.19](#) ~~Figure 5.19~~).

Figure 5.19 Employment outcome rates for job seekers who had been the subject of compliance actions



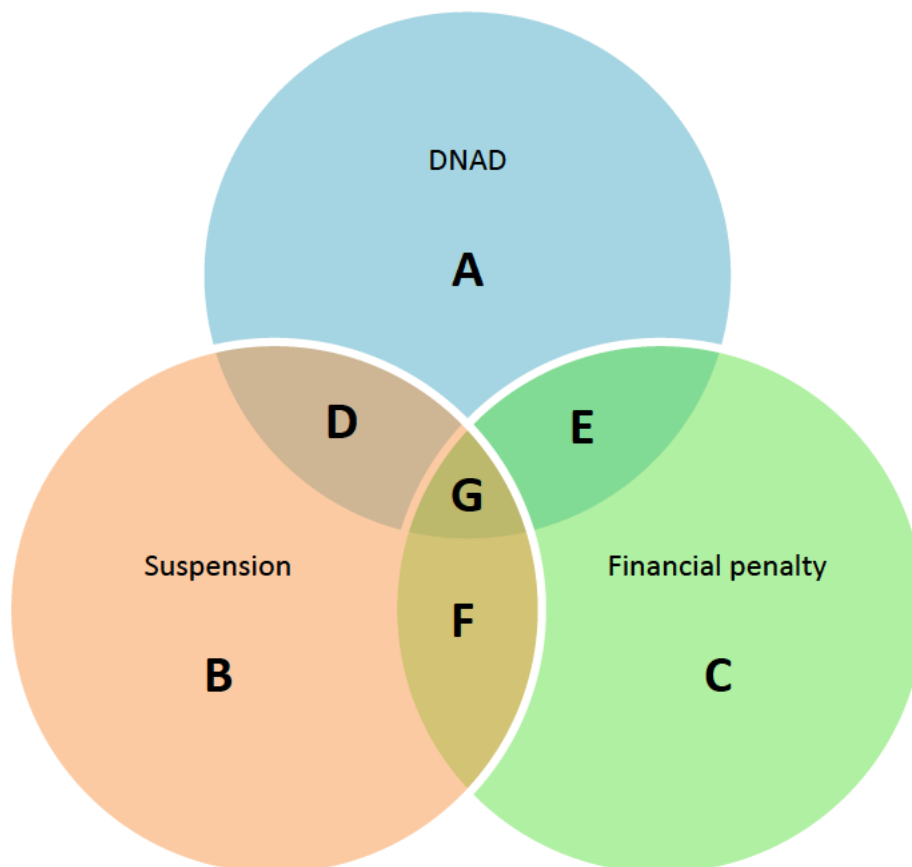
Employment outcome rates can differ significantly between job seeker demographic cohorts such as age, Indigenous status, educational level, length of unemployment etc. As has been discussed in this chapter, the level of compliance also varies between groups. It is therefore possible that the association summarised in [Figure 5.19](#) ~~Figure 5.19~~ may reflect poorer compliance amongst job seeker cohorts who have a lower probability of securing employment, rather than a direct negative impact of compliance actions on job seeker's job prospects. This possibility was examined using statistical regression, which accounts for differences in outcome rates between groups of job seekers that may be attributable to known, recorded demographic and personal characteristics.

The 12 week outcome rate for job seekers who had not been subject to any compliance action, including DNAD, was 23.3%. After accounting for differences in demographic characteristics, people who had been the subject of one or more DNADs, but no other compliance action, were 30% less likely to achieve a 12 week outcome ([Figure 5.20](#) ~~Figure 5.20~~). Those who received suspensions only had a 53% lower outcome rate. Job seekers who had been the subject of multiple different compliance actions were even less likely to go on to record an employment outcome.

Looking at the subset of job seekers who had a single non-compliance event during their time in jobactive, those who received a payment suspension were 16% less likely to go on to achieve a 12 week outcome than those whose non-attendance was reported as DNAD, after taking demographic differences into account.

The correlation between compliance actions and subsequent employment outcomes is not necessary one of direct causation. It is possible that job seeker characteristics not accounted for in the regression—such as attitude, or unidentified vocational or non-vocational barriers—are predictive of both compliance with mutual obligations and employment prospects. However, it may also be the case that compliance actions, particularly those that impose a temporary or permanent financial impact on job seekers, may have a net negative effect on job seekers through discouragement or reduced financial resources. These possibilities are not mutually exclusive, and it is likely that both occur, to different extents among different groups of job seekers.

Figure 5.20 Differences in 12 week outcome rates by compliance history



| | Segment | Relative outcome rate* |
|--------------------------------|---------|------------------------|
| DNAD only | A | -30% |
| Suspension only | B | -53% |
| Financial penalty only | C | -40% |
| DNAD and suspension | D | -71% |
| DNAD & financial penalty | E | -54% |
| Suspension & financial penalty | F | -79% |
| All three breach types | G | -89% |

Note: Relative outcome rate refers to the number of 12 week outcomes achieved compared to job seekers who had no events of non-compliance recorded, after taking into account differences in job seeker characteristics.

6 Departmental Experience

The Department of Employment (the Department) has conducted and commissioned quantitative and qualitative research of job seeker and employment service provider experiences of the employment services model and the job seeker activation and compliance framework. This includes formal jobactive job seeker and provider surveys on their initial jobactive experiences, the 2014-15 Work for the Dole trial and recent job seeker surveys on reasons for non-attendance. In addition to this formal research, the Department has closely monitored the use of the compliance framework through administrative data, case studies and provider performance.

It has also engaged directly with jobactive employment service providers since the start of jobactive on 1 July 2015 through:

- individual compliance discussions as part of contractual performance review processes
- observational site visits and provider workshops with jobactive providers who had consolidated compliance hubs, responsible for managing the organisation's use of the compliance framework
- recent field work visits to selected jobactive sites as part of the Compliance Review, and
- quantitative and qualitative provider surveys on experiences of employment services.

Job seeker mutual obligation requirements

Awareness and understanding of the compliance framework

Key Findings

- The majority of job seekers feel informed about their mutual obligation requirements and what they must do to remain on income support payments.
- Though the majority of job seekers demonstrate that they understand the consequences of non-compliance and their requirement to give prior notice if they cannot meet a requirement, the specific consequences are not always clear. Job seekers may know that they can have their payment suspended or lose payment, but the monetary amount and duration of the penalty may not be known.

Consequences of non-compliance

The majority of job seekers (89 per cent)⁹ are informed and understand what they need to do to meet their mutual obligation requirements and remain on income support payments. Though there are differing attitudes towards the types and level of requirements, when set, job seekers generally understand what they need to do.

⁹ Social Research Centre (May 2016) *Job Seeker Experiences of Employment Services Research Report*, p. 38

Recent data from focus groups has suggested that the majority of job seekers do have a good understanding of the compliance arrangements in place and the key compliance messages are relatively clear. For those that did not have a good understanding, this was due to:

- providers not explaining the consequences to them
- only being given minimal information
- personal factors ie. learning difficulties affected the job seekers ability to understand, or
- confusion around recent changes¹⁰ (ie. Stage 3 of the Strengthening the Job Seeker Compliance Framework Measure with the introduction of Provider Appointment Reports which mean that job seekers could potentially lose payment for any missed appointment).

Observational visits to some jobactive provider sites supported claims that this information is not always being appropriately explained to job seekers. For example, during some site visits, when provider appointments were being booked or rescheduled, job seekers were not being told of the consequences of non-attendance at all—they were only notified of the day and time they needed to attend. In other cases, only half the compliance warning was given; job seekers were told that their payment could be suspended if they didn't attend, but they were not informed that they could also lose money for each day until they attended a re-engagement appointment.¹¹

The Department's also recently conducted a survey of job seekers who continued to not attend their provider appointments, despite having a financial penalty applied for previous non-attendance. Though a small sample size, the findings showed that almost two thirds of job seekers were aware of the consequences of non-attendance. Interestingly, of the job seekers who stated they were unaware of the financial consequences, less than 50 per cent said that if they had known, this would have changed the outcome and made them more likely to attend.¹²

Despite the overall awareness that payments can be affected, previous research has indicated that the specific financial impact and duration of penalties for failing to meet different requirements was not always clear to job seekers.¹³ An example of this is the penalty job seekers can incur if a Serious Failure is applied. This will occur where a job seeker refuses to accept or commence a suitable job without a reasonable excuse, or, following a Comprehensive Compliance Assessment (CCA), they are found by the Department of Human Services (DHS) to be wilfully and persistently non-compliant. A Serious Failure penalty means that the job seeker will not receive their income support payment for eight weeks. The job seeker can however, choose to waive this penalty by agreeing to participate in a Compliance Activity for the eight week period.

All job seekers were aware that non-payment periods are a potential consequence for non-compliance, however most did not comprehend the severity of this period. Many expected a shorter penalty period and thought that eight weeks was too harsh for the circumstances. Some job seekers also claimed that they were unaware that they could waive the penalty by participating in a Compliance Activity as this had not been offered to them (although recent administrative data indicates that most job seekers are now well aware of and utilise the waiver provisions,

¹⁰ Social Research Centre (May 2016) Job Seeker Experiences of Employment Services Research Report, p. 51.

¹¹ Department of Employment provider engagement; April – September 2016.

¹² Department of Employment Provider Appointment Attendance Survey – December 2016 - January 2017.

¹³ Sweeney Research (June 2012) A Combined Qualitative and Quantitative Research Report on Job seekers and compliance activities, p.18.

with 92 per cent of job seekers who incurred serious failures in 2015-16 choosing to waive their penalty).¹⁴

Requirement to give Prior Notice

Job seekers generally understand that they need a good reason for not meeting their requirements.¹⁵ Where prior notice of a valid reason is given, or at the provider's discretion, providers will reschedule the requirement to another suitable time. Even if a job seeker has a good reason for not being able to attend a requirement, if they did not give prior notice of their inability to attend where it was possible to do so, then they may still have their payment stopped or lose payment.

In 2015-16, around 223,000 failures were applied by DHS for requirements where the job seeker needed to give prior notice if they were unable to attend, such as attending an activity or appointment. In close to 88,000 instances, DHS determined that the job seeker did have a reasonable excuse for not attending, but because they did not give prior notice and it was possible to do so, a failure was applied (see Table 6.1).

Table 6.1 DHS Applied failures – prior notice – all programs

| Year | Prior notice of reasonable excuse required | | | | | | Prior notice not relevant – no reasonable excuse | | Total applied |
|---------|--|-----|----------------------|-----|---|-----|--|-----|---------------|
| | Prior notice not given | | | | Prior notice given but no reasonable excuse | | No | % | |
| | Reasonable excuse | | No reasonable excuse | | | | | | |
| No. | % | No. | % | No. | % | No. | % | No. | |
| 2015-16 | 87,967 | 33% | 131,002 | 49% | 4,266 | 2% | 41,441 | 16% | 264,676 |

June Quarter 2016 Employment Public Data

The findings of the Appointment Attendance Survey showed that almost 100 per cent of job seekers understood that they need to make contact with their provider prior to the appointment time to explain their reasons for not being able to attend.¹⁶

What are the reasons for non-compliance?

The reasons given by job seekers for not meeting their mutual obligation requirements vary in complexity from forgetting about the requirement, to personal issues to wilful non-compliance. These reasons also vary based on the type of requirement the job seeker needs to comply with in return for income support.

Non-attendance at appointments, activities and job interviews

Following non-attendance at a provider appointment, providers must attempt to contact the job seeker to discuss the reason for their non-attendance. Where the provider cannot successfully contact the job seeker, they can still use the compliance framework to suspend payment if they believe this is the best re-engagement strategy. Administrative data shows that when providers have decided to initially use the compliance framework, over 90 per cent of the time, they have not been able to speak to the job seeker to discuss their non-attendance.

¹⁴ Sweeney Research (June 2012) A Combined Qualitative and Quantitative Research Report on Job seekers and compliance activities, p.18.

¹⁵ Social Research Centre (May 2016) Job Seeker Experiences of Employment Services Research Report, p 51.

¹⁶ Department of Employment *Provider Appointment Attendance Survey – December 2016 - January 2017*.

When the job seeker makes contact to re-engage, providers only need to assess if they think the job seeker has a reasonable excuse if they are considering recommending a financial penalty for the non-attendance (as this report, a Provider Appointment Report (PAR), can only be submitted following contact with the job seeker). Across all employment service programs, aside from a free text option, the most common reasons recorded by providers to explain the job seeker's non-attendance reason that was not considered reasonable were:

- job seeker forgot/slept in/got the time wrong/got lost – 32 per cent
- medical/health reasons that were not accepted (as they did not prevent the job seeker's ability to give prior notice) – nine per cent, and
- claims the job seeker did not know about the appointment – eight per cent.¹⁷

Job seeker responses to the Appointment Attendance Survey on reasons for appointment non-attendance reflected these reasons as well, with 'medical/health issues' accounting for 20 per cent of non-attendance reasons and 'forgot/did not know about the appointment' accounting for another 20 per cent.

Following any reported non-compliance that may result in a participation failure, DHS officers must investigate the failure with the job seeker. Table 6.2 shows a breakdown of reasons as recorded by the DHS officers following their investigation, where they have determined that reasonable excuse does not exist and have applied a failure for non-attendance at an appointment with the provider, DHS, a third party provider, an employer or at an activity. In around a quarter of cases, the DHS Participation Solutions Team (PST) determined that the job seeker made the choice not to participate and meet their requirements and 14 per cent as a result of job seeker errors such as forgetting about the requirement.

Table 6.2 Unacceptable reasons given by job seekers where participation failures are applied by DHS¹⁸

| Reason given by job seeker not accepted | Number | % |
|---|----------------|-------------|
| Job seeker had a Reasonable Excuse but did not give prior notice though able to | 87,967 | 33.2% |
| Job seeker chose not to participate | 67,962 | 25.7 % |
| Job seeker error | 36,865 | 13.9% |
| Manageable / unproven medical issue | 28,100 | 10.6% |
| Personal matter | 14,317 | 5.4% |
| Foreseeable or unacceptable activity prevented compliance | 10,674 | 4.0% |
| Transport difficulties insufficient to prevent compliance | 8,115 | 3.1% |
| Job seeker denied being notified | 6,603 | 2.5% |
| Cultural/language issues | 1,715 | 0.6% |
| No reason offered | 1,248 | 0.5% |
| Reason not recorded | 1,047 | 0.4% |
| Job seeker considered work offered was unsuitable | 63 | 0.02% |
| Total | 264,676 | 100% |

1 July 2015 – 30 June 2016

¹⁷ Data extracted by Department of Social Services sourcing data from Employment Business Intelligence Warehouse, 2015-16.

¹⁸ Department of Social Services (June 2016) *Job Seeker Compliance Public Data*, p. 6.

Job Plans

As an agreement of their mutual obligation requirements, job seekers must have an appropriate and current Job Plan in place at all times. Providers must consult with the job seeker when setting suitable activities in the Job Plan and provide a copy to the job seeker for them to sign, either in person or online. Job seekers can also have up to two business days of 'think time' to consider the terms of the Job Plan which may include discussing the requirements with a third party.

A random sample of jobactive job seekers who had incurred a failure for not entering into an appropriate Job Plan, showed that there are four common reasons for the refusal (see Table 6.2). The main reason for refusal was that the job seeker did not want to meet specific requirements (55 per cent), most notably, job seekers did not want to participate in Work for the Dole or another appropriate activity as required by their provider.

Table 6.3 Applied failures for refusal to enter into Job Plan

| Reasons for refusal | No. of job seekers % |
|--|----------------------|
| Did not want to meet specific requirements - Work for the Dole or other activities – 48 - Job Search Requirement – 7 | 55 |
| Refused to participate, difficult behaviour, unable to contact (eg. walking out of the office, refusing to discuss requirements) | 25 |
| Job seeker claimed personal circumstances/medical condition prevents them from meeting requirements | 11 |
| Job seeker claimed requirements conflict with current study, employment or other ongoing personal arrangements | 9 |
| Total | 100 |

Job Search

Job seekers are generally required to look for 20 jobs per month and show proof of having done so. This quantity can be reduced by the provider at any time, based on the job seeker's capacity, personal circumstances and the local labour market they reside within. The job seeker's provider will assess their efforts each month and determine whether they are adequate and if any personal circumstances could have prevented the job seeker's ability to meet their requirement.

Another small random sample of jobactive job seekers showed that failures were being submitted and applied, largely because job seekers are not meeting their job search requirement, including providing evidence of this to their provider. Of the 50 records reviewed, 92 per cent were submitted as the job seeker failed to undertake and provide evidence of their job search efforts for the month. Of these, six per cent of job seekers outright refused to look for work, though it was included in their Job Plan. The remainder of job seekers had completed some, but not all of their required number of job searches.¹⁹

Suitable Work

Aside from attending appointments and activities, job seekers are also required to accept and commence suitable work that is offered to them. Analysis of a random sample of 179 Serious

¹⁹ Department of Human Services Admin Data case studies.

Failures for refusing work incurred in 2013-14 shows that there are a variety of reasons for refusal; in this sample, 64 per cent of the refusals were related to not wanting to work or the type of work that was offered was not the job seeker's preference (see [Table 6.4](#) ~~Table 6.4~~).

Table 6.4 Job seeker reasons for refusing suitable work

| Reasons for refusing suitable work | No. of Job seekers | % |
|---|--------------------|-------------|
| Did not want work – varied specific reasons | 71 | 39% |
| Did not want to do that type of work | 45 | 25% |
| No clear reason given | 21 | 11% |
| Pay not suitable (despite being award rate) | 17 | 10% |
| Too many or too few hours | 16 | 10% |
| Travel/transport too difficult (despite being within policy guidelines) | 9 | 5% |
| Total | 179 | 100% |

Source: DHS Administrative Data

Key trends in administrative job seeker compliance framework data across all employment service programs

The job seeker compliance framework is designed to encourage job seekers to engage with their provider, undertake activities to meet their mutual obligation requirements and actively look for work. It helps providers to quickly re-engage job seekers who do not comply with their mutual obligation requirements and where they decide not to use another strategy to do so. Providers can choose to report non-compliance to DHS which makes compliance decisions under the social security law, including income support payment suspensions and the application of financial penalties where job seekers do not have a reasonable excuse. Just as there are different types of requirements, there are different reports providers need to submit in order to report non-compliance.

The following outlines the current administrative data on the job seeker compliance framework which covers all three employment services programs—jobactive, the Community Development Programme (CDP) and Disability Employment Services (DES).

2015-16 key data trends:

Provider Appointments

- Attendance rate at all provider appointments – 67 per cent
- Attendance rate at re-engagement appointments – 88 per cent
- Average duration of payment suspension – 3.8 business days
- Payment suspension used increasingly to rapidly re-engage job seekers with relatively low financial penalties incurred—around 1.7 payment suspensions and around 21,000 financial penalties.

All mutual obligation requirements

- CDP makes up 53 per cent of all applied failures and jobactive makes up 45 per cent.
- The total number of financial penalties applied has increased slightly from previous years, driven by the increase in No Show No Pay (NSNP) failures.
- NSNP failures, majority for non-attendance at an activity, makes up 71 per cent of all applied failures, largely driven by CDP which accounts for 62 per cent of the applied NSNP failures.

- There has been an increase in Serious Failures applied, with 96 per cent the result of persistent non-compliance being determined following a Comprehensive Compliance Assessment. The eight week non-payment penalty for all Serious Failures is waived 93 per cent of the time.
- The number of Comprehensive Compliance Assessments triggered and conducted increased by almost 50 per cent between 2014-15 and 2015-16 as a result of the increase in submissions and applied failures. CDP accounted for 72 per cent and jobactive for 28 per cent of assessments.

Attendance rates at provider appointments

Attendance at appointments, particularly with providers is a key part of a job seeker's mutual obligation requirements and is the first step to getting them the assistance needed to find work. It is at these appointments that providers will set requirements, monitor participation and refer job seekers to suitable jobs. Attendance also encourages routine and work-like behaviours that job seekers will need when they move into paid employment.

The Strengthening the Job Seeker Compliance Framework Measure introduced changes to the compliance arrangements for non-attendance at provider appointments. It was implemented in three stages over the 2014-15 financial year to increase the link and relationship between providers and job seekers in the management of appointments and impact on income support for non-attendance.

- **Stage 1:** The Non-Attendance Report (NAR) was introduced on 1 July 2014 and replaced the previous Connection Failure Participation Report process. In addition, from 15 September 2014, providers took on the responsibility of booking re-engagement appointments, re-engaging job seekers directly, rather than DHS doing this. This stage reduced red tape as it removed the requirement for DHS to investigate the incident and also reduced the amount of information required by providers to submit the report.
- **Stage 2:** From 1 January 2015, following submission of a NAR, a job seeker's income support payment remains suspended until they attend a re-engagement appointment rather than when they 'agree' to attend.
- **Stage 3:** From 1 July 2015, non-attendance at any appointment with a provider for all job seekers has the potential to result in a financial penalty if the provider decides to recommend this for DHS to investigate (through submission of a PAR).

Table 6.5 Attendance rates at all appointments²⁰

| F/Y | Appointments attended | | Appointments not attended | | | | | Total Appointments |
|---------|-----------------------|-----|---------------------------|----------------|-----------------|-----------|-----|--------------------|
| | | | Valid reason | Invalid reason | Discretion used | Total | | |
| | No. | % | % | % | % | No. | % | No. |
| 2013-14 | 8,455,834 | 64% | 14% | 11% | 11% | 4,667,115 | 36% | 13,122,949 |
| 2014-15 | 9,260,062 | 67% | 12% | 13% | 8% | 4,474,169 | 33% | 13,734,231 |
| 2015-16 | 9,740,229 | 67% | 10% | 16% | 7% | 4,882,016 | 33% | 14,622,245 |

The introduction of the measure appears to have resulted in a moderate increase in attendance at all appointments (Table 6.5). Prior to the start of the Strengthening the Job Seeker Compliance Framework Measure, the overall attendance rate at compulsory provider appointments for 2013-14 was 64 per cent. This increased to 67 per cent for 2014-15 and has remained the same for 2015-16. The rate of attendance, including where the job seeker has a valid reason for non-attendance, has fluctuated over the last three years, reaching 77 per cent in 2015-16.

These changes have also resulted in a significant increase in attendance rates at re-engagement appointments. During 2014-15, the attendance rate, including where the provider recorded a valid reason for the non-attendance, was 83 per cent, which jumped to 90 per cent for 2015-16. The

²⁰ Department of Employment administrative data

proportion of re-engagement appointments actually attended (that is, excluding valid non-attendances) increased from 65 per cent in 2013-14 to 88 per cent for 2015-16. This shows that a payment suspension which is only ended upon attendance at a re-engagement appointment is a highly effective lever to re-engage job seekers.

In addition to the attendance rate increases, the average duration of payment suspensions has decreased from 5.2 business days in 2013-14 to 3.8 business days for 2015-16 (which has since increased to approximately four business days at the end of 2016). Though this was lower in 2014-15, at 3.5 business days, this minor increase could reflect behavioural effects whereby job seekers have come to understand that payment suspension is not a financial penalty and as such, they are only making contact with their provider to re-engage when they actually feel the financial impact—that is, when they are due to report for their fortnightly income support payment and it will not be released due to the payment suspension. Nonetheless, the faster re-engagement timeframes are still positive for both providers and job seekers and shows that the connection between receipt of income support and meeting mutual obligation requirements is understood by job seekers.

Note - the introduction of the Strengthening the Job Seeker Compliance Framework Measure occurred as a range of other changes were being made to employment services, in particular the introduction of jobactive on 1 July 2015, therefore these other changes may also have affected attendance rates. Nonetheless, the introduction of potential financial penalties for all failure to attend any appointment from 1 July 2015 does not appear to have made any significant impact on attendance rates.

Use of the job seeker compliance framework

The composition of the different types of non-compliance reports submitted and failures applied has changed quite remarkably between 2014-15 and 2015-16. This can be attributed to the Strengthening the Job Seeker Compliance Framework Measure, introduction of jobactive as well as changes to the remote employment services program (CDP) from 1 July 2015.

Over 2015-16, employment service providers have continued to use income support payment suspension as a means to re-engage job seekers at an increasing rate with over 1.7 million individual payment suspensions. Ninety one per cent of these were for non-attendance at jobactive appointments where the provider did not think the job seeker had a reasonable excuse and wanted to use the 'suspend till attend' model to encourage job seeker contact and attendance.

The total number of Participation Reports (PRs) and PARs submitted in 2015-16 was around 472,000 across all employment service programs. Over half of these (52 per cent) were for CDP participants and 46 per cent for jobactive job seekers. Activity non-attendance failures made up almost 80 per cent of all submitted reports, with CDP accounting for 63 per cent of the No Show No Pay submissions.

The tables below outline the applied failures over the years, noting that not all failures result in a financial penalty. The total number of financial penalties applied by DHS has remained relatively stable over the past three years. In 2015-16, there were around 261,500 financial penalties, up slightly from 259,700 in 2014-15 and 256,000 in 2013-14.

Table 6.6 Applied Participation Failures across all employment service programs

| Failure Type | Failures applied - all programs | | | | | |
|---|---------------------------------|-------------|----------------|-------------|----------------|-------------|
| | 2013-14 | | 2014-15 | | 2015-16 | |
| | # | % | # | % | # | % |
| Connection* | 415,119 | 61.8% | 12,985 | 4.8% | 38,324 | 12.8% |
| Reconnection/Non-attendance failures | 108,092 | 16.1% | 99,165 | 36.4% | 21,103 | 7.0% |
| No Show, No Pay | 99,167 | 14.8% | 123,656 | 45.3% | 204,202 | 68.1% |
| Serious – refused/failed to commence work | 1,626 | 0.2% | 1,412 | 0.5% | 1,047 | 0.3% |
| Serious persistent non-compliance (following CCA) | 28,237 | 4.2% | 16,713 | 6.1% | 23,130 | 7.7% |
| Unemployment Non-Payment Periods (UNPPs) [^] | 18,956 | 2.8% | 18,741 | 6.9% | 12,047 | 4.0% |
| Total applied failures | 671,197 | 100% | 272,672 | 100% | 299,853 | 100% |

* Connection Failures do not result in the application of a financial penalty –payment may be suspended or withheld until contact

[^] Most UNPP penalties are incurred before the job seeker claims payment and is connected to Employment Services. Provider submissions make up 36 per cent of applied UNPPs for 2015-16. These cannot be waived unless financial hardship exists.

Table 6.7 Applied Participation Failures by program type

| Failure Type | Failures applied by program | | | | | | | | |
|---|-----------------------------|----------------|----------------|---------------|---------------|----------------|---------------|--------------|--------------|
| | jobactive/JSA | | | CDP/RJCP | | | DES | | |
| | 13-14 | 14-15 | 15-16 | 13-14 | 14-15 | 15-16 | 13-14 | 14-15 | 15-16 |
| Connection* | 373,755 | 11,517 | 29,737 | 21,661 | 779 | 7,183 | 19,703 | 689 | 1,404 |
| Reconnection/Non-attendance failures | 100,445 | 87,334 | 18,723 | 4,105 | 8,122 | 1,762 | 3,542 | 3,709 | 618 |
| No Show, No Pay | 91,798 | 98,154 | 76,547 | 5,209 | 23,043 | 125,742 | 2,160 | 2,459 | 1,913 |
| Serious – refused/failed to commence work | 1,466 | 1,238 | 891 | 18 | 18 | 12 | 142 | 156 | 144 |
| Serious persistent non-compliance (following CCA) | 25,573 | 12,452 | 4,138 | 2,140 | 4,073 | 18,949 | 524 | 188 | 43 |
| Unemployment Non-Payment Periods (UNPPs) [^] | 5,887 | 7,692 | 3,872 | 219 | 253 | 189 | 281 | 268 | 240 |
| Total applied failures | 598,924 | 218,387 | 133,908 | 33,352 | 36,288 | 153,837 | 26,352 | 7,469 | 4,362 |

* Connection Failures do not result in the application of a financial penalty –payment may be suspended or withheld until contact.

NB: the above table excludes.

[^] Most UNPP penalties are incurred before the job seeker claims payment and is connected to Employment Services. This is why the total failures in this table do not match the total applied failures in the table above.

Provider appointments

During 2015-16, there was an overall increase in income support payment suspensions. This shows that using payment suspension as a mechanism to encourage job seeker contact following non-attendance is increasingly being used to rapidly re-engage job seekers with over 1.7 million individual payment suspensions for non-attendance at a provider appointment in 2015-16, around 700,000 more than the previous financial year.

Despite the increase in payment suspensions, the quantity of financial penalties imposed specifically for non-attendance at provider appointments has dropped significantly from previous years.

Prior to 1 July 2015, a financial penalty for non-attendance at an appointment could only be incurred for non-attendance at the re-engagement appointment which always followed the initial missed appointment. Although changes from 1 July 2015 meant that job seekers can incur a financial penalty for any missed appointment (that is, in addition to payment suspension, not be back paid for the period of suspension), providers have not used this mechanism in 2015-16 to encourage a change in job seeker behaviour at anywhere near the rate they did in 2014-15.

Over 99,000 reconnection failures were applied in 2014-15 (before non-attendance failures were introduced for missing initial appointments), compared to around 21,100 failures in 2015-16 (see Table 6.6), which were made up of around 15,800 non-attendance failures and around 5,300 reconnection failures. This shows that between the two years, the number of financial penalties applied for missing re-engagement appointments has decreased by approximately 95 per cent with an overall 79 per cent decrease in appointment failures.

In 2015-16, providers have recommended a financial penalty be applied for the initial missed appointment almost three times more than for missed re-engagement appointments. This could be attributed to the smaller proportion of invalid non-attendances at re-engagement appointments, as mentioned earlier; the attendance rate at re-engagement appointments is substantially higher than that of all appointments. It is also possible that as attendance at this appointment is the job seeker's chance to meet their requirement and have their payment suspension lifted, it is possible that more job seekers actually have a reasonable excuse for missing this appointment.

Though this could account for the different failure volumes in 2015-16, there are a number of other contributing factors which have caused the overall decrease in applied failures from 2014-15 to 2015-16, including changes in provider and system reporting processes to support legislation and provider's choice of re-engagement and job seeker servicing strategy.

As non-attendance at any appointment from 1 July 2015 onwards now had the potential to result in a financial penalty, changes to provider and system processes were needed to support the legislative changes:

Prior to 1 July 2015, providers would record an invalid attendance result (DNAI) for a re-engagement appointment which would automatically generate a report for DHS investigation to apply a reconnection failure. The provider did not need to speak with the job seeker prior to recording this result, nor did they need to submit a report through the IT system. From 1 July 2015, providers must now speak to the job seeker about their reasons for non-attendance prior to recommending a financial penalty be applied. This contact is mandatory to ensure that providers are only recommending a financial penalty for non-attendance without a reasonable excuse and where they believe this is the best strategy to encourage future attendance. To ensure that contact has occurred, providers must also complete and submit the PAR on the same day they book the job seeker's re-engagement appointment which they must be verbally notified of as it needs to occur within the next two business days from when contact is made. Due to these changes, a portion of potential reports are not being submitted where the provider thinks the job seeker had a good reason for their initial non-attendance, including why they could not give prior notice.

- The duration of any potential financial penalty is generally the period of payment suspension that is, from the day of non-attendance until the job seeker attends their re-engagement appointment. Due to this penalty timeframe, there are limitations on when a financial penalty can be recommended:
 - Though the average payment suspension duration is 3.8 business days (2015-16), some job seekers do make contact on the day of non-attendance and are able to have a re-engagement appointment booked and delivered on that day. In these circumstances a PAR is not allowed to be submitted and a failure applied, as there is no financial penalty period.
 - Legislation does not allow a job seeker's income support payment to remain suspended for more than two full business days from when contact is made with their provider. Where job seekers are unable to re-engage within the next two business days due to an ongoing reasonable excuse, for example, as the job seeker is working or due to medical reasons, providers must record this in the system to trigger DHS to lift the job seeker's payment. As there is no re-engagement appointment to attend and therefore no end date for any potential financial penalty, providers are not able to submit a PAR in these circumstances. For 2015-16, approximately 14 per cent of income support payment suspensions for non-attendance were ended following a conversation with the job seeker as they could not re-engage in the next two business days, even if they did not have a good reason for their initial non-attendance.²¹

Provider engagements²² have also shed light on behavioural and business process reasons for why providers have not taken up this re-engagement tool at a higher rate in 2015-16. Some of these reasons are as follows:

- Providers are hesitant to recommend a financial penalty when they are not familiar with the job seeker. For example, many employment consultants stated that they would not submit a PAR if they were not the job seeker's usual consultant and therefore did not know enough about their personal circumstances or previous compliance history.
- Providers want to avoid any potential job seeker aggression or repercussions for recommending a financial penalty. Although recording a DNAI result for a re-engagement appointment prior to 1 July 2015 meant that the job seeker could incur a financial penalty, provider engagements have suggested that the link between this action and the outcome for the job seeker was not strongly understood. It's believed that the shift in language from 1 July 2015, which made it clear to providers that the submission of a PAR is a 'financial penalty recommendation', has had an impact on PAR usage. When providers do choose to submit a PAR, they must tell the job seeker that they will need to speak to DHS after they attend their re-engagement appointment as they may not receive all of their payment for that fortnight. Though providers do not need to say that they are 'recommending a penalty be applied', feedback indicates that some providers do not want to have this conversation with the job seeker at all and as a result, only use payment suspension to re-engage them. This is consistent with the how the consequences of non-attendance are explained to job

²¹ Department of Employment administrative data, 2015-16

²² Department of Employment provider engagement; April – September 2016; Compliance Taskforce Provider site visits December 2016 – January 2017

seekers in the first instance, with some consultants only telling job seekers that their payment could be suspended.

- Providers are satisfied with the 'suspend till attend' mechanism of a Non-Attendance Report. Despite provider frustration with job seekers only attending their re-engagement appointment, providers continue to use this tool to facilitate job seeker contact in the first instance and attendance at the next appointment. Some providers have indicated that using payment suspension as a contact trigger has helped them to learn more about the job seeker's personal issues or circumstances which are contributing to their non-compliance. For other providers, this mechanism is one of the few ways that they can prompt job seeker contact due to limited contact details or difficulty in engaging the job seeker.

For non-compliance with other requirements, some providers have anecdotally indicated that at times they think there is 'no point' in submitting Participation Reports if they will 'just be rejected by DHS'. As PARs can only be submitted when the provider has spoken to the job seeker and does not think their reason for non-attendance and for not making prior contact is valid, providers have not shared this as a significant reason for not submitting PARs. There have also been anecdotal examples of providers not knowing how or when they can recommend a financial penalty (predominantly from new staff in organisations) which can be managed through training.

Although there has been a decrease in the volume of submissions and applied failures, the application rate of those submitted has been higher in 2015-16 at 73 per cent compared to 66 per cent in 2014-15. This positive trend is indicative of the impact that contact prior to submission to ensure that reports are only submitted when the provider has spoken to the job seeker and still does not think they have a reasonable excuse has on the application rate.

Commensurate to its activity tested caseload size, the jobactive programs accounts for 91 per cent of all Non-Attendance Reports and 89 per cent of appointment related financial penalties imposed. Providers are increasingly using PARs to help change job seeker behaviour in relation to attendance at all appointments—not just re-engagements, however this remains gradual.

Connection Failures

The submission and subsequent application of Connection Failures has fluctuated in the last three years. The significant drop between 2013-14 to 2014-15, from around 415,000 applied failures down to just under 13,000 applied failures was the direct result of the Strengthening the Job Seeker Compliance Framework Measure whereby the NAR replaced the previous Connection Failure PR process from 1 July 2014. Though a change to process, the same objective was achieved in that job seeker's payment remained suspended until they made contact to re-engage, with additional changes to strengthen this process over the financial year.

Since 2014-15, applied Connection Failures have increased to over 38,000 for 2015-16 with failure to satisfactorily meet job search requirements accounting for approximately two thirds of these failures. Prior to 1 July 2015, DHS were responsible for monitoring job search efforts, however along with the introduction of jobactive, from 1 July 2015, all employment service program providers became responsible for monitoring the satisfactory completion of job search requirements on a monthly basis. This shift was in recognition that providers work closely with job seekers to become job ready, and as such, are best placed to monitor efforts and ensure the job seeker is doing

everything they can to secure paid employment. The majority of Connection Failures applied are for jobactive job seekers (approximately 78 per cent).

No Show No Pay Failures

In 2015-16, around 204,000 No Show No Pay failures were applied, up from around 124,000 failures in 2014-15. The volume of these failures, primarily for non-attendance at an activity, such as Work for the Dole, has been substantially driven by changes to program settings for job seekers and providers in CDP with the remote program accounting for 62 per cent of the No Show No Pay failures.

Under this program, eligible job seekers are required to undertake Work for the Dole activities, generally five days a week for 11 months of the year. Where a CDP participant fails to attend their activity without a good reason (as recorded through a Did Not Attend Valid result), the provider is not paid the relevant service fee for that time unless they report the non-compliance to DHS and re-engage the job seeker within 14 days. This means that as a result of this financial incentive, providers are more likely to use the compliance framework as a re-engagement tool rather than discretion.

Some commentators have raised concerns about the increasing number of financial penalties imposed on remote employment services job seekers, including Indigenous job seekers in particular. However data indicates that it is participation in CDP, not the Indigeneity of the job seeker, which is driving increased penalties in remote employment services.

Even with the small number of CDP participants, the rate of failure investigation required is putting considerable pressure on DHS resources. On a rough estimate, if the Participation Report submission rate for jobactive participants was the same as for CDP, DHS would have been required to process over 7.2 million participation reports in 2015-16 for jobactive alone, compared to the 218,000 that were actually processed for jobactive.

For jobactive, the number of No Show No Pay financial penalties applied actually decreased between 2014-15 and 2015-16, while the overall volume of failures has decreased even more significantly.

Eight week non-payment penalties - Serious Failures, Comprehensive Compliance Assessments and Unemployment Non-Payment Periods

In 2015-16, there were around 36,200 eight week non-payment penalties incurred as a result of:

- a Serious Failure for refusal to accept or commence suitable work
- a Serious Failure as the outcome of a CCA where DHS determines that the job seeker has persistently failed to comply with their requirements, or
- an Unemployment Non-Payment Period for voluntarily leaving suitable work or being dismissed due to misconduct.

Table 6.8 Serious Failures, Comprehensive Compliance Assessments and Unemployment Non Payment Periods all employment service programs

| Comprehensive Compliance Assessment outcomes – all employment service programs | | | | | | |
|--|---------------|-----|---------------|-----|---------------|-----|
| Outcome | 2013-14 | | 2014-15 | | 2015-16 | |
| | # | % | # | % | # | % |
| Serious Failure applied | 28,237 | 35% | 16,713 | 45% | 23,130 | 42% |
| Not persistently non-compliant - further assessment/assistance | 5,910 | 7% | 2,915 | 8% | 1,710 | 3% |
| Not persistently non-compliant - no change in employment program or stream | 46,002 | 58% | 17,730 | 3% | 30,910 | 55% |
| Total CCAs | 80,149 | | 37,358 | | 55,750 | |
| Employment related failures applied – all employment service programs | | | | | | |
| Serious Failures – refused/failed to commence work | 1,626 | | 1,412 | | 1,047 | |
| Unemployment Non-Payment Periods (UNPPs)* | 18,956 | | 18,741 | | 12,047 | |
| Total Eight Week Non-Payment Penalties Applied | 48,819 | | 36,866 | | 36,224 | |

* Note – most UNPP penalties are incurred before the job seeker claims payment and is connected to Employment Services. Provider submissions make up 36 per cent of applied UNPPs for 2015-16. These cannot be waived unless financial hardship exists.

In 2015-16, there were around 24,150 Serious Failures compared to around 18,100 in 2014-15. This mainly comprised of around 23,100 Serious Failures for persistent non-compliance as determined following a CCA.

The increase in certain applied failures has led to an increase in the number of CCAs triggered. In 2015-16, close to 56,000 CCAs were conducted, compared to around 37,000 in 2014-15. Again, this has been driven by the increase in CDP failures for activity non-attendance, with CDP making up 72 per cent of all CCAs conducted. This is compared to 28 per cent for jobactive job seekers, the employment services program with the largest caseload. Overall, job seekers are determined to be persistently non-compliant following CCAs 42 per cent of the time. For CDP participants, this is the case 47 per cent of time, and 27 per cent for jobactive.

Whenever a Serious Failure is applied, the job seeker can waive the penalty by agreeing to participate in a Compliance Activity for the eight week period. For 2015-16, this penalty was waived 93 per cent of the time (92 per cent by undertaking a Compliance Activity and one per cent due to financial hardship reasons). Following this waiver, many job seekers continue to not meet their requirements which results in another CCA with DHS.

Rejected Failures

Table 6.9 Rejected Participation Failures

| Rejected Participation Failures – all employment service programs | | | | | | | | | |
|---|----------------------------------|-----|--------------------------------|------------------------|----------------|-------|-------------------------|-----|------------------|
| Financial Year | Job seeker had reasonable excuse | | Procedural errors relating to: | | | | Total procedural errors | | Total Rejections |
| | | | Nature of requirements | Notifying requirements | Submitting PRs | Other | | | |
| | No. | % | % | % | % | % | No. | % | No. |
| 2013-14 | 204,471 | 37% | 3% | 51% | 6% | 3% | 341,405 | 63% | 545,876 |
| 2014-15 | 71,993 | 56% | 14% | 10% | 20% | - | 55,670 | 44% | 127,663 |
| 2015-16 | 94,136 | 45% | 19% | 8% | 28% | - | 113,623 | 55% | 207,759 |

Though the application rate of penalties has remained fairly stable, a significant proportion of non-compliance reports submitted by providers are rejected by DHS—either for Reasonable Excuse reasons or for administrative errors which mean a penalty cannot be upheld. For 2015-16, 44 per cent (207,759) of all submitted reports were rejected by DHS.²³

Providers have expressed frustration when failures are rejected, stating that they feel that DHS are ‘not on the same page as them’ or that DHS are ‘more likely to take the job seeker’s word’ and not apply a penalty.²⁴ Despite this frustration, over half of the reports investigated and rejected by DHS are for procedural error reasons, with the rate for 2015-16 increasing to 55 per cent up from 44 per cent in 2014-15.

The top two categories of these procedural errors relate to:

- the submission of the report, including where the wrong type of report was used or date was incorrect, job seeker did meet their requirement or gave prior notice of their inability to do so (but requirement was not removed), requirement is not supported by the Job Plan or report did not have sufficient evidence, and
- the nature of the requirement, including where the job seeker was referred to an unsuitable activity, distance was unreasonable or did not meet minimum work conditions.

These rejected reports represent administrative effort on the providers’ part that is wasted, leads to unnecessary administration for DHS officers and will not lead to a change in the job seeker’s behaviour. In most cases, these errors can be avoided through robust job seeker participation monitoring processes, ensuring mutual obligation requirements are appropriate for the job seeker’s individual circumstances and report details are correct and include sufficient evidence to support an investigation.

Providers are able to submit PRs without having discussed the non-compliance with the job seeker (though they must have attempted to contact the job seeker prior to submission at least once). As a result of this, it is expected that some reports will be rejected for reasonable excuse reasons disclosed to the DHS officer during the investigation, such as medical reasons or paid employment, provided this reasonably prevented the job seeker from meeting their requirement and giving prior

²³ This does not include reports that have a rejected outcome, but are categorised as “withdrawn” as they are not investigated.

²⁴ Department of Employment provider engagement; April – September 2016; Compliance Taskforce Provider site visits December 2016 – January 2017

notice where appropriate. Although providers regularly query why PRs or PARs can be rejected without reasonable excuse evidence from the job seeker, such as a medical certificate, evidence is only required by DHS decision makers where it might alter the decision. DHS decision makers are expected to consider reasonable excuse first. Where they believe reasonable excuse exists they are expected to consider whether that would have prevented prior contact (for relevant failure types).

For all rejected reports, the Department continues to conduct case study analysis to ensure that reports are evidence based from the provider's side and that rejection reasons selected are clear and appropriate. The Department also continues to work with DHS to share feedback on incidents where it is unclear why the report was rejected.

Employment service providers, third party organisations and Department of Human Services

To support job seeker activation and compliance with their mutual obligation requirements, there are three main parties that play an integral role.

Employment Service Providers

Employment service providers are responsible for:

- setting mutual obligation requirements that are appropriate based on the job seeker's individual circumstances and capacity to comply
- ensuring that job seekers understand what they need to do in return for income support and the consequences if they fail to do so without a reasonable excuse
- actively and regularly monitoring job seeker compliance with their requirements, and
- following up on any non-compliance and deciding on the best way to re-engage the job seeker and encourage future compliance, which may include use of the job seeker compliance framework.

Throughout provider engagements since the start of jobactive, providers have indicated that they are generally supportive of the compliance framework and the opportunities it provides to reinforce job seekers' mutual obligation requirements in return for income support payments.²⁵

With regards to using the compliance framework as a re-engagement tool following appointment non-attendance, providers have responded positively and taken up use of the NAR to trigger payment suspension until the job seeker makes contact and attends a re-engagement appointment. Almost two thirds of providers surveyed as part of the 2016 jobactive Provider Survey agreed that NARs had encouraged better job seeker attendance at appointments and three quarters had agreed that the compliance framework is useful in assisting their site to re-engage job seekers following non-compliance.²⁶ Providers also agreed that financial penalties associated with non-attendance at appointments and activities work as a deterrent to prevent initial or continued non-compliance.²⁷

Provider discussions have consistently raised concerns about job seekers who are 'playing the game' and are not genuine in wanting to find employment or participate in employment services. In the

²⁵ Department of Employment (2016) 2016 jobactive Provider Survey Findings Report, p.32; *Department of Employment provider engagement; April – September 2016*; Compliance Taskforce Provider site visits December 2016 – January 2017

²⁶ Department of Employment (2016) 2016 jobactive Provider Survey Findings Report, p.33

²⁷ Department of Employment (2016) 2016 jobactive Provider Survey Findings Report, p.34

case of provider appointments, employment consultants have continued to share cases where job seekers only attend re-engagement appointments to have their payment restored; many waiting until the day before they are due to report as this will give them enough time to attend an appointment and successfully access their payment the next day. For example, recent departmental data has shown that 2.5 per cent of jobactive job seekers, who have five or more provider appointments scheduled have attended 20 per cent or less of their regular appointments, but attend their re-engagement appointments at least 80 per cent of the time.²⁸

This continued cycle of non-attendance has a substantial impact on provider resources, with providers repeatedly needing to spend time chasing up and reporting non-attendance and taking steps to re-engage job seekers once the job seeker makes contact. As detailed under the Section Provider Appointments, payment suspension is used the majority of the time to encourage job seeker attendance, with potential loss of income support for the non-attendance infrequently and inconsistently recommended. As this additional incentive to attend is not being used, some job seekers know that they can in principle, attend every second appointment and still receive their full income support payment each fortnight. This does not encourage work-like behaviours or act as a deterrent for any future non-attendance.

Through provider engagements, providers have offered substantial feedback with regards to the administration and resourcing required to monitor and manage job seekers' requirements, including scheduling and monitoring participation at appointments and activities, monitoring job search requirements, following up non-compliance and where appropriate, reporting this to DHS. Though there is an administrative element required to appropriately maintain confidence that job seekers are meeting their requirements, observational site visits and case studies have shown that some of the perceived administration is the result of insufficient processing arrangements and poor communication in some areas, leading to double-handling and errors. See Table 6.10 for information on the provider processes required to meet contractual and guideline requirements.

Opportunities to effectively engage job seekers and use the compliance framework where required are also being missed at times because of inadequate processing arrangements and a lack of understanding of the importance and responsibilities associated with provider delegations for some organisations. Some of the causes and flow on effects of these processes include:

- setting mutual obligation requirements which are not appropriate based on the job seeker's capacity and circumstances, or that conflict with other set requirements, resulting in unreasonable requirements for which a failure cannot be applied under legislation
- appointment attendance not being recorded and requirements not rescheduled or cancelled, resulting in incorrect reporting of non-attendance which affects job seeker payments
- inconsistent monitoring and reporting of participation at activities, resulting in incorrect reports of non-attendance or non-attendance not being followed up at all, resulting in prolonged job seeker disengagement, and
- submitting PRs which are not evidence based or appropriately supported to enable an investigation and failure under legislation to be applied by DHS.

²⁸ Department of Employment administrative data, January 2017

These errors are leading to wasted provider time and effort, double-handling, incorrect reporting of job seeker non-attendance which affects payments, ineffective job seeker servicing and potential impacts to job seeker and provider relationships.

Frustration and dissatisfaction at these errors has been expressed directly by job seekers as well. As part of the Job Seeker Experiences of Employment Services Research 2016, there were examples of non-attendance being incorrectly reported, leading to unwarranted income support payment suspensions. This was occurring where job seekers had done the right thing and called to reschedule their appointment, did not need to attend or had actually attended their appointment but this was not recorded in the IT system in a timely manner.²⁹ Across all employment service programs, it is estimated that approximately four per cent of all appointment related income support payment suspensions in 2015-16 were not appropriate for the aforementioned reasons.³⁰

²⁹ Social Research Centre (May 2016) *Job Seeker Experiences of Employment Services Research Report* p. 52

³⁰ Department of Employment Administrative data 2015-16

Table 6.10 Employment service providers' requirements to monitor and manage job seeker requirements

All mutual obligation requirements must be included in the Job Plan. Where the full details of the requirement (ie. dates, days, start and end times, location and consequences of not meeting the requirement) are not included in the Job Plan, the provider must have issued separate formal notification to the job seeker.

| Requirement | Monitoring compliance | Provider requirement to monitor compliance in IT system (outside of requirement in Job Plan and formal notification) | Managing non-compliance without reasonable excuse | |
|--|---|--|---|------------|
| | | | Compliance Framework | Discretion |
| Attend Provider Appointment | As evidenced by job seeker attendance at appointment. Providers are notified by the IT system when no results have been recorded against the job seeker's appointment. | All appointments are recorded in IT system and appointment results are mandatory by close of business. | DNAI and Non-Attendance Report by close of business on day of appointment. Provider Appointment Report by close of business on day re-engagement appointment is booked (as a further incentive to attend). | Yes |
| Enter into a Job Plan | Job seeker either refuses to sign Job Plan at their appointment or does not accept online. Providers are notified by the IT system when there are Job Plans that have not been accepted. | Providers must ensure job seekers have an approved Job Plan in place at all times. | Connection Failure Participation Report – submit on day decision to use compliance is made. Must be within 10 business days of incident date. | Yes |
| Satisfactorily meet Job Search Requirement | Providers must assess evidence of job search at the end of each job search period (online applications, hard-copy etc.) Providers are notified by the IT system when it is time to assess job search efforts. | Providers required to assess efforts each month and record assessment when efforts are unsatisfactory (including unsatisfactory but discretion used). | Connection Failure Participation Report – submit on day decision to use compliance is made. Must be within 10 business days of end of job search period. | Yes |
| Attend / Behave at Activity | Providers are contractually required to regularly and actively monitor compliance. The methods through which a provider must receive and seek out information about job seeker non-attendance are not prescribed contractually or in guidelines. These methods are based on the provider's own internal business structures and the relationships they have with the third party organisations, such as activity supervisors or local employers. This may however include providers contacting the organisation to follow up or the organisation informing the provider of non-attendance, such as via the Supervisor App (for scheduled requirements) or hardcopy timesheets. | jobactive <i>Work for the Dole Phase with an Annual Activity Requirement:</i> WfD must be scheduled and results recorded. Total hours completed each month for other approved activities. <i>Other Phases and all activities:</i> no requirement to schedule and record results for participation in system. CDP - WfD participation must be scheduled and results recorded. DES – no requirement to schedule participation and record results. | No Show No Pay Participation Report – submit on day decision to use compliance is made. Must be within 10 business days of incident date. | Yes |
| Attend Third Party Appointment | For activity non-attendance, providers must ensure that Supervisors notify them of non-attendance by the end of the relevant working week. Formal channels of non-attendance reporting have not been prescribed as to limit the amount of red tape imposed on external organisations that are delivering services. | No requirement to schedule participation or record attendance. | Connection Failure Participation Report – submit on day decision to use compliance is made. Must be within 10 business days of incident date. | Yes |
| Attend / Behave at Job Interview | | No requirement to schedule participation or record attendance. | No Show No Pay Participation Report – submit on day decision to use compliance is made. Must be within 10 business days of incident date. | Yes |
| Accept/ Commence Suitable Work | | No requirement to schedule participation or record attendance (except for outcomes or jobactive AAR requirements). | Serious Failure Participation Report – submit on day decision to use compliance is made. Must be within 10 business days of incident date. | No |
| Leave / Dismissed from Suitable Work | | No requirement to schedule participation or record attendance (except for outcomes or jobactive AAR requirements). | Unemployment Non-Payment Period Participation Report – submit on day decision to use compliance is made. Must be within 10 business days of incident date. | No TBC |

Third party organisations

Third party service providers such as Work for the Dole activity providers, training and education providers, not-for-profit organisations and community service organisations play an important role in providing job seekers with the opportunity to participate in a work-like environment and develop their skills and experiences. They can also provide supportive services to assist job seekers in addressing non-vocational issues that may be preventing their ability to secure paid employment, or affect their day to day wellbeing.

Research conducted for the Evaluation of Work for the Dole 2014-15 indicated that activity host organisations have a clear understanding of their role with regards to notifying providers of job seeker non-attendance. This was either through the submission of timesheets or use of the activity mobile device App (being trialled during the Work for the Dole trial over 2014-15).³¹ These methods are available to assist providers to monitor job seeker attendance and non-attendance at activities, and follow up any non-attendance promptly.

Job seeker non-attendance can deter service providers from continuing to deliver services or take on more participants. Research conducted for the Evaluation of Work for the Dole 2014-15 reported some of the impacts that non-compliance can have on activity organisations, including:

- difficulties in planning the activity, arranging transport and equipment needed
- frustration when efforts are made to provide and plan activities for non-attenders, and
- frustration with late arrivals, unsuitable attire, bringing dependents, appearing to be under the influence, being unwilling or reluctant to participate or acting in an aggressive or disrespectful manner.³²

Department of Human Services

DHS is responsible for the payment of job seeker's income support and plays an integral role in investigating reported events of non-compliance. When providers report non-compliance through the submission of a PR or PAR, the PST will investigate the incident with the job seeker when they have made contact. Compliance decisions are made under the Social Security Law, including income support payment suspensions and the application of financial penalties where job seekers do not have a reasonable excuse.

The PST is nationally-networked and operates out of multiple locations across the country. The PST is responsible for investigating reported non-compliance failures for job seekers across the country via phone. When investigating non-compliance, a Service Officer who works in the PST, will consider whether:

- the non-compliance report is valid including whether the requirement was reasonable and the job seeker was correctly notified
- the job seeker's inability to comply was foreseeable or within their control and, where applicable, the job seeker advised their provider of their inability to attend an appointment or activity and why, or whether other circumstances existed which meant that it was not

³¹ Social Research Centre, (November 2015) Evaluation of Work for the Dole 2014-15 p. 69

³² Social Research Centre, (November 2015) Evaluation of Work for the Dole 2014-15 p.70

possible or reasonable for them to give prior notice. That is, whether the non-compliance was deliberate or whether there was a reasonable excuse

- the non-compliance reported was for a date where the job seeker had mutual obligation requirements and was subject to the job seeker compliance framework, and
- for employment related incidents, whether the work was suitable for the job seeker.

DHS officers also conduct Comprehensive Compliance Assessments (CCAs) following three applied No Show No Pay failures or three appointment, Job Plan or job search related failures in a six month period. This holistic assessment aims to determine whether a job seeker is being intentionally non-compliant, genuinely trying to meet requirements or if other factors are affecting their ability to meet their requirements. As detailed in the discussion on eight week non-payment penalties on page 73, there has been a significant increase in the number of CCAs particularly for CDP participants. Where same day servicing is not possible, the participant needs to make contact the next day to complete the assessment. Where the participant does not contact the next day as required, participants can incur additional failures for not attending their CCA appointment.

Other Compliance Research and Findings

Taylor Fry Pty Ltd was engaged by the Department of Employment in 2015 to better understand which job seeker characteristics were associated with compliant and non-compliant behaviour. Analysis was conducted on job seeker penalty histories over the 2013-14 financial year using two approaches to examine compliance profiles. This included both short and long term financial penalties.

As with all data analysis on use of the job seeker compliance framework, the volume of failures incurred is dependent on the provider's decision to report the non-compliance.

Note – when this analysis was conducted, Job Services Australia consisted of job seekers in Streams 1 to 4 (replaced with Streams A to C for jobactive). The reporting mechanisms and compliance framework for non-attendance at provider appointments was also different.

The analysis separated job seeker groups into the following non-compliant segments:

- Job seekers in the **most non-compliant** segment are indigenous, young (under 35) and had been referred to their employment services provider over nine months ago. This segment accounted for about three per cent of job seekers in 2013-14.
- The **second most non-compliant** segment is not in stream 1, male, under 28 and didn't complete year 12. This segment accounted for about six per cent of job seekers in 2013-14.
- The **most compliant** of all job seekers are non-indigenous and over 36 (40 per cent of job seekers in 2013-14). Indigenous job seekers over 35 are also more compliant than those that are under 35.
- The **most compliant** job seekers that are non-indigenous and under 35 are in stream 1 or are female.
- Male job seekers that are non-indigenous and under 35 **become more compliant** if they are over 27 or have completed year 12.³³

Analysis also looked at job seeker characteristics in relation to future penalty frequencies. In line with other Departmental analysis (Chapter 5 Data Analysis), the age of the job seeker plays a role in their expected penalty frequency. In general, non-compliance with requirements decreases as the job seeker's age increases. In addition to any personal characteristics or motivations, a job seeker's age can affect the level and frequency of their required participation.

Other notable findings from the predictive analysis included:

- Indigenous job seekers have a penalty frequency 60 per cent higher than non-indigenous job seekers
- Job seekers who have been in receipt of services for more than one year have double the penalty frequency than those who were referred to services in the last month
- Stream 1 job seekers have a penalty frequency 40 per cent lower than other streams, and
- Job seekers on a full rate of income support are at least 40 per cent more compliant than those on a partial rate.³⁴

³³Taylor Fry Pty Ltd (2015) *The job seeker compliance framework: effectiveness of financial sanctions* p.11

³⁴Taylor Fry Pty Ltd (2015) *The job seeker compliance framework: effectiveness of financial sanctions* pp. 16-17

Taylor Fry also tested the effectiveness of financial penalties on a job seeker's future compliance, again using 2013-14 financial year compliance data. In general, the analysis found that job seekers who have incurred financial penalties in the past have a higher frequency of financial penalties in the future compared to those who have not incurred financial penalties. This essentially means that those job seekers who have been non-compliant in the past are more likely to not meet their requirements again in the future.³⁵

Specifically looking at eight week non-payment periods which were either waived or served, the analysis suggested that when the penalty was served (ie. the job seeker would not receive payment for that period), this was more effective at improving a job seeker's future compliance.

While this indicates that financial penalties alone are not strong enough to improve the compliance of previously non-compliant job seekers, it also does not mean that they are ineffective. There are a number of factors that make it difficult to accurately measure the effectiveness³⁶, including:

- lack of consistency in the providers' decision to use the framework and report the non-compliance
- application of participation failures as determined by DHS
- job seeker's motivation and willingness to meet their requirements, and
- job seeker's genuine reliance on income support payments as an interim safety net.

³⁵ Taylor Fry Pty Ltd (2015) *The job seeker compliance framework: effectiveness of financial sanctions* p.22

³⁶ Taylor Fry Pty Ltd (2015) *The job seeker compliance framework: effectiveness of financial sanctions* p. 25

7 Results of Fieldwork

Members of the review team visited a total of seven jobactive sites belonging to three jobactive providers (Global Skills, PeoplePlus and Salvation Army Employment Plus). Four sites are rated 5 stars, two are rated high 4 star sites and one is rated 2 stars. The locations visited were Western Sydney (St Marys, Mount Druitt and Rooty Hill), Eastern Sydney (Campsie, Lakemba, Bondi Junction) and Queanbeyan. Office manager's experience varied between eight years in employment services to 18 years. Two Department of Human Services (DHS) Participation Solutions Team (PST) smart centres in Melbourne were also visited: Bentleigh and Sunshine.

The information collected from providers and DHS staff outlined in this chapter is provided as stated and thus represents the perceptions, opinions and sometimes misconceptions of staff involved in the administration of the job seeker compliance model. For the purposes of this chapter, not all of the statements have been validated against any empirical evidence, the policy and/or provider guidelines. In some cases, analysis of transaction data did not substantiate the views expressed.

Key observations from jobactive sites

Non-Attendance Report (NAR) - Payment suspension

All providers believe the NAR (suspending income support payments until the job seeker contacts the provider and attends a re-engagement appointment) is an extremely effective tool. Some providers used this process as a means of getting the job seeker to disclose personal issues preventing their compliance and employment (eg; domestic violence).

Discretion

There are varied work practices from one site to the next (even within the same organisation) regarding the use of discretion and whether it is recorded in the department's IT system. It is common practice to exercise discretion when a job seeker misses their first appointment, as the employment consultant does not have any detailed background on the job seeker prior to meeting them. One of the larger providers visited has a company-wide policy of simply rescheduling missed appointments when exercising discretion and not recording DNAD. Case studies have also shown that the discretion is often the default when the compliance framework cannot be used. It is therefore likely that the department's data on the use of discretion understates its true application.

Cash-in-hand job seekers

All sites agreed with a caseload trichotomy comprising:

- a) a group of highly motivated and job-ready job seekers in the top group
- b) job seekers with various identified or unidentified capability issues that need to be addressed in the middle group and
- c) disengaged job seekers without capability issues who are either working (cash-in-hand) and not reporting those earnings to DHS or job seekers who come from families of inter-generational dependence on welfare and have an entitlement mentality to welfare payments.

The quantum of the disengaged group was estimated to be between 5-10 per cent of each site's caseload. All sites felt that stronger compliance that required the (apparently) cash-in-hand job seekers to prove that they weren't working before income support payments were restored would remove many of these non-genuine job seekers from their caseload.

Job Seeker Classification Instrument (JSCI) not accurate

All site managers felt that the accuracy of JSCI classification had declined over the past decade or so as more assessments were conducted over the phone. This was one of the many opinions shared with the review team, where supporting evidence was not offered or sought. Recent contract changes mean providers are unable to re-run the JSCI during their first six months of servicing a job seeker. Tightening of program assurance activities in recent years around JSCI upgrades has also reduced provider appetite for re-running the JSCI themselves.

DHS leniency with Participation Reports and Provider Appointment Reports (PARs)

Comments in this section, in part, reflect the different operational requirements between jobactive/DES providers and what DHS's legislative obligations to job seekers require.

All sites visited noted varying degrees of discord between DHS's PST staff and the Employment Service provider when Participation Reports or PARs were investigated. Providers felt that job seekers were afforded more leniency by DHS than they deserved - partly because providers required evidence in support of non-attendance where PST staff did not³⁷. Providers also felt that PST decisions were less accurate because they were remote from the job seeker's environment and less able to refute incorrect or inaccurate assertions made by job seekers. Providers believed that this leniency also applied to the granting of exemptions by DHS. Providers understood the efficiencies and staff safety aspects of nationalised processing of Participation Reports or PARs, but lamented the potential loss of local knowledge overlay as a result.

Job seeker aggression

There was feedback from all providers about the inherent difficulty in establishing and maintaining a healthy relationship with job seekers where providers are seen as leading a compliance process. Providers generally felt that their domain was to work with the job seeker to get them to a work-ready state and assist them to find a job, whereas it was Centrelink that is responsible for any financial aspects of the job seeker's experience. Put simply, Centrelink pays them their allowances and it should be Centrelink that takes that allowance away if and when required.

Providers claimed that their relationships with job seekers became fractured and sometimes violent when DHS allegedly told job seekers that they were incurring penalties because of what their provider had either done or recommended be done. Providers also stated that they were foregoing outcome payments in some instances where job seekers had found their own employment after having a financial penalty applied. In those cases, the job seeker would refuse to co-operate with their provider to provide the necessary documentary evidence to support an outcome claim.

³⁷ DHS only requires evidence in limited circumstances and only where it would change the decision. Providers do not always have full visibility of DHS rejection circumstances (for example, a Pending CCA rejection appears as "failed at Centrelink" in ESS).

Key observations from DHS sites

Persistent non-compliance

There was broad agreement from DHS staff that there is a small group of persistently non-compliant job seekers, who knew the compliance system well and were used to cycling through Comprehensive Compliance Assessments (CCAs). Many in this group learned to live with the application of three failures before undertaking another CCA in effect receiving an ongoing reduced payment without meeting their full requirements. While in some instances, these job seekers were cancelled from payment as they were judged to be non-genuine job seekers, DHS staff cited cancellation as ineffective because there is no payment preclusion period for non-genuine job seekers. Payment can be re-granted very shortly after cancellation, without the need to serve any (non-standard) waiting period or prove that they are looking for work at the point of claim. Cancelling payment was also cited as often problematic as the current compliance model does not provide for a cancellation penalty as a direct outcome of a failure. Unless the job seeker states they have no intention of complying with requirements at all, the case for cancellation thus requires PST staff to clearly demonstrate how the job seeker's actions showed they were non-genuine. DHS staff stated that often they may not have had enough dealings with a particular job seeker to determine if they are a non-genuine. Some staff considered that providers should be making this decision due to this difficulty rather than DHS which would require providers to be delegated to make this decision.

Cash-in-hand job seekers

It was put to DHS staff by the review team that some persistent non-compliers may be cash-in-hand workers, who, if they reported their income, may be eligible for a reduced rate of payment or no payment. There was broad agreement from DHS staff regarding the potential prevalence of payment recipients undertaking cash-in-hand work. While some cash-in-hand workers were reported to be hard to identify, others were more obvious. When observing phone calls, members of the review team were aware of several instances of people not noticing that they had not reviewed their income support payment for many weeks, suggesting that they had a means of supporting themselves other than their income support. Other individuals claimed to be 'too busy' to call DHS for several weeks after payment suspension/cancellation, despite not participating in their mutual obligation activities during this period. DHS staff indicated that these situations were not particularly unusual and some suggested that while there were currently avenues for reporting suspected fraud, there would be benefit in improved methods for providers and PST to report suspected cash-in-hand workers for fraud investigation.

Waiver of eight week penalty undermines deterrence

DHS staff reported that the cycling of CCAs and the ability for cash-in-hand workers to remain on payment is exacerbated by the ability to too easily waive the eight week non-payment period for serious failures. A large number of recipients do not serve applied eight week non-payment penalty periods, having them provisionally waived by simply agreeing to participate in a Compliance Activity. Many recipients reportedly attend Compliance Activity appointments necessary to unconditionally waive the penalty and re-start their payment, but do not attend any other appointments and/or the Compliance (waiver) Activity. DHS reported that recipients in this situation are often very knowledgeable about the compliance system and pre-empt the advice of DHS about how to get onto payment again.

Job Seeker Diaries not effective

For managing cases of individuals not complying with Job Search Requirements, staff also indicated that the current process of issuing Job Seeker Diaries was not effective. Staff stated that job seekers are already required to look for work and report their work efforts to their provider and the diary did not significantly aid compliance with this requirement as there was no accompanying financial penalty and the diary itself doesn't require more intensive job search.

Only pay job seekers when they attend [appointments and activities]

As a method of avoiding CCA cycling and constant waivers, both PST sites independently, and without prompting, suggested a policy of not paying the job seeker unless they are actually attending their Compliance Activity. There was some discussion regarding cutting recipients off payment for a defined period and/or removing waivers altogether. While some staff agreed with this, others expressed concern regarding whether those with unidentified barriers to participation would be disproportionately affected.

Job seekers have undisclosed barriers

When discussing recipients with barriers to participation, it was clearly articulated that some people who are apparently non-compliant actually have undisclosed barriers to their participation and/or that the impacts of disclosed barriers were not understood or being adequately taken into account by their providers. Discussions highlighted that in many instances recipients with barriers are hard to communicate with, and often do not communicate their barriers and their impacts even when DHS already has information about their barriers. In many instances, job seekers do not disclose their barriers until a CCA is undertaken, where there is the threat of a potential eight week non-payment penalty to motivate disclosure. Some DHS staff speculated that those job seekers in this circumstance who are aware of the waiver of the eight week penalty may not be motivated to disclose their barriers, and therefore may never. While one of the purposes of a CCA is to ensure that all of a job seeker's circumstances are taken into account, this implies that many job seekers are facing penalties prior to their CCA that may be inappropriate. When discussing this, DHS staff said that some of the individuals in this category are often 'resigned to their fate' and accept penalties without question.

One reason that was suggested for job seekers' reluctance to disclose barriers with their provider and/or DHS was the need to repeatedly detail personal information. Job seekers often speak to multiple areas in DHS during one interaction and multiple people in PST or their provider agency across separate interactions. This means that a rapport is harder to build; additionally in some cases job seekers may consider that because they told their provider then DHS must also be aware of this. However, though providers are expected to include all relevant information about a job seekers requirements and relevant personal circumstances in PRs, this information is not always included in the reports

High staff turnover in jobactive impacts relationship with job seekers

DHS staff suggested that provider staff turnover also likely significantly contributed to job seekers' reluctance to disclose information. Reportedly approximately half of job seekers do not know who their provider consultant is. This may contribute towards job seekers feeling they have told the same story many times and/or in some instances they do not have a sufficiently strong relationship with the consultant to comfortably discuss their barriers.

JSCI does not always appear to accurately determine correct stream

DHS staff felt that on occasions, the streaming of the JSCI is not necessarily referring job seekers to the stream most suited to their needs, but there is minimal benefit referring the job seeker for an Employment Services Assessment (ESAt) - especially where the job seeker is already Stream C. The DHS staff expressing this view stated that that as reassessment will often not lead to different services being offered for job seekers, and as such referral where a job seeker was already in Stream C was judged not always to be beneficial.

When asked about other methods to reinforce compliance with requirements other than financial penalties and suspensions, DHS staff highlighted such things as better profiling of new recipients to allow earlier intervention etc., but did not have any suggestions or ideas within the scope of the review.

Need better sharing of information between jobactive providers and DHS

Another consistent theme that was raised related to imperfect communication between providers and DHS. This referred to communication both on a day-to-day work level and also in terms of broader understanding from providers about the policy, and the perspective of PST and vice versa.

When asked about the provider view that DHS rejected too many failures, DHS staff claimed that at least part of this was due to a lack of information from providers. Providers reportedly are often not using the tools available for informing DHS of these processes particularly well. For example, the Serious Failure PRs for refusing or failing to commence in suitable work is apparently typically very light on information from the provider who is required to have assessed the suitability of the employment before referring the job seeker to the job and/or recommending compliance action. Note that for a serious failure to be submitted, the provider must provide details on; the employer, how work has been found suitable, the commuting distance and whether the wages offered are appropriate.

DHS staff also reported that providers are not always aware of the policy underpinning PST decision-making and have limited awareness of the legislation and/or policy governing rejection of some failures for reasons other than reasonable excuse. DHS staff also reported limited insight into providers' treatment of job seekers and their thought process around the reasons of previously exercising discretion etc. Some system features also contribute to this, for example DHS cannot see the activity diary, so they do not know if the job seeker has been attending activities consistently – in the case of activity attendance, they only see the non-compliance that has been reported.

As a result, DHS staff can have access to limited information provided when making a decision. If events reported by the provider in the PAR or PR differ from the job seekers' report, the only avenue open to the PST is to attempt contact with the provider to try to establish the facts, noting that the job seeker's case manager is not always available to talk. More information from the provider may therefore allow PST to uphold more provider decisions.

jobactive providers submit Participation Reports that DHS have to reject

As providers do not have to speak to a job seeker before submitting a PR and many agencies have set up centralised PR processing units, there are also many reported instances where the provider apparently does not know recipient circumstances that mean any failures submitted will not be

applied. This leads to unnecessary red tape: for the provider who submits an unnecessary report, for DHS who must investigate the report and for the job seeker who has to unnecessarily phone PST.

Long wait time when job seekers contact DHS

Phoning the PST was observed to be very difficult for some job seekers. Staff were observed to be very professional and capable at managing job seekers' long waiting times on the phone, with policies such as calling job seekers back when they were on a mobile to save their credit once they connected to the PST. Despite this, for some job seekers wait times are very long. This is compounded where job seekers need to deal with transfer of calls to different DHS staff about different elements of their payment or situation. Additionally, the wait to speak to social workers or for CCAs is considered longer, particularly during peak periods. This is a significant impost on job seekers and reportedly led to some cases of job seeker frustration.

While the majority of wait times are principally a product of PR/PAR volumes, some of this wait time may be attributed to long call handling times. Most observed staff had developed their own templates of decision making reasons that they commonly used. There appeared to be some potential for business process improvements, however the taskforce only observed a small portion of the PST workload. If any broader IT changes are considered following the review, or considered as part of WPIT, further efficiency improvements could be realised.

8 Community Expectations

Key Findings

- There is broad support for the idea that there should be consequences for those job seekers on income support who are not genuinely looking for work despite being able to.
- There are varying and polarised opinions regarding the frequency of deliberate non-compliance, relative to unintentional non-compliance or apparent non-compliance caused by administrative error.
- Some stakeholders are concerned that compliance arrangements are targeted too broadly. There are particular concerns about vulnerable cohorts being incorrectly classified as non-compliant.
- Some stakeholders have strong concerns regarding ensuring there are effective safeguards so penalties do not inappropriately affect vulnerable groups and do not drive recipients into poverty.

One of the most important purposes of the compliance framework is to provide public confidence that taxpayer-funded unemployment payments are targeted efficiently to only those individuals who are temporarily and genuinely unable to support themselves through paid work. However, assessing the extent to which the current compliance framework aligns with community standards is problematic as public comment tends to represent particular stakeholder groups, where views expressed are more likely to represent those who disagree with existing or proposed arrangements.

Requirements and penalties for non-compliance

There is some available recent evidence of general community expectations. Examination of slightly under 500 online comments reacting to media regarding job seekers' non-compliance with mutual obligation requirements shows strongly polarised opinions that may not be fully informed of current arrangements. Some information specifically on job seekers' impressions of the compliance framework is provided by research for the May 2016 Job Seeker Experiences of Employment Services Research Report (JSEESRR)³⁸. The report cited that job seeker attitudes varied, with some finding compliance arrangements inflexible and punitive and others finding them annoying but justified. From the other side, the majority of - jobactive providers agreed that the compliance framework is a useful tool for assisting their site to in assisting in monitoring compliance (73 per cent agreed) and useful in supporting their site to activate and engage job seekers (71 per cent agreed).³⁹

Broader evidence is provided by survey reports from November 2000 and May 2001, which surveyed community attitudes towards unemployed⁴⁰, and unemployed people's attitudes towards activity testing⁴¹. While these reports are dated, and the job seeker compliance framework was very different at the time they were conducted, the fundamental question they sought to investigate has not changed. Both these reports found general support for the view that those in receipt of unemployment payments should be required to look for work, and agreed with some form of penalty for not meeting requirements.

³⁸ Prepared for the Department of Employment by the Social Research Centre, Australian National University.

³⁹ 2016 jobactive Provider Survey Findings Report pgs.32-33

⁴⁰ Ray Morgan Research (2000), Community Attitudes Towards Unemployed People of Workforce Age. Prepared for Parenting Payment and Labour Market Branch, Department of Family and Community Services.

⁴¹ Wallis Consulting (2001) Activity Test Evaluation Customer Survey. Prepared for Parenting Payment and Labour Market Branch, Department of Family and Community Services

Stakeholder submissions to recent Senate Inquiries regarding proposed legislative changes in 2014 and 2015 also showed broad support for the existence of a compliance framework, with disagreement more around the form and administration of the system.

However, submissions from several stakeholders including the St Vincent De Paul Society, Jobs Australia and others have shown some scepticism towards the idea that there is a cohort of unemployed income support recipients who are wilfully non-compliant⁴². This is reinforced by concerns from the Brotherhood of St Laurence, BoysTown, National Welfare Rights Network and National Employment Services Association about the possibility those perceived to be non-compliant may disproportionately be vulnerable cohorts who are unable to fully understand/comply with their requirements due to a range of barriers, adverse circumstance or undiagnosed mental illness⁴³. This may particularly be the case in areas where there are fewer services to identify and address potential barriers⁴⁴. Some ministerial correspondence from public organisations and individuals also raises concerns about the difficulty that people with English as a second language may have in understanding their requirements. Similar concerns have also been raised in the context of the Community Development Program (CDP), where payment recipients reporting to DHS purportedly do not understand what is being said to them and agree to obligations they cannot meet and guess ‘correct’ answers to questions⁴⁵.

Almost two thirds of jobactive providers agreed or strongly agreed that financial penalties associated with non-attendance at appointments and activities work as a deterrent to prevent initial or continued non-compliance⁴⁶. However, many submissions to the 2014 and 2015 Senate Inquiries implicitly questioned the need for strong penalties, stating that the majority of job seekers are unemployed more through difficulty in finding work than unwillingness to work. In their submission to the 2014 Senate Inquiry, St Vincent De Paul stated that “already inadequate income support payments should not be used as a bargaining chip to achieve compliance⁴⁷” and that financial penalties for non-compliance (particularly larger penalties) are likely to push people further into poverty, hampering their ability to find work. Similar sentiment was echoed in other submissions to 2014 and 2015 Senate Inquiries from Jobs Australia, the Australian Unemployed Workers Union,

⁴² See for example:

- St Vincent de Paul Society Submission to the Inquiry into the Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015
- Jobs Australia Submission To: Senate Education And Employment Legislation Committee Inquiry Into: Social Security Amendment (Strengthening Job Seeker Compliance) Bill 2015
- Catholic Social Services Australia (2007) The Obligation is Mutual: Discussion paper on mutual obligation

⁴³ See:

- National Welfare Rights Network Submission to Senate Community Affairs Legislation Committee Social Services Legislation Amendment (Further Strengthening Jobseeker Compliance) Bill 2015
- BoysTown Response to the Inquiry into the Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014
- Brotherhood of St Laurence Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014
- National Employment Services Association Inquiry into the Social Security Legislation Amendment - (Stronger Penalties for Serious Failures) Bill 2014

⁴⁴ National Welfare Rights Network (2016) A tale of two systems – the application of the national compliance framework to remote job seekers under the Community Development Program Briefing note by the National Welfare Rights Network June 2016.

⁴⁵ Inge Kral, (2016) Only just surviving under CDP: the Ngaanyatjarra Lands case study. Job creation and income support in remote Indigenous Australia: moving forward with a better system Compiled by K Jordan and L Fowkes Centre for Aboriginal Economic Policy Research, School of Social Sciences College of Arts & Social Sciences, The Australian National University.

⁴⁶ 2016 jobactive Provider Survey Findings Report pg.34

⁴⁷ The St Vincent de Paul Society’s submission to the Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014.

Anglicare, the Australian Council of Social Services, the Financial Rights Legal Centre and the National Welfare Rights Network (in the context of CDP)⁴⁸.

Similar views were also expressed in an open letter to the former Minister for Social Services, the Hon Scott Morrison MP, signed in May 2015 by 21 community organisations (listed in footnote)⁴⁹. The letter stated that financial penalties for those without Reasonable Excuse would unacceptably “take money from the hands of Australia’s most disadvantaged and vulnerable”. A different open letter in 2015, from the Australian Unemployed Workers’ Union to all members of Parliament⁵⁰, stated along similar lines that “expanding the already excessive penalising powers given to Employment Service Providers is completely unnecessary and will only serve to push more disadvantaged Australians deeper into poverty”. This latter open letter was later converted into a petition with 1,191 reported signatories. In the context of high rates of penalty application in CDP, penalties have been criticised as having a significant negative impact on individuals and communities (for example by the National Welfare Rights Network, and several contributors to the Centre for Aboriginal Economic Policy Research’s topical issue paper on job creation and income support in remote indigenous communities). Concern was also raised about the high rates of penalties potentially contributing to disengagement from CDP and the income support system, or alternatively unengaged participation in requirements merely to avoid penalties. There are also some reports from CDP providers that excessive application of penalties damages their standing in the community, and therefore their ability to act in communities’ interests⁵¹. Similar issues are reported by interviewed jobactive providers, who indicate that job seekers experience high levels of anxiety around the compliance framework particularly when faced with possible penalty or suspension⁵².

It seems reasonable that public and stakeholder opinions on the appropriateness of penalty application are significantly influenced by the perceived adequacy of payment. There have been significant concerns about the inadequacy of unemployment payments raised by a number of stakeholder groups (including KPMG, Business Council of Australia, National Welfare Rights Network and Australian Council of Social Services). Views about the impact of penalties on individuals and communities are likely formed in the context of these views, which may imply that in some instances negative views about penalty application may be stronger than would otherwise be the case.

⁴⁸ See:

- Financial Rights Legal Centre Inquiry into the Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014 Submission
- Australian Unemployed Workers’ Union (AUWU) Submission to the Senate Committee Inquiry into the Social Security Legislation Amendments (Further Strengthening Job seeker Compliance) Bill 2015
- Jobs Australia Submission To: Senate Education And Employment Legislation Committee Inquiry Into: Social Security Amendment (Strengthening Job Seeker Compliance) Bill 2015
- Anglicare Submission to: Senate Community Affairs Legislation Committee inquiry into Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014
- ACCOSS Submission to the Senate Community Affairs Legislation Committee inquiry into Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014
- National Welfare Rights Network Submission to the Senate Finance and Public Administration Committee on the Social Security Legislation Amendment (Community Development Program) Bill 2015

⁴⁹ Anti-Poverty Network SA; Australian Greek Welfare Society; Australian Pensioners Voice Inc.; Australian Unemployment Union; Australian Manufacturing Workers Union; Combined Pensioners & Superannuants Association; Council of the Aged; Ethnic Communities’ Council of Victoria; Federation of Greek Elderly Citizens Clubs; Housing for the Aged Action Group; Industry Fund Services; Maritime Union of Australia (Veterans); Melbourne Unitarian Peace Memorial Church; Polish Community Council of Victoria; Rail Tram & Bus Union (retired members); SIMPLa (Stop Income Management in Playford); Shelter South Australia; Victorian Trades Hall Council; National Council of Single Mothers and their Children (Victoria); Willing Older Workers Inc.; Ethnic Community Broadcasting Association of Victoria (3ZZZ).

⁵⁰ Available here: <https://www.change.org/p/malcolm-turbull-eric-abetz-luke-hartsuyker-stop-attacking-the-unemployed>.

⁵¹ Fowkes (2016) CDP and the bureaucratic control of providers; Job Creation And Income Support In Remote Indigenous Australia : Moving Forward With A Better System; Centre For Aboriginal Economic Policy Research ANU College Of Arts & Social Sciences

⁵² Social Research Centre (2016) Early Experiences of jobactive Providers – Qualitative Findings

Particularly if there are unemployment payment rate changes following Welfare Reform consideration, this may reduce negative perceptions regarding payment penalties.

A further contrary view to that of penalties being overly punitive is provided by the survey report of Community Attitudes towards Unemployed People of Workforce Age⁵³, which interviewed 2001 members of the public in 1999 and 2000. The report found that the majority (61 per cent) of respondents agreed payment penalties were an appropriate response to job seekers not looking for work⁵⁴. However, respondents considered different forms of penalty appropriate; 31 per cent considered a temporary payment reduction appropriate, 29 per cent considered a temporary payment cessation appropriate and one per cent considered permanently ceasing payment appropriate. Similar opinions existed with regard to penalties for job seekers not taking part in activities (33, 36 and two per cent respectively). A comparable view was expressed by the Wallis Consulting Group survey in 2001⁵⁵, which found that 78 per cent of interviewed current and former payment recipients considered that those not complying with their requirements should have a temporary reduction to payment and 74 per cent agreed payments should be cancelled for a period. Interestingly, despite higher penalties at the time, only 34 per cent of respondents thought penalties were too harsh (rising to 50 per cent for those who had experienced a penalty).

Both surveys' results however are likely to be significantly influenced by the policy settings during the period of research (2000 and 2001). At the time, in terms of total money lost, penalties were higher than currently, with a first or second penalty resulting in an 18 or 24 per cent reduction in payment for 26 weeks respectively, and a third penalty resulting in payment cessation for eight weeks. Significantly offsetting this however was the much lower activity test requirements at the time – for example recipients whose only requirement was job search were generally only expected to look for four jobs per fortnight⁵⁶. It seems reasonable that how onerous activity requirements are considered to be may also affect views on the application of penalties. For instance, representation of concerns about penalty application in CDP is often in conjunction with criticism of excessive activity requirements⁵⁷.

Additionally, the maximum Newstart Allowance rate was 16 per cent higher relative to average weekly earnings in the year 2000 than currently⁵⁸ so compliant recipients' current rate could be

⁵³ Ray Morgan Research (2000), Community Attitudes Towards Unemployed People of Workforce Age. Prepared for Parenting Payment and Labour Market Branch, Department of Family and Community Services.

⁵⁴ The remainder thought the appropriate response either was to:

- give a warning (21 per cent);
- depended on previous non-compliance (seven per cent);
- do nothing (four per cent); or
- refer the job seeker to counselling (one per cent).

⁵⁵ Wallis Consulting (2001) Activity Test Evaluation Customer Survey. Prepared for Parenting Payment and Labour Market Branch, Department of Family and Community Services

⁵⁶ Wallis Consulting (2001) Activity Test Evaluation Customer Survey. Prepared for Parenting Payment and Labour Market Branch, Department of Family and Community Services

⁵⁷ For example:

- Fowkes (2016) Impact on social security penalties of increased remote Work for the Dole requirements; Centre for Aboriginal Economic Policy Research
- Sanders (2016) Activities and authority in CDP: making them less punitive; Job creation and income support in remote Indigenous Australia: moving forward with a better system Compiled by K Jordan and L Fowkes Centre for Aboriginal Economic Policy Research Research School of Social Sciences College of Arts & Social Sciences The Australian National University
- National Welfare Rights Network (2016) A tale of two systems – the application of the national compliance framework to remote job seekers under the Community Development Program Briefing note by the National Welfare Rights Network June 2016

⁵⁸ Comparison of Average Weekly Earnings for all employees in November 2000 and May 2016 (trend ABS statistics) and the maximum Newstart Allowance payment rate at the time for a single recipient without children.

viewed as nearly equivalent to those experiencing a first penalty when the studies were undertaken. It may also be relevant that the majority of penalties applied at the time were rate reductions. While the amount of money lost over the rate reduction period was generally higher than current penalties, most job seekers were left with some payment.

Significantly too, predominantly beginning in 2006 under the Welfare to Work initiative, there were a series of reforms to payment eligibility that led to a significant increase in the number of parents and people with disability moving to unemployment payments. Prior to the changes, principal carer parents and those with an assessed capacity to work under 30 hours per week were very rarely on unemployment payments. Whereas at June 2016, nearly a quarter (23 per cent or 168,951 recipients) of Newstart Allowance recipients had a disability or illness affecting their capacity to work above 30 hours per week over the next two years and 16 per cent were principal carer parents (115,317 recipients, 78 per cent of whom were single)⁵⁹. This is significant as the 2000 study of community expectations reported that only 49 per cent of people agreed single parents should experience some form of penalty for not meeting requirements (56 per cent for partnered parents) and 54 per cent of people agreed people with disability should face the same penalties as those without disability⁶⁰. This is a lower proportion than the total 60 and 69 per cent who thought penalties of some form should apply to general unemployed cohorts for failing to look for work or participate in training activities, respectively.

Complexity and bureaucracy of the compliance framework

As well as varying opinions about the presence of penalties, there are significant concerns about more general complexity of the compliance framework. Submissions to the 2015 Senate Inquiry from Jobs Australia, the St Vincent De Paul Society and Willing Older Workers referred to the compliance framework as complicated and difficult to understand, with lack of correct information from providers increasing the difficulty for motivated job seekers to meet their requirements⁶¹. Ministerial correspondence has also often cited difficulty in understanding requirements, exacerbated by providers who themselves do not fully understand arrangements or provide incorrect information.

This is partially contradicted by the Early Experiences of jobactive Providers – Qualitative Findings research, where the providers who participated in fieldwork reported that the framework was clear and without ambiguity; allowing reinforcement of mutual obligation requirements. Some providers however reported that some DHS staff were not fully familiar with job seekers' requirements⁶², potentially contributing towards mixed messages and confusion for job seekers. Job seekers involved in the Job Seeker Experiences of Employment Services Research Report study were also cited as broadly understanding compliance requirements. However, some job seekers were unclear on the

⁵⁹ Department of Social Services Payment Demographics June 2016

⁶⁰ Ray Morgan Research (2000), Community Attitudes Towards Unemployed People of Workforce Age. Prepared for Parenting Payment and Labour Market Branch, Department of Family and Community Services.

⁶¹ See:

- Jobs Australia Submission To: Senate Education And Employment Legislation Committee Inquiry Into: Social Security Amendment (Strengthening Job Seeker Compliance) Bill 2015
- St Vincent de Paul Society Submission to the Inquiry into the Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015
- Willing Older Workers (W.O.W!) Inc.'s Submission to the Senate Committee into the Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015.

⁶² Early Experiences of jobactive Providers – Qualitative Findings (2016).

detailed operation of requirements, or reported receiving only minimal explanation of some compliance rules. Less understanding was also reported among those with factors such as learning difficulties.

The Australian Association of Social Workers' submission to the 2015 Senate Inquiry cited complaints that compliance arrangements meant job seekers had to jump through "rigid bureaucratic hoops to avoid having welfare payments withdrawn, while at the same time finding that there is little real support to get a job⁶³". This was echoed within the Job Seeker Experiences of Employment Services Research Report, which cited significant comment on the compliance system's rigidity, and complaints that motivated job seekers are caught up in arrangements designed for those who do not want to work. This issue is also particularly raised in the context of CDP where policy arrangements reportedly lock providers into inflexible program delivery, and higher rates of penalty application⁶⁴. Some ministerial correspondence also refers to genuine job seekers needing to meet rigid bureaucratic requirements that do not aid job search and being treated as if they were unmotivated and did not want to work. The Australian Unemployed Workers' Union National Advocacy Hotline Report also reported that 30 per cent of callers were unfairly threatened with a penalty⁶⁵.

Volunteering Victoria's submission into the 2015 Senate Inquiry expressed the view that stricter compliance for individuals not showing up for Work for the Dole may result in significant additional red tape and member volunteer organisations not wanting to 'dob in' job seekers not attending. This implies some volunteer organisations also consider that the requirements for job seekers are too stringent.

From employers' perspectives, some ministerial correspondence referred to job seekers' need to apply for jobs in order to continue receiving payment as an administrative burden when hiring, as they receive significant numbers of applications from unsuitable or unmotivated job seekers. Along similar lines, there was some correspondence wishing to report non-genuine job seekers, suggesting that large numbers of applicants for positions were not genuinely looking for work (although whether those job seekers were unmotivated for those particular jobs or all jobs is unclear). This is not supported by a 2014 broader survey of employers, which found only four per cent of applicants for advertised low-skill positions were not interviewed because they appeared uninterested in the job⁶⁶. However, Job Search Requirements have been increased since that survey, so this may no longer be representative. Additionally, lack of motivation by job seekers may not always be apparent to employers prior to interview.

The 2001 survey of current and former unemployment payment recipients reinforces the view that not all job seekers are motivated for the jobs they apply for. The survey found that 36 per cent of

⁶³ Australian Association of Social Workers Submission to the Senate Education and Employment Legislation Committee Re: Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015.

⁶⁴ See:

- Fowkes (2016) CDP and the bureaucratic control of providers; Job Creation And Income Support In Remote Indigenous Australia: Moving Forward With A Better System; Centre For Aboriginal Economic Policy Research ANU College Of Arts & Social Sciences.
- Sanders (2016) Activities and authority in CDP: making them less punitive; Job Creation And Income Support In Remote Indigenous Australia : Moving Forward With A Better System; Centre For Aboriginal Economic Policy Research ANU College Of Arts & Social Sciences.

⁶⁵ Australian Unemployed Workers' Union, National Advocacy Hotline Report, 2015-16.

⁶⁶ Recruitment for lower skilled vacancies. Department of Employment.

respondents agreed that they were unsuitable for most of the jobs for which they applied⁶⁷. Offsetting this however was that 75 per cent of respondents said job search monitoring made no difference to how hard they looked for work. Both results however should be viewed with caution, as significantly higher levels of job search are generally required under current arrangements than were required in 2001.

Practical implementation of compliance framework

From affected stakeholders there is also significant public comment on the practical implementation of compliance rules, particularly as applied by employment service providers.

Submissions to Senate Inquiries from the Australian Unemployed Workers' Union and Willing Older Workers reported that providers often suspend job seekers' payment for non-attendance at appointments which they had not been informed about, had been rescheduled, or other provider error⁶⁸. This is reinforced by ministerial correspondence from a number of job seekers, one individual who previously worked in a jobactive provider call centre, as well as reports from job seekers published on the Australian Unemployed Workers' Union website. JSEESRR research also found that the second highest reason for job seekers experiencing payment suspensions was administrative error.

Both previously mentioned open letters⁶⁹ expressed concern regarding the (incorrect) perception that private employment service providers have power to issue financial penalties⁷⁰. Willing Older Workers' submissions also raised this issue, expressing confusion about who the decision maker was regarding penalties for non-compliance⁷¹. There has been some further recent controversy and media articles around this perception. In April 2016, the Australian Unemployed Workers' Union (AUWU) received legal advice relating to the action of employment service providers and the application of financial penalties. AUWU are seeking reports from job seekers where a provider's view of events is accepted as fact when it contradicts the job seeker's, with a view to providing evidence for a legal challenge.

A significant flow on from this perception is that it has been argued that providers' role in recommending financial penalties weakens job seekers' ability to have an equal relationship with providers. Many stories published on the AUWU website refer to providers 'bullying' job seekers into meeting requirements that should not apply, or undertaking unsuitable activities. Similar opinions have been reported in ministerial correspondence and the AUWU National Advocacy Hotline Report found that 52 per cent of hotline callers reported cases of provider bullying⁷². Stories from job seekers published on the AUWU website also cite that employment service providers' application of

⁶⁷ Wallis Consulting (2001) Activity Test Evaluation Customer Survey. Prepared for Parenting Payment and Labour Market Branch, Department of Family and Community Services.

⁶⁸ See:

- Willing Older Workers (W.O.W!) Inc.'s Submission to the Senate Committee into the Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015; and
- Australian Unemployed Workers' Union (AUWU) Submission to the Senate Committee Inquiry into the Social Security Legislation Amendments (Further Strengthening Job seeker Compliance) Bill 2015.

⁶⁹ Letter to the former Minister for Social Services, the Hon Scott Morrison MP, signed by 21 community organisations, and open letter from the Australian Unemployed Workers Union to all Members of Parliament.

⁷⁰ Providers can choose whether or not to recommend a financial penalty to DHS, but the decision rests with DHS under law.

⁷¹ Willing Older Workers (W.O.W!) Inc.'s Submission to the Senate Committee into the Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015.

⁷² AUWU National Advocacy Hotline Report, 2015-16.

penalties is too strict and that there is little opportunity to explain the situation and the appeal process is slow and convoluted.

Conclusion

Generally financial penalties are supported for those deliberately not meeting mutual obligation requirements while in receipt of income support. However, there are concerns about the effects of penalties for some groups. There are also concerns about the potential targeting of the compliance framework and (particularly) employment service providers' practical implementation of the framework.

Some parts of the community are concerned that compliance arrangements are targeted too broadly and that rigid bureaucratic requirements may hinder the transition into employment for the majority of job seekers. There are also concerns that the compliance framework can make job seekers' relationship with providers one sided and adversarial. In at least some instances these issues appear to be due to problems with providers incorrectly applying the compliance framework, or not fully explaining the various levels of consequences for non-compliance to job seekers. Many of these issues would be addressed by simpler and easier to understand/administer compliance arrangements, heavily targeted towards those who are deliberately non-compliant. It is therefore likely there would be strong support for such measures.

However, identification of who is and is not deliberately non-compliant would likely be an area of contention. There are varying and polarised opinions regarding the frequency of deliberate non-compliance, relative to unintentional non-compliance or administrative error. Some members of the community have significant concerns regarding vulnerable cohorts incorrectly being classified as non-compliant.

In terms of penalty values, strong concerns from some stakeholders exist; predominantly regarding ensuring there are effective safeguards to ensure that penalties do not inappropriately affect vulnerable groups and do not drive job seekers into poverty. While much of this evidence polarised, it is likely that there may be strong public reaction to stronger penalties, particularly if implemented without strong additional safeguards to ensure that vulnerable cohorts are not unduly affected. Opposition may also be stronger to greater penalties if providers are too heavily involved in decision making.

9 International Compliance Systems

Key Findings

- International evidence shows that there is a role for sanctions for non-compliance, and employment outcomes can be improved through their use. However there are significant risks.
- International research suggests that penalties that are too large or liberally applied can drive people away from social support and reduce the earnings and stability of employment for those who do find work.
- There is also evidence that penalties which are too strong can lead to cost shifting, significant hardship, development/aggravation of health issues and increased crime.
- In the United Kingdom particularly, sanction application also appears to have led to deterioration of the relationship between employment services and job seekers. This could be expected to reduce the effectiveness of services.
- Excessive complexity, rigidity of requirements, reliance on recipients to dispute inappropriate penalties and poor information flows can increase red-tape and lead to inappropriate penalties being applied.

International academic research provides significant evidence for the efficacy of well-targeted active labour market programs ensuring benefit recipients are actively looking for work⁷³. One example is provided by analysis of a policy change in Northern Ireland, which led to a series of natural experiments of the cessation of job search monitoring⁷⁴. As part of the implementation of that change, Benefit Offices were refurbished, leading to removal of job search monitoring with no change to requirements or other policy. The study found between nine and 12 per cent⁷⁵ increase in payment recipients over the average eight month period without monitoring and estimated that permanently removing job search monitoring would lead to a stable 15 per cent increase in the number of payment recipients. This effect was found to be primarily due to reductions in the rate of recipients leaving payment, which reduced by nearly one fifth relative to previous rates⁷⁶. It seems logical that increased job search monitoring alone would not be effective without some form of consequences for not undertaking job search. That is, a necessary part of activity requirements is consequences for failure to comply with requirements. Indeed, most countries have some form of penalty for not complying with unemployment payment eligibility criteria⁷⁷. However, while there is clear evidence regarding the efficacy of active labour market programs, academic evidence is more mixed regarding the effect of sanctions or penalties for non-compliance.

⁷³ See for example:

- Kluve (2010) The effectiveness of European active labor market programs. *Labour Market Economics*.
- Card, Kluve and Weber (2010) Active Labour Market Policy Evaluations: A Meta-Analysis, *The Economic Journal*.
- Boeri and Burda (1996) Active Labour Market Policies, Job Matching and the Czech Miracle. *European Economic Review*.

⁷⁴ McVicar (2010) Does Job Search Monitoring Intensity affect Unemployment? Evidence from Northern Ireland. *Economica, New Series*, Vol. 77, No. 306

⁷⁵ Different results were obtained by the author using different methods.

⁷⁶ While the directions of effects are strongly supported, correspondence with the study's author has confirmed that the actual magnitude of the decrease in exit rates should be viewed with caution. This is because part of the decrease may result from administrative arrangements where people not attending job search monitoring appointments can be cancelled automatically from payment, which cannot occur when those appointments are suspended.

⁷⁷ OECD Employment Outlook 2015.

Some international studies have shown that both the threat of sanctions and the actual application of sanctions of various types can improve exit from unemployment. For example, a Danish study found that applying sanctions increased the rate of unemployed finding work by 50 per cent, and further that increased severity of sanctions increased their effect⁷⁸. Some studies of the Dutch system have also shown a relationship between the strength of the compliance system and employment outcomes⁷⁹ with follow-up studies finding that sanctions improve re-employment rates⁸⁰. However, it has been argued that part (or all) of this effect may be due to the application of sanctions in conjunction with increased job search monitoring.

There have also been contrary academic findings from other countries. A US study found that enforcement of sanctions was not worth the cost⁸¹ and a German study found no significant effect on benefit recipients' reservation wage (the lowest wage at which a job seeker would be willing to accept a job) or likelihood of employment⁸². A Swiss study had more nuanced findings, showing that sanction warnings and enforcement of sanctions increase the exit rate from unemployment but also exit out of the labour force. The study further found that sanctions (but not warnings) resulted in lower subsequent employment stability and both warnings and sanctions reduce post unemployment earnings⁸³. There have also been some studies that show wider consequences of sanctions, such as adverse health or social welfare outcomes⁸⁴.

However, international evidence of the efficacy of various compliance systems is usually not directly comparable to Australia, as comparisons must be made in the context of the benefit systems in place. Australia has the most highly targeted welfare system in the Organisation for Economic Co-operation and Development (OECD); in terms of assistance received by the poorest 20 per cent of the population relative to the richest 20 per cent⁸⁵. Additionally, Australia's income support system is relatively unusual in that it is non-contributory, highly targeted by means testing and individuals are able to continue to receive payment indefinitely if they continue to meet eligibility criteria. In contrast, most OECD countries have a system where the primary form of support for the recently unemployed is based on an insurance scheme, with time-limited support contingent on contributions made into the scheme. Countries with contributory time-limited systems include Canada, Finland, France, Germany, Greece, Ireland, Italy, Japan, the Netherlands, Spain and the United States — although most have a lower tax-payer funded safety net available if the individual is no longer eligible for time-limited support.

Two countries which have relatively similar types of unemployment support systems to Australia are the United Kingdom and New Zealand. All three countries have a base level of support paid in return for meeting conditions of payment, and all apply sanctions when job seekers do not meet these

⁷⁸ Svarer (2007) *The Effect of Sanctions on the Job Finding Rate: Evidence from Denmark*. Institute for the Study of Labor Discussion Paper No. 3015.

⁷⁹ Boone, Jan van Ours, Jan (1999) *Modelling Financial Incentives to get Unemployment Back to Work* and van den Berg, van der Klaauw and Jan C. van Ours (2004) *Punitive Sanctions and the Transition Rate from Welfare to Work* *Journal of Labor Economics*, Vol. 22, No. 1.

⁸⁰ Abbring, van den Berg and van Ours (2005) *The Effect of Unemployment Insurance Sanctions on the Transition Rate from Unemployment to Employment* *The Economic Journal*, Vol. 115, No. 505.

⁸¹ Ashenfelter, Ashmore, and Deschenes (1999) *Do Unemployment Insurance Recipients Actively Seek Work? Randomized Trials in Four U.S. States* NBER Working Paper No. 6982.

⁸² Schnieder (2008) *The effect of unemployment benefit II sanctions on reservation wages*.

⁸³ Arni, Lalive and van Ours (2009) *How Effective Are Unemployment Benefit Sanctions? Looking Beyond Unemployment Exit*

⁸⁴ OECD Employment Outlook 2015.

⁸⁵ Whiteford (2010), *The Australian Tax-Transfer System: Architecture and Outcomes*. *Economic Record*, 86: 528–544.

requirements⁸⁶. Analysis of the operation and efficacy of compliance arrangements in these countries with similar systems can therefore provide insight into how to optimise the Australian system. The Republic of Ireland is also sometimes cited as comparable to the Australian, British and New Zealand schemes, due to shared historical roots. However, key differences affecting the utility of comparison are the availability of unemployment insurance (received by around 40 per cent of unemployed), very different means testing, and much more generous targeting of parenting benefits (which can be provided until the youngest child is 22)⁸⁷.

The income support and compliance systems in the United Kingdom and New Zealand are therefore the most comparable to Australia. However, there are a number of significant differences that hinder direct comparison. In New Zealand and the United Kingdom, monitoring and enforcement of participation requirements is the responsibility of the public arms of government departments (although both countries also refer some cohorts to private providers), compared to Australia where these responsibilities are split between the Department of Human Services (DHS) and private providers.

Benefit amounts also differ significantly between the three countries, and compliance as a motivation must be assessed in this context. In Australia, the rate of payment provided to the unemployed (including rent assistance) is lower relative to the median wage than in either the United Kingdom or New Zealand (35 per cent of the median wage compared to 55 and 38 per cent respectively – see [Figure 9.1](#) [Figure 9.4](#))⁸⁸. Additionally, Australians are able to retain a higher portion of their benefit when earning⁸⁹. Given this, theoretically, Australians on income support should be more willing to accept work and so a less severe compliance system should be required. However, potentially offsetting this, currently New Zealand and the United Kingdom have significantly lower unemployment rates than in Australia (4.9 and 4.8 per cent in September 2016 respectively, relative to 5.6 per cent in Australia). This likely means that the effort and cost of finding work in Australia is higher than in the other two countries.

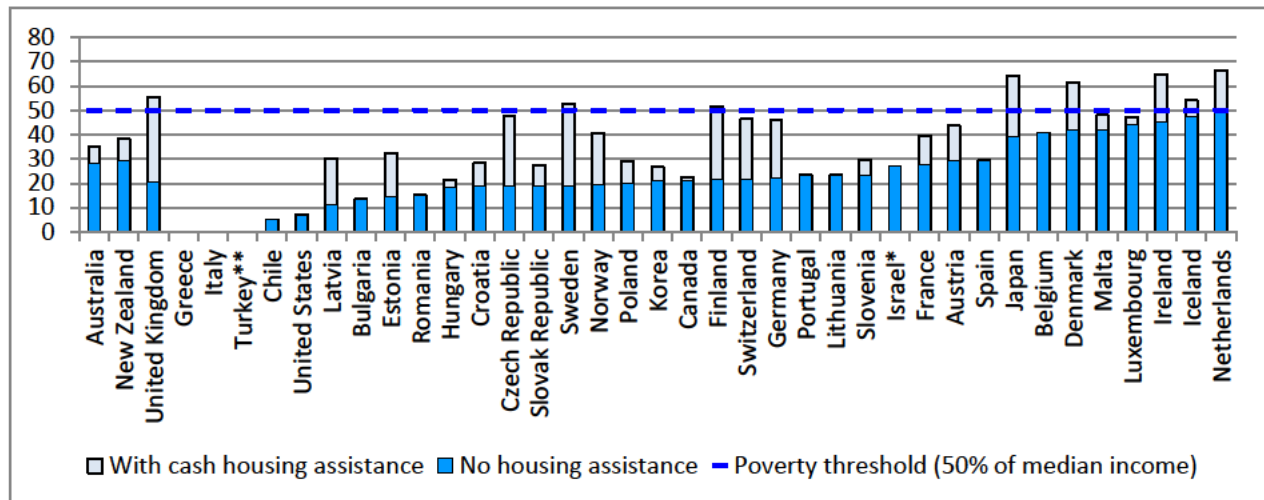
⁸⁶ There also are some important differences between the three countries' unemployment benefits systems. The United Kingdom also has a contribution-based unemployment insurance scheme, contribution Jobseeker's Allowance. However, this is being largely replaced by roll-out of Universal Credit (paid at roughly the same amount) and those without access to contribution based Jobseeker's Allowance are usually eligible for income-based Jobseeker's Allowance. However even before the roll-out of Universal credit, take-up of the insurance scheme was only around 20 per cent. Other than this, the main difference in the three systems is that in New Zealand recipients must reapply for payment if they are still unemployed after one year and partners of benefit recipients are also activity tested even when not receiving payment. In contrast, in the United Kingdom and Australia where only payment recipients themselves are required to undertake activities and recipients remain on payment as long as they continue to meet requirements and maintain eligibility. In all three countries, job seekers who have difficulty managing their own affairs can be assisted by a nominee, a trusted person or advocacy agency.

⁸⁷ Grubb, Singh and Tergeist (2009) Activation Policies In Ireland; OECD Social, Employment And Migration Working Papers No. 75; Directorate For Employment, Labour And Social Affairs Employment, Labour And Social Affairs Committee

⁸⁸ Comparisons of the net income of (completely) unemployed single people without children as a proportion of the average wage with the average wage show similar comparative differences: Australia 21 per cent, New Zealand 26 per cent and the United Kingdom 29 per cent. Source: OECD Benefits, Taxes and Wages data set.

⁸⁹ Single recipients in Australia can earn \$AUD 104 per fortnight without affecting their payment, after which payments reduce by \$0.50 or \$0.60 per dollar earned depending on income. In New Zealand single recipients can earn up to \$NZ 160 (before tax) per fortnight before their payments are reduced by \$0.70c for each dollar earned. Single recipients of Universal Credit have their payment reduced by £0.65 for every 1£ earned over £192 per month if they get help with housing costs or £397 per month if they do not (around £44 or £91 per week respectively).

Figure 9.1 Minimum-income benefits as a percentage of median household income (single, no children, 2014)⁹⁰



Note: Australia, New Zealand and the United Kingdom separated for ease of viewing.

The three countries also have different requirements on minimum job search requirements, with Australia having the most stringent requirements⁹¹, although all require job seekers to look for and accept any offer of work in order to qualify for payment. A slight exception to this is that in the United Kingdom, for the first three months of unemployment job seekers can restrict their job search to work in their previous field of work or salary level, if they have a reasonable chance of finding work. An OECD review which scored eligibility and sanction arrangements between countries found that Australia had equal or more stringent requirements relative to New Zealand and the United Kingdom regarding availability for work, demands on occupational and geographic mobility, acceptable reasons for refusing work and frequency of job search⁹². Additionally, default job search requirements in Australia have been significantly increased since that review, which was based on 2014 settings. The same review found that sanctions for non-compliance with activities were generally lowest in Australia relative to the United Kingdom and New Zealand. However, this measure does not include payment suspensions which, as discussed later in the New Zealand section, are a significant element through which Australia is stricter than New Zealand.

United Kingdom

In the United Kingdom, compliance arrangements differ slightly depending on whether the job seeker receives Job seeker's Allowance or Universal Credit (currently being rolled out and due to eventually replace Job seeker's Allowance). For both payments there are three levels of sanctions: lower, intermediate or higher level. All level sanctions take the form of payment cessation, with length depending on the level of sanction and previous non-compliance history.

Job seekers may receive a lower sanction if they do not turn up or are late to an employment service appointment, do not follow the instructions of their work coach or do not take part in programs to

⁹⁰ Source: OECD, Income distribution database www.oecd.org/els/social/inequality and Source: OECD, Tax-Benefit Models <http://www.oecd.org/els/soc/benefits-and-wages.htm>.

⁹¹ OECD Employment Outlook 2015.

⁹² Langenbacher, K. (2015), "How demanding are eligibility criteria for unemployment benefits, quantitative indicators for OECD and EU countries", *OECD Social, Employment and Migration Working Papers*.

which they are referred. Job seekers may receive an intermediate sanction if they are not available for and actively seeking work. For a Job seeker's Allowance recipient's first lower or intermediate sanction in a 52 week period, payment is stopped for four weeks. Payment is stopped for 13 weeks for any subsequent sanction at the same level within 52 weeks.

Higher level sanctions may be received for leaving work without good reason, being dismissed for misconduct or not applying for or accepting work to which the jobseeker's coach refers them.

Higher level sanctions result in payment cessation for 13 weeks for a first sanction in a 52 week period and 26 weeks for a subsequent high level sanction within 52 weeks of the first. A third higher level sanction within 52 weeks of the second results in a three year cessation of payment⁹³.

Universal Credit arrangements are the same at the Medium and Higher Sanction level, but lower level sanctions are more flexible. Under Universal Credit, for failure to participate in interviews with employment service providers recipients' payment is ceased until re-engagement with an additional one, two or four week payment cessation applied for failure to undertake work preparation activities (length depends on whether it is a first, second or subsequent failure).

Sanctions at each level are much more punitive than in Australia, where most penalties are for a single day and the highest level non-payment penalty is eight weeks. In the United Kingdom there is also no 'lighter touch' penalty equivalent to the Australian system of payment suspension, where payments are withheld following non-compliance with requirements but back-paid once the job seeker re-engages.

While there are provisions for sanctions not being applied if the job seeker has a good reason for not meeting their requirements, unlike the Australian system the onus is on job seekers to respond to the Department for Work and Pensions within five working days. If there is no response, then a sanction is applied and job seekers can seek an explanation for the reasons of the sanction, and appeal⁹⁴. In contrast, in Australia DHS must speak to job seekers and investigate the situation prior to any financial penalty being applied.

In the United Kingdom, there have been reports of job seekers having sanctions applied for reasons beyond their control, where the Department for Work and Pensions tried to phone job seekers who did not answer, or where letters went to the wrong address⁹⁵. This is further complicated by information flows, where job seekers feel they have told their work coach the reasons for non-compliance, but this information does not necessarily flow to the decision maker (despite nominally being within the same organisation⁹⁶).

Arguably the United Kingdom arrangements lead to a large number of sanctions being applied due to an error by the job centre, where the individual has Reasonable Excuses or where other

⁹³ Department for Work and Pensions, <https://www.gov.uk/government/publications/jobseekers-allowance-sanctions-leaflet/jobseekers-allowance-sanctions-how-to-keep-your-benefit-payment>.

⁹⁴ Matthew Oakley, M. (2014) *Independent review of the operation of Jobseeker's Allowance sanctions validated by the Jobseekers Act 2013*.

⁹⁵ See for example <http://www.aljazeera.com/indepth/features/2016/03/britain-benefit-sanctions-human-160314093900607.html>

⁹⁶ Employment services are delivered by Jobcentre Plus, a public brand of the Department for Work and Pensions (DWP), who also assess benefit claims.

mechanisms may be more appropriate to address behaviour⁹⁷. Sanction application rates also differ significantly between areas and over time, to an extent that cannot be explained by changes in rates of compliance⁹⁸. This experience may suggest that appropriate safeguards would be required for potential proposals to increase responsibility for job seekers to actively contact providers/DHS regarding Reasonable Excuses for failure to attend appointments or activities.

The relative strictness of penalties in the United Kingdom does not appear to deter the application of sanctions. Between 2010 and 2015, 24 per cent of the recipients of Job seeker's Allowance experienced a payment penalty⁹⁹. Between 2012 and June 2016 58 per cent of sanctions were at the lower level, 34 per cent at the intermediate level (both levels have a penalty of four to 13 weeks payment cessation depending on the number of occurrences) and nine per cent of penalties applied were at the higher level (penalty of 13 weeks to three years without payment, depending on the number of occurrences)¹⁰⁰. In contrast, in Australia between July 2015 and October 2016 four per cent of the jobactive job seeker population had received a financial penalty¹⁰¹.

This higher rate of penalties in the United Kingdom may be contributed to by officers in job centres having very limited discretion on whether to refer non-compliance to decision makers. There has also been evidence presented to the Scottish Parliament that cited reports of quotas for levels of referred sanctions, this was strongly denied by the Department for Work and Pensions. However, prior to 2011 there were targets to refer six per cent of job seekers for potential sanction per month¹⁰², and it seems reasonable that this may have a continuing impact on the volume of sanctions which jobcentres consider appropriate. These arrangements differ from the Australian system where employment service providers can either exercise discretion not to report non-compliance or alternatively report the event, which may result in a penalty.

Severity and effectiveness

While all the sanctions applied in the United Kingdom are at a higher level for each type of failure than applies in Australia, the arrangements are not as harsh as they may initially appear. One significant difference between the unemployment support systems in the United Kingdom, relative to Australia and New Zealand is that Australia and New Zealand predominantly provide cash unemployment benefits with a small proportion of the total made up of housing assistance (up to 19 and 22 per cent of assistance provided to a single unemployed person without earnings respectively¹⁰³) whereas the United Kingdom provides relatively modest unemployment benefits and quite large housing benefits (up to 63 per cent of assistance provided). The significance of this in a compliance context is that in all three systems assistance for housing costs is not affected by

⁹⁷ Of those decisions reviewed in 2013, around half had the decision to apply a sanction overturned (Oakley (2014), *Independent review of the operation of Jobseeker's Allowance sanctions validated by the Jobseekers Act 2013*).

⁹⁸ Comptroller and Auditor General, National Audit Office (2016) *Department for Work & Pensions Benefit sanctions November 2016*

⁹⁹ Comptroller and Auditor General, National Audit Office (2016) *Department for Work & Pensions Benefit sanctions November 2016*

¹⁰⁰ Department for Work and Pensions (2016) *Jobseeker's Allowance and Employment and Support Allowance sanctions: decisions made to June 2016*. First published: 16 November 2016.

¹⁰¹ Departmental and DHS administrative data of 1.5 million job seekers in jobactive and whether they had a financial penalty since the start of jobactive.

¹⁰² Comptroller and Auditor General, National Audit Office (2016) *Department for Work & Pensions Benefit sanctions November 2016*

¹⁰³ Based on OECD Benefits, Taxes and Wages data set, 2014 payment rates.

penalties¹⁰⁴. This means that even after a sanction has been applied (and payment ceased), job seekers may receive up to 18 per cent of the United Kingdom's average wage. However, this is limited based on how much rent the recipients pay and is unlikely to be usable for costs such as food or electricity.

Another protection for sanctioned United Kingdom job seekers is that after 15 days of sanction, recipients who are unable to meet their costs of living may be able to receive a hardship payment — typically equivalent to 60 per cent of the value of their ceased payment. However, there has been some controversy regarding knowledge and publication of information regarding hardship payments and concern that payment is not available until the fifteenth day of sanction.

Notwithstanding these factors, there has been significant controversy regarding the severity of payment sanctions leaving people without means of support. There have been extensive media reports of suicides, deaths due to malnourishment and inability to afford medicine, significantly increased calls on food banks and increased crime, echoed by a number of reviews and academic papers¹⁰⁵. A review of the United Kingdom sanctions system by the Scottish Parliament found that the severity of the sanctions and their application created a 'climate of fear' around job centers and reduced the likelihood of sanctioned recipients finding work¹⁰⁶. The review further found that the sanctions disproportionately affected vulnerable groups and led to significant cost shifting to other agencies, local authorities, health services and charities. This was in line with an audit of the Department for Work and Pensions, which recommended that the department should assess the wider cost of sanctions to central and local government and how they affect demand for broader publicly funded services¹⁰⁷. The audit also found that the design of the most recent sanction scheme was based on little evidence, and that the Department for Work and Pensions has little information on how people respond to potentially receiving sanctions.

An earlier review, prior to a ramp-up of sanction application in 2011, found minimal evidence of deliberate non-engagement of job seekers with their requirements. Qualitative research found that non-participation with requirements by sanctioned individuals was largely driven by poor information provision, non-intentional behaviour and job seeker forgetfulness¹⁰⁸. A significant concern of the 2016 audit of the Department for Work and Pensions was that the department was not sure whether those who were penalised were more non-compliant or had just been on payment longer and were therefore more likely experience a sanction. The number of sanctions a recipient

¹⁰⁴ Although in the United Kingdom there has been controversy about Housing benefits being cut-off when job seekers are sanctioned, this has been refuted by the head of the Department for Work and Pensions (cited in the *Interim Report on the New Benefit Sanctions Regime: Tough Love or Tough Luck?* published by the Scottish Parliament on 11 June 2014).

¹⁰⁵ See for example:

- *DWP Benefit conditionality and sanctions - An interim report in to the Department for Work and Pensions' regime and impacts in Salford*. 2014
- Machin, Stephen and Marie, Olivier (2004) *Crime and benefit sanctions*. CEPDP, 645. Centre for Economic Performance, London School of Economics and Political Science, London, UK
- Homeless people's experiences of welfare conditionality and benefit sanctions. Elaine Batty, Christina Beatty, Rionach Casey, Mike Foden, Lindsey McCarthy, Kesia Reeve December 2015
- <http://www.bbc.com/news/business-32032560>
- <http://www.independent.co.uk/news/uk/politics/benefit-sanctions-lead-claimants-to-self-harm-crime-and-destitution-warns-damning-report-a7047211.html>
- <https://www.wsws.org/en/articles/2015/02/05/welf-f05.html>

¹⁰⁶ *Interim Report on the New Benefit Sanctions Regime: Tough Love or Tough Luck?* published by the Scottish Parliament on 11 June 2014

¹⁰⁷ Comptroller and Auditor General, National Audit Office (2016) *Department for Work & Pensions Benefit sanctions November 2016*

¹⁰⁸ Griggs and Evans (2010) *The impact of sanctions in benefit systems, how they have been used and the experiences of claimants*

has had does appear strongly correlated with payment duration. Between 2010 and 2015, 76 per cent of Jobseeker's Allowance recipients had not experienced a sanction and had a median payment duration of 16 weeks, those who had one sanction had a median duration of 43 weeks (around 14 per cent of recipients), those who had two sanctions had a median duration of 74 weeks (around five per cent of recipients), and those with three or more sanctions had a median duration 106 weeks (around five per cent of recipients)¹⁰⁹.

This may have been partly driven by poor understanding by job seekers of the compliance system, with a 2006 review of sanctions finding that 24 per cent of surveyed job seekers were not aware that benefits could be stopped or reduced for non-compliance with payment conditions, and many were unable to name conditions of payment¹¹⁰. While this issue does not appear to be as significant in Australia, there have been some reports of complicated requirements being difficult to understand contributed to by incorrect information from employment service providers¹¹¹. Research for Job Seeker Experiences of Employment Services Research Report in May 2016 cited Australian job seekers as broadly understanding compliance requirements and the majority of job seekers (89 per cent) feeling informed about what they were required to do in order to remain on income support. However, some job seekers were reportedly unclear on the detailed operation of requirements, or reported receiving only minimal explanation of some compliance rules.

The Department for Work and Pensions undertook some surveys of Jobseeker's Allowance attitudes towards sanctions and found in 2014 that only 48 per cent of recipients aged under 25 were more likely to comply with their conditions because of the sanctions. An earlier survey of the general Jobseeker's Allowance population in 2012 found that 62 per cent were more likely to comply with their conditions¹¹². This result may suggest that youth are less likely to be influenced by sanctions than the general population, or alternatively they may be less informed¹¹³.

Econometric evaluation of the United Kingdom's introduction of sanctions in 1996 showed that exit rates from payment rose from 21 per cent to 28 per cent, although the evidence was not conclusive on whether job search or exit to employment increased¹¹⁴. Research in 2015 also showed that sanctions did lead to reduced receipt of Jobseeker's Allowance, with 100 applied sanctions resulting in 42.4 fewer people on payment. However, the study found that only 80 per cent of those leaving

¹⁰⁹ Comptroller and Auditor General, National Audit Office (2016) *Department for Work & Pensions Benefit sanctions November 2016*

¹¹⁰ Matthew Oakley, M. (2014) *Independent review of the operation of Jobseeker's Allowance sanctions validated by the Jobseekers Act 2013*

¹¹¹ See for example:

- Jobs Australia Submission To: Senate Education And Employment Legislation Committee Inquiry Into: Social Security Amendment (Strengthening Job Seeker Compliance) Bill 2015
- St Vincent de Paul Society Submission to the Inquiry into the Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015
- Willing Older Workers (W.O.W!) Inc.'s Submission to the Senate Committee into the Social Security Legislation Amendment (Further Strengthening Job Seeker Compliance) Bill 2015

Ministerial correspondence has also often cited difficulty in understanding requirements, exacerbated by providers who themselves do not fully understand arrangements or provide incorrect information

¹¹² Department for Work and Pensions unpublished research, cited in Comptroller and Auditor General, National Audit Office (2016) *Department for Work & Pensions Benefit sanctions November 2016*

¹¹³ The application of sanctions per recipients was slightly higher in 2014 than 2012, so if this affects the comparability of cohorts' influence from sanctions, either the difference is greater than it appears or behaviour is influenced in the opposite direction than would be expected.

¹¹⁴ *Social Security Advisory Committee Occasional Paper No. 1 (2006) Sanctions in the benefit system: Evidence review of JSA, IS and IB sanctions;*

payment found employment¹¹⁵. One of the study's authors publically commented that the punitive use of sanctions appeared to drive people away from social support¹¹⁶. This effect was also observed by the 2016 audit of sanctions, which stated that sanctions can encourage some job seekers to become 'inactive' and leave payment without finding work — some of these people would experience hardship, others might rely on unreported income or support from local authorities, charities, or friends and family¹¹⁷.

The audit also undertook a preliminary analysis of data regarding the effectiveness of sanctions. However the Department for Work and Pensions reportedly expressed scepticism of the results as they had not been peer reviewed — despite finding no methodological issues¹¹⁸. This analysis showed that Jobseeker's Allowance claimants spent less time on payment after receiving sanctions but were equally likely to find work or stop receiving payment without finding work. Additionally, despite the increase in employment, general earnings did not increase — suggesting potentially recipients are moving into less well-paid work.

These effects are also consistent with academic research into the Swiss system, which found that the application of sanctions resulted in an increased but temporary rate of exit from the labour force or movement into lower paid and less stable work¹¹⁹.

The United Kingdom audit analysis predominantly looked at the direct impact of sanctions, as opposed to the any potential effect of knowledge of sanctions encouraging people to comply (without actually experiencing a sanction). However, in an effort to identify any potential deterrence effect, the audit's analysis looked at use of sanctions between different providers¹²⁰, finding that on average higher use of sanctions was associated with lower provider performance (although the direction of causation here is unclear).

New Zealand

Relative to Australia and the United Kingdom, compliance is relatively straight-forward for recipients of the New Zealand unemployment payment, Job seeker Support. The first and second time recipients do not meet their obligations without good reason their payment is generally not payable until they reengage with their activities. For recipients with dependent children, sanctions are lower — a reduction of up to half their rate. The third time they do not meet their obligations, their benefit is stopped for 13 weeks (or reduced by up to half if they have dependent children). Recipients can return to full benefit by agreeing to take part in an approved activity for at least six weeks. Recipients who become voluntarily unemployed are cancelled from payment and are not entitled to re-apply for 13 weeks.

New Zealand employment services are predominantly delivered in-house by Work and Income (DHS equivalent). Much of the increased complexity of the Australian compliance framework relative to

¹¹⁵ Loopstra, Reeves, McKee and Stuckler (2015) *Do punitive approaches to unemployment benefit recipients increase welfare exit and employment? A cross-area analysis of UK sanctioning reforms.*

¹¹⁶ <http://www.ox.ac.uk/news/2015-01-21-sanctions-linked-drop-unemployment-benefit-few-return-work>

¹¹⁷ Comptroller and Auditor General, National Audit Office (2016) *Department for Work & Pensions Benefit sanctions November 2016.*

¹¹⁸ Arni, Lalive and van Ours (2009) *How Effective Are Unemployment Benefit Sanctions? Looking Beyond Unemployment Exit.*

¹¹⁹ Arni, Lalive and van Ours (2009) *How Effective Are Unemployment Benefit Sanctions? Looking Beyond Unemployment Exit.*

¹²⁰ While plans and most job search monitoring is undertaken by the public face of Department for Work and Pensions, job seekers can also be referred to private Work Programme providers.

the New Zealand system relates to the Australian contracting of third party employment service providers, training providers and Work for the Dole hosts etc. that result in other efficiency gains.

While it may initially appear as if New Zealand's consequences are quite strict relative to Australia, this is not the case for a number of reasons.

In practice payments are not always affected by penalties in New Zealand. Under governing legislation¹²¹, to impose a sanction, the Department of Work and Income must follow a set process of writing to job seekers stating the nature of the failure and the consequences. Crucially, the penalty cannot be applied within five working days of giving the notice and usually the penalty ceases once the job seeker re-engages, giving the job seeker a chance to re-comply without penalty. A 2014 report by the New Zealand Controller and Auditor-General found that staff felt there were significant numbers of serial non-attenders at appointments who understood the system sufficiently to do just enough not to face sanctions¹²².

In practice, financial penalties for recipients without children are effectively the same as those applied in the Australian system, where recipients are penalised a working day of income support for each working day until they re-engage. For those with children however, the Australian system has stronger penalties. There is no reduction in the penalty amount for recipients with children and so consequences for these recipients are stronger than in the New Zealand system. In fact, because penalties are a proportion of a job seeker's income support, parents in the Australian system often have higher penalties than non-parents due to receiving a higher rate of income support.

New Zealand's financial penalty for repeated non-compliance is also similar to Australia. In New Zealand, recipients may have their payment reduced or stopped for up to 13 weeks, similar to the 8 week non-payment period in Australia. Additionally, both countries waive a significant proportion of non-payment penalties by allowing recipients to undertake approved activities.

The main difference between the two countries' compliance systems is that, in addition to financial penalties, the Australian system applies immediate suspensions of payment (with back-pay on re-engagement) for non-attendance at appointments or activities – regardless of the reason for non-attendance and without the delay caused by the requirement to investigate the failure before applying a financial penalty. New Zealand's system does not have a similar feature.

Other key differences between the Australian and New Zealand compliance systems is that New Zealand recipients are required to re-claim payments after receiving them for 12 months and penalties may also be imposed for job seekers who fail pre-employment drug tests. In an Australian context, requiring the job seekers to re-apply for payment would likely be very expensive and impose unnecessary administrative burden. As at September 2016, there were over 500,000 recipients of Newstart or Youth Allowance with payment duration over 12 months¹²³ – many of whom have reduced capacity to work. Additionally, under the proposed two-tier compliance framework (see Recommendation 1), recipients would be very unlikely to stay in the *Intensive*

¹²¹ Section 163 of the New Zealand Social Security Act 1964

¹²² New Zealand Controller and Auditor-General 2014 report Ministry of Social Development: Using a case management approach to service delivery presented to the House of Representatives.

¹²³ DSS payment Demographics September 2016 https://www.dss.gov.au/sites/default/files/documents/05_2012/facsheet11.pdf

compliance phase for twelve months continuously, as they would be cancelled from payment or move back into the *Personal responsibility phase*. Cancelling those in the *Personal responsibility phase* would also not be beneficial, as these recipients would be meeting their requirements and trying to find work.

In New Zealand a job seeker who fails a drug test required by a potential employer can be penalised if they do not agree to stop using drugs¹²⁴. However, this does not apply to those with drug dependency issues. This aspect of the New Zealand compliance system was implemented to solve a problem that does not exist to the same extent in Australia. Prior to introduction of this penalty, where a job seeker indicated they would not pass a drug test required by a particular employer, they would generally not be required to apply for the job. As around 40 to 45 per cent of jobs listed with the Department of Work and Income require applicants to pass a pre-employment drug test, this was a significant issue. In contrast, it is estimated that only around 5 per cent of jobs listed on the Australian Government job search website are likely to require a similar drug test. Additionally, an Australian job seeker who refuses to attend a job interview for any reason may incur a No Show No Pay penalty, which means loss of a day's payment. There may however be some scope to tighten the ability of job seekers to avoid penalties resulting from drug and alcohol use (see Chapter 10 [Reasonable Excuse Analysis](#)).

Efficacy of New Zealand's compliance system

In terms of the New Zealand compliance system's efficacy, unlike the United Kingdom, New Zealand has had few academic papers or publically available reviews of its current compliance system. However, the previously mentioned 2014 Auditor General report found that although 95 per cent of work-focussed payment recipients are required to meet with case managers every 28 days, the average non-attendance rate was 24 per cent. While cited as a significant problem for the New Zealand system, this is lower than the Australian 2015-16 financial year rate of non-attendance at compulsory appointments - which was 33 per cent, including 10 per cent who had a valid excuse. However, this may be a function of the fact that in New Zealand there are fewer other activity requirements for job seekers.

The rate of financial penalty application appears to be similar between the two countries. In New Zealand, in the March Quarter 2016 there were 8,807 sanctions applied to Jobseeker Support recipients. As at March 2016, there were 117,134 recipients of Jobseeker Support. In Australia, in the March Quarter 2016 there were 58,584 financial penalties. As at March 2016, there were 768,375 recipients of Newstart Allowance. Although these penalty figures are for the duration of the quarter and the job seeker figures are point in time, for comparative purposes roughly indicates a penalty rate of 7.5 per cent for New Zealand and 7.6 per cent for Australia.

New Zealand has lower activity requirements so a similar rate of financial penalty application could indicate a higher rate of direct financial penalty application relative to Australia. However, in terms of total compliance action, Australia has a much higher rate. In the March quarter 2016, in addition

¹²⁴ If a job seeker fails a drug test without a good and sufficient reason, they have to repay Work and Income for the cost of the test (from their benefits). The first time they fail a test, the job seeker must agree to stop using drugs. Following a second failure, the job seeker will be re-tested within 25 working days (which they must arrange and pay for) and if the job seeker fails that test (or a subsequent drug test) their payment is stopped for 13 weeks or reduced if they have dependent children.

to the aforementioned financial penalties, 394,817 payment suspensions were applied to Newstart Allowance recipients, indicating that even if the rate of non-repayable financial penalties is roughly the same in the two countries, Australia has a much higher rate of compliance action for job seekers not meeting their requirements than New Zealand.

The New Zealand system has been controversial, but the majority of complaints appear to be related to the implementation of the system rather than the system itself. There is also some limited public advocacy around the impact of sanctions on individuals, but mostly in the context of a further reduction of payments considered to be already inadequate¹²⁵.

Implications for Australian compliance policy

The experiences of the United Kingdom and New Zealand, as well as academic evidence, show that although there is a role for sanctions for non-compliance, there are significant risks with their application. Sanctions that are too large or liberally applied have the ability to drive people away from social support and reduce the earnings level and stability of employment for those who do find work. There are also concerns about too strong sanctions leading to increased calls on other services such as charities, significant hardship for individuals and increased crime.

In the United Kingdom particularly, sanction application also appears to have led to deterioration of the relationship between jobcentres and job seekers, with reports of jobcentres having developed a 'climate of fear'. This could be expected to lead to reduce the effectiveness of services. The deterioration appears to be partly due to the severity of sanctions and partly due to administrative errors leading to arbitrary application of penalties. The Australian system reduces the likelihood of the development of a 'climate of fear' as it creates some separation between the provider and penalty application, with providers only recommending the application of penalties to DHS who independently investigate and apply penalties. However, the clear link between provider recommendation and penalty application and immediate payment suspension for non-attendance at appointments maintains the risk, which would likely be exacerbated if penalties were to become stronger or applied more often.

Additionally, for compliance penalties to positively impact behaviour, job seekers must be aware of their requirements and applicable penalties, but also able to reasonably meet requirements. British research showed that most penalised job seekers' behaviour was largely driven by poor information provision, non-intentional behaviour and job seeker forgetfulness. Additionally the Department for Work and Pensions was not sure whether those who were penalised were less compliant or had just been on payment longer and were therefore more likely experience a sanction. This illustrates the need for the Australian compliance system to be targeted to those who are genuinely non-compliant and adequately informed of their requirements and able to meet them. There is however a risk that targeting that is too narrow can provide loopholes that serially non-compliant job seekers can use to minimise effort without incurring a penalty. This was reported in the 2014 audit of New Zealand's Department of Work and Income where large numbers of staff felt job seekers were exploiting the legislated inability to apply penalties within five days of giving notice.

¹²⁵ New Zealand Council of Christian Social Services (2015) *Building Hope for Better Lives Together*

Australia has, by far, the most complicated system of those examined. Despite this, Australian job seekers do appear to have broad awareness of general requirements and consequences, and some complexity is a necessary consequence of split responsibility between employment service delivery and provision of payment. However, continued focus on streamlining and simplifying the compliance system to ensure job seekers completely understand the consequences for not complying with their requirements is likely to further enhance job seekers' responsiveness to the presence of various forms of sanctions. Increased complexity also may increase the risk of administrative errors, which have been a large issue in the United Kingdom and have also affected public opinion of the efficacy and appropriateness of the compliance systems in New Zealand and Australia (for opinions in Australia see Chapter 8 Community Expectations).

While some administrative errors are inevitable in any sufficiently large system, increased complexity and some system design features are likely to increase the chances of occurrence. The United Kingdom has shown that placing the onus on job seekers to initiate contact to explain non-compliance can lead to high levels of sanctions being applied that are later overturned due to the non-compliance being beyond the job seeker's control. This leads to unwarranted hardship for job seekers and unnecessary administration for Government. While there are arguments that requiring job seekers to actively inform providers about any Reasonable Excuse may increase their engagement with work-like behaviours, these experiences indicate that caution or appropriate safeguards should be considered alongside policies in this area.

The experience of the United Kingdom of perceived or unofficial quotas and varying application of sanctions both between areas and over time shows that an administration's attitudes towards jobseekers can have a real effect on penalty application rates. It seems reasonable that this issue could be larger in Australia, where providers have active ability to use discretion and not recommend that a penalty be applied for certain behaviour. However, the British system of limited discretion appears to lead to higher levels of sanction application, including in inappropriate cases that do not lead to better outcomes, and has not eliminated the issue of inconsistency. Policies around the prescribed use of discretion must therefore balance these competing issues.

Avoidance of another administrative issue faced by the British system is particularly pertinent to the Australian system of split employment service and payment provision. Information not flowing efficiently between various job seeker contact points regarding reasons for not attending appointments and activities leads to increased red-tape for job seekers and also increased application of inappropriate penalties.

10 Reasonable Excuse Analysis

While the participation framework is designed so that job seekers have participation requirements that they are generally able to meet, occasionally job seekers are temporarily unable to meet their requirements due to short term circumstances such as accepting impromptu offers of a day's work, illnesses, accidents, unexpected caring responsibilities etc. In many of these cases it is possible for job seekers to contact their provider and reschedule their activity or appointment, however in some instances this may be unreasonable — for example if the job seeker is unexpectedly hospitalised. Penalising job seekers who are affected by circumstances beyond their control is unlikely to improve future compliance, would create unnecessary hardship for job seekers and would likely undermine public confidence in the compliance framework. For these reasons, social security law has always allowed that, where an individual has a participation failure, they are able to avoid a penalty if they demonstrate a Reasonable Excuse.

Examination of departmental job seeker compliance data from October 2015 to October 2016 shows that, as discussed in Chapter 5 Data Analysis, approximately 20 per cent Participation Reports for failure to attend an activity were rejected by DHS because the job seeker had a Reasonable Excuse. The majority of these (76 per cent) related to cases where the job seeker's personal circumstances affected their capacity to participate in the specified activity (most commonly illness or injury). A significant portion (19 per cent) however related to participation conflicts (such as work, another activity or a job interview). The remainder (5 per cent), related to cases where the job seeker received no payment or was exempt from requirements. Arguably these latter two groups should not be regarded as Reasonable Excuse but rather as having been reported in error.

The requirement for decision makers to consider Reasonable Excuse is a long standing feature of the job seeker compliance framework and the supporting legislation, and since the framework's inception has existed in similar form. The current legislation includes, for each failure type, the proviso that "the Secretary must not determine that the person commits [the failure] in the person satisfies the Secretary that the person has a Reasonable Excuse for the failure". One notable change was that, in July 2011, Reasonable Excuse provisions were tightened so that a job seeker's Reasonable Excuse for not attending an appointment or activity is not accepted if they could have given advance notice of their inability to attend but failed to do so. No definition of Reasonable Excuse is given in the primary legislation so it is left to the discretion of the decision maker to decide whether or not to accept an excuse. However, under section 42U of the *Social Security Administration Act 1999*, the Secretary is required to determine by legislative instrument matters that must be taken into account in deciding whether a person had a Reasonable Excuse.

The current determination, *Social Security (Reasonable Excuse— Participation Payment Obligations) (DEEWR) Determination 2009 (No. 1)*, lists the factors that must be taken into account in determining if a job seeker had a Reasonable Excuse as:

- their access to safe, secure and adequate housing, or used emergency accommodation or a refuge
- their literacy and language skills
- if they had an illness, impairment or condition requiring treatment
- if they have a cognitive or neurological impairment

- if they have a psychiatric or psychological impairment or mental illness
- if they have a drug or alcohol dependency
- any unforeseen family or caring responsibilities
- if they were subject to criminal violence (including domestic violence and sexual assault)
- if they were adversely affected by the death of an immediate family member or relative
- if they released from prison within 28 days before the failure.

The determination states that if one of the above factors exists but does not have a significant effect on the person's capacity to comply with their requirement, then it must not be taken into account. Conversely, the legislation is clear that this list is not exhaustive and other factors can be taken into account. Despite this, there have been anecdotal reports of the list in the determination being used as a 'yes/no' checklist test of whether the recipient has a reason not to meet their requirements. This is not consistent with the policy intent of accepting Reasonable Excuse only when a circumstance beyond the person's control significantly influenced their ability to comply.

A further issue that has been raised in relation to Reasonable Excuse is that it is theoretically possible for job seekers to continuously cite a Reasonable Excuse without seeking to address the issue that is making it difficult for them to meet their requirements. The Boston Consulting Group Report *Strengthening the delivery of welfare payments*, recommended addressing this issue specifically in relation to drug and alcohol use. However, there is no particular evidence that job seekers are repeatedly using Reasonable Excuse in this way. Only one per cent of job seekers had two or more Participation Reports rejected in a twelve month period due to Reasonable Excuse, and less than 0.5 per cent had three or more rejected. In both cases, the major reason was due to medical condition (although this may include drug and alcohol use). [Table 110.1](#) ~~Table 10.1~~ shows the split of job seekers by reasons for accepted Reasonable Excuse on more than 2 occasions.

Table 110.1 Number of job seekers with multiple Reasonable Excuses in a twelve month period (either the same or different excuse)

| Any Reasonable Excuse | 11,090 |
|--|---------------|
| Medical condition - evidence provided | 4,202 |
| Medical condition - no evidence provided | 3,043 |
| Working at time of requirement - unable to comply | 1,578 |
| Major personal crisis affected capacity to comply | 1,030 |
| Homelessness affected capacity to comply | 887 |
| Activity test exemption exists | 726 |
| Care for sick/frail family member | 709 |
| Nil entitlement for failure period | 652 |
| Undertaking other acceptable activity | 635 |
| Bereavement - family member | 583 |
| Unforeseeable transport difficulties | 553 |
| Child care responsibilities | 469 |
| Legal requirement or restriction | 357 |
| Attending job interview at time of requirement | 282 |
| Undertaking other approved or acceptable activity | 155 |
| Left job for good reason or other than voluntarily | 138 |

| | |
|-----------------------------------|-----|
| Language/literacy/numeracy issues | 101 |
| Cultural diversity issues | 74 |
| Others | <20 |

Note: Totals do not sum as it is possible for a job seeker to have different Reasonable Excuse reasons on subsequent occasions.

Reasonable Excuse data also includes a number of reasons that are not indicative of failure to participate. For instance, 14 per cent of job seekers with multiple Reasonable Excuses were working at the time of at least one of the requirements they missed, likewise 7 per cent were exempt from activity test requirements on at least one of the instances.

While the data does not support the assertion that there are large numbers of people repeatedly relying on the same excuses without addressing their barriers, it is theoretically possible and a potential loop-hole in the compliance framework. As it is difficult to dispute a job seeker's claim that a particular issue was responsible for their non-compliance, this creates the potential for job seekers to disengage from seeking employment and participating in activities that might help them gain employment without consequence. For instance, a job seeker with a drug or alcohol dependency could avoid penalties without being required to address their condition in any way – even where services are available. Likewise a person with language or literacy difficulties could repeatedly not comply with their requirements, despite making no effort to address their language or literacy barriers. This is not consistent with the policy intent of activity-tested payments, which is to require recipients to do all they can to address their barriers and move into work where they are able.

Amending the Reasonable Excuse determination could address both this issue and the issue of the determination list anecdotally being used as a checklist. The determination could be amended to place greater emphasis on the general requirement to consider only circumstances beyond the person's control that significantly contributed towards their non-compliance, with an added statement clarifying that decision makers would not need to consider any issues that were within the power of the job seeker to address but they chose not to. This would not preclude decision makers from considering these circumstances, but would reinforce that generally only circumstances beyond the job seeker's control would be considered a Reasonable Excuse.

Amending the primary legislation to specifically preclude decision makers from considering circumstances where the job seeker was able but chose not to address their issue is not recommended. There may be instances where a person was technically able, on a narrow interpretation, to address the circumstance that resulted in their failure but a reasonable person would not see it as reasonable to do so in all cases. For instance, a job seeker who is subject to domestic violence technically could avoid the situation by moving away etc. However, in reality these situations are more nuanced, and a reasonable person would not expect a repeated subject of domestic violence to be penalised for not moving away from the perpetrator. Legislating inability to consider circumstances within a job seeker's control may lead to an unintendedly narrow interpretation. Changing the determination to clarify that decision makers do not need to consider factors within the job seekers control would reinforce that Reasonable Excuses should usually only relate to circumstances beyond job seekers' control, without limiting discretion in cases where it might be necessary.

This would also achieve the objective of the Boston Consulting Group's recommendation to reduce the possibility of job seekers repeatedly using their drug and alcohol use as an excuse for not meeting their requirements, without specifically limiting the new policy approach to cases of drug and alcohol use, which would not address the potential for broader misuse of Reasonable Excuse.

There have been previous attempts to amend the Reasonable Excuse determination. In 2014, a revised legislative instrument was introduced to tighten Reasonable Excuse, but was disallowed by the Senate. This determination had a more general but tighter approach to factors that needed to be taken into consideration in determining Reasonable Excuse, specifying consideration must include if there were "exceptional and unforeseeable circumstances beyond the person's control such that no reasonable person would expect the person to comply with the requirement". There was also a shorter list of factors that must be taken into account. Significantly, the determination stated that the factors are not to be taken into account unless the Secretary was satisfied that the matter "directly" prevented the person from meeting their obligations. This is different from the current determination, which only specifies that a circumstance not be considered if it did not have a "significant" effect. The use of the term "directly" was relatively controversial, and opposed by both Greens and Labor Senators speaking on the motion to disallow the determination. Much of the opposition to the revised determination also appeared to be in the context of opposition to other policy measures announced in the 2014 Budget. Greens and Labor Senators explicitly stated they were considering the determination in the context of other policy measures at the time. It is likely therefore that the proposed amendments to the Reasonable Excuse determination would be less controversial, and less likely to be disallowed.

Recommendation 2.1: Amend reasonable excuse instrument

Amend the *Social Security (Reasonable Excuse— Participation Payment Obligations) (DEEWR) Determination 2009 (No. 1)* to encourage decision makers determining Reasonable Excuse to take into account only factors beyond the job seeker's control that significantly affected their ability to comply, clarifying that where job seekers have elected not address issues when they were able to do so, these do not need to be taken into account.

Recommendation 2.2 Strengthened Reasonable Excuse training for DHS staff

To support the above proposed changes to Reasonable Excuse arrangements, it is recommended that funding be provided for additional training of DHS staff involved in penalty decision making. Further, to ensure consistency of Reasonable Excuse decisions, compliance report rejection rates should also be actively monitored for different DHS staff, taking into account regional differences. Those staff with inexplicably high or low rejection rates would receive appropriate follow up training. Monitoring of rejection rates should not be used to set targets or benchmarks, and these would not be made widely available to staff. This recommendation would be beneficial even if the above recommended changes to Reasonable Excuse provisions are not agreed.

Recommendation 2.3: Requirement for job seekers to be proactive in advising of a reasonable excuse

It has always been the case that the legislation technically puts the onus on the job seeker to satisfy the Secretary that they had a Reasonable Excuse for their failure. Despite this, it has been a longstanding practice that DHS does not apply financial penalties without first talking to the job

seekers. Where a job seeker is not contactable, their payment is withheld until they contact DHS or is automatically cancelled after 28 days of the job seeker failing to report. It would be more consistent with the concept of giving greater personal responsibility to job seekers, and would reduce the administrative burden on DHS, to implement the legislation as written and put the onus more firmly on job seekers to satisfy the decision maker that they had a Reasonable Excuse for any failure to meet their requirements.

Under the two-stage compliance framework model proposed (Recommendation 1), the onus would be on job seekers to be proactive in satisfying their provider or DHS that they had a Reasonable Excuse for their failure in order to avoid incurring a demerit point or loss of payment. However if this broader recommendation is not adopted, the same approach should be adopted within the current framework. This would not require any amendment to the legislation or the Reasonable Excuse determination.

Observation: Reasonable Excuse before appointments:

The issues discussed above predominantly relate to assessing reasons why the individual could not attend an appointment that they were scheduled to attend after they have missed the requirement. However, under the current framework, job seekers are not generally able to reschedule appointments or defer participation in activities without providing a valid reason. Ensuring that job seekers have a valid reason for not attending a future appointment uses significant administrative resources and removes control from the job seeker, diminishing their personal responsibility.

It is important to ensure that job seekers attend their obligations; and constant changes to appointment times would also place an administrative burden on providers. However, as discussed in Chapter 5 Data Analysis, the vast majority of job seekers are compliant, and are willing to meet their requirements. Where there is existing capacity by providers to accommodate changes to activity or appointment timing, there is little rationale for unnecessarily restricting the majority of job seekers from rescheduling their obligations to better suit any other commitments.

In an employment context, meta-analysis of 222 psychological studies has shown that greater locus of control (the extent to which people have control over their own fate) is associated with greater job motivation, attendance, performance and satisfaction¹²⁶. It would therefore appear reasonable that greater control of the timing of mutual obligation requirements may contribute to a better relationship between job seekers and providers, as well as better engagement and attendance by job seekers.

The two-stage compliance framework model proposed (Recommendation 1), would provide job seekers with greater control of the timing of appointments and activities, where possible, instilling greater personal responsibility in job seekers while allowing effort and resources to be redirected to the more persistently non-compliant. However if this broader recommendation is not adopted, a smaller scale change that allowed greater ability to reschedule requirements would still be beneficial.

¹²⁶ Thomas W. H. Ng, Kelly L. Sorensen and Lillian T. Eby (2006) *Locus of Control at Work: A Meta-Analysis* Journal of Organizational Behavior, Vol. 27, No. 8, pp. 1057-1087

11 Observation: Job seekers working cash-in hand

Key Findings

- A small and persistent cohort of income support recipients appears to be working cash-in-hand while not declaring their income.
- Under current arrangements, it is difficult to isolate this group.

A consistent theme of consultations with jobactive providers was that there is a small but persistent cohort of unemployment payment recipients not actively looking for work where they are able to. A number of providers stated that they could identify particular individuals who were working cash-in-hand and not reporting their earnings to DHS. Some providers also highlighted that job seekers would identify work as a reason for missing appointments, but not report earnings to DHS. This may be due to job seekers undertaking cash-in-hand work or creating an excuse to miss appointments; neither of which is consistent with the policy intent of income support as a safety net to help unemployed people support themselves into work, where possible.

Consultations with DHS compliance staff in Participation Solutions Team (PST) echoed these findings, with broad agreement from staff regarding the prevalence of payment recipients undertaking cash-in-hand work. While some cash-in-hand workers were reported to be hard to identify, others were more obvious. During observed phone calls from job seekers to PST, a number of job seekers had been without payment for several weeks but had either reportedly not noticed or had been 'too busy' to call and have their payment reinstated – despite not complying with any of their requirements during this period. This suggests these recipients had a means of supporting themselves financially, other than unemployment payments. DHS staff indicated that these situations were not particularly unusual.

Recipients of unemployment payments who are supporting themselves through cash-in-hand work or other non-declared means are likely not genuinely looking for work. While a small minority of recipients, non-genuine job seekers are likely disproportionately visible to employers and members of the public, applying for jobs that they do not want etc. This undermines public confidence in the targeting of the income support system and increases the cost to the Australian tax payer. Individuals claiming income support to which they are not entitled have a direct cost through additional income support, but also result in unnecessary extra funding of support services such as jobactive and DHS administration. These funds could be more appropriately targeted to genuine job seekers, or other Government priorities.

Using existing administrative arrangements it is difficult to isolate this group, however better leveraging the information available to providers and PST would allow their identification and cancellation from income support, where appropriate.

Consultations with DHS show that individuals often identify that they have been working cash-in-hand when discussing previous non-compliance with PST within DHS. Currently PST records the job

seeker's income, which would usually result in a debt being raised against the individual. However, except in the most egregious cases, individuals are reportedly not usually referred to fraud investigation.

Providers also have extensive interactions with job seekers, including conversations about work history and how they are spending their time. This interaction provides extensive information on job seekers; and in some instances may identify that an individual is working and not declaring income or is otherwise not entitled to the payment they are receiving (e.g. receiving a single rate while partnered etc.). During consultations, a number of providers claimed that they could identify those job seekers on their caseload who are working cash-in-hand, and likely therefore not entitled to income support.

Under current arrangements, employment service providers are able to record that a job seeker is working in the Employment IT system. If the job seeker attempts to report zero income within the next 14 days, they are referred to speak to a DHS staff member. However, reports of income after 14 days are not affected and an individual can be recorded by the provider as working and not report income. This means that providers can be fully aware that the job seeker is working without them necessarily reporting any income to DHS. While employment services are delivered by private providers, they are a delivery arm of a Government programme. The fact that it is possible for income support recipients to tell providers one thing and DHS another without detection may not align with community expectations.

Where providers suspect job seekers are defrauding the income support system, they are able to use a general hotline or online reporting mechanism. However, this system is open to all members of the public with no dedicated way to identify that the information comes from a provider. Providers therefore may be reluctant to use this service. A dedicated provider reporting mechanism would allow linkage to the job seeker's record to easily identify the job seeker in question and quantification of potential over-payment to facilitate prioritisation of DHS' investigations.

Many recipients who are working cash-in-hand would likely have worse compliance with their mutual obligation requirements and so would be quickly identified by revised recommended compliance arrangements (see Recommendation 1). However, potentially not all recipients would be identified in this way and, where they are identified, deliberate fraud may not be referred for appropriate investigation.

While not directly within the scope of the Review compliance policy could be supported by some changes to identify income support recipients who are defrauding the income support system by not reporting income. Future policy developments could include consideration of options to improve:

- Employment service providers' linkage with job seekers' income reporting to DHS, so that each time job seekers report zero income to DHS while recorded by the provider as working this prompts the provider to discuss the discrepancy with the job seeker.
- Employment service provider fraud reporting mechanism, so that providers are more easily able to report to DHS where they suspect that a job seeker is working cash-in-hand or otherwise claiming payments to which they are not entitled.
- Referral of job seekers contacting compliance team of DHS to fraud investigation, where appropriate.

Action in this area would disincentivise job seekers falsely telling providers they are working to avoid attending appointments or other activities and would also align with the intent of the Black Economy Taskforce, announced in the 2016-17 MYEFO. As with individuals not reporting their tax obligations correctly, income support recipients not correctly reporting their earnings increases the cost to the Australian tax payer.

12 Observation: Enforcing Work for the Dole participation

Key Findings

- A historic legislative quick means that job seekers in similar situations can be subject to different compliance arrangements in Work for the Dole, based on their rate of payment.

For the majority of jobactive job seekers, Work for the Dole is the default activity for meeting their Annual Activity Requirements (AAR) (if still in jobactive after 12 months), where it is available, and they may also be required to undertake Work for the Dole at other times. Job seekers in the Community Development Program also have Work for the Dole requirements, generally for 25 hours per week all year round.

Significantly, however, Work for the Dole cannot be included as a compulsory requirement in a Job Plan where the job seeker receives a part rate of payment due to the income test. This has been the case since the introduction of Work for the Dole in 1997, and is specified in the Social Security Act 1991. Under current arrangements, for job seekers receiving a part rate, Work for the Dole can be included as a voluntary requirement in Job Plans. However, job seekers cannot be penalised for failure to participate in a voluntary activity and, as such, job seekers receiving a part rate of income support cannot be penalised for deciding not to participate in Work for the Dole.

If a job seeker agrees to voluntarily participate in Work for the Dole to meet their requirements, and fails to actively participate, generally providers should consider replacing the voluntary Work for the Dole Activity with an alternative compulsory approved activity. The job seeker can then be penalised for failing to participate in the alternative compulsory activity, but there may be delays in recognising that the job seeker is not actively participating and arranging another activity. This means that a job seeker could have a relatively long period without any consequences for deliberately not participating with activities in their Job Plan with which they agreed.

That job seekers receiving a small rate of payment should not be required to participate in Work for the Dole in return for income support is consistent with the original intent of the scheme. Originally, although the Government was careful to ensure that no employer/employee arrangement existed between a participant and their host or the Commonwealth, Work for the Dole was a way of 'earning' income support, and any skills building was incidental. Speaking for Government on the Social Security Legislation Amendment (Work for the Dole) Bill 1997 the former Minister for Schools, Vocational Education and Training stated:

"...it is fair and just that people receiving unemployment allowances be asked to make a contribution to the community in return." ¹

"This is not a training scheme. We have never claimed that it was..."

At the time of introduction, Work for the Dole hours were based on working at an averaged national training wage award level C rates in return for income support, and so maximum hours differed for different age groups.

However, the purpose of Work for the Dole has evolved to be more nuanced in the two decades of its existence. Currently, Work for the Dole is a work experience program that places job seekers in activities where they can gain experience and confidence while undertaking work-like activities at a host organisation or as part of a community-based project. This helps participants to develop skills like team work, communication and reliability, increases their confidence, shows they are ready to start working and helps them make contacts. In the context of this more modern approach, there is minimal rationale for job seekers receiving a part-rate of payment to be exempt from compulsory participation in Work for the Dole. Job seekers receiving a part-rate of payment would likely accrue all the same benefits as those receiving a full rate.

Applying the original policy rationale that a job seeker participated in Work for the Dole in return for their payment, it could be argued that a recipient of a part-rate should not be required to participate in Work for the Dole since they are not receiving as much payment. However, this ignores the fact that there is no effective difference between a Newstart recipient earning \$104 per fortnight and receiving a full rate of payment and another individual in the same circumstances but earning \$105 and with a rate reduced by \$0.50. Additionally, under current arrangements there is no longer a clear nexus between the rate received by an individual and the amount of hours of Work for the Dole they are required to do – for instance, a Parenting Payment Single recipient (with mutual obligation requirements) would receive a maximum basic rate 2.56 times the value of a Youth Allowance recipient living at home, but (for instance) would generally have only half the AAR.

An additional concern is that these arrangements provide an incentive for job seekers to report a fictional amount of income immediately above the income free area so as to face a minimal reduction to payment to avoid compulsory Work for the Dole. While there is no evidence that a significant number of job seekers are behaving in this way, it is a potential loop-hole in the job seeker compliance framework.

A further argument could be made that those job seekers whose rates are reduced due to work are already likely to be motivated and have higher work-like skills etc., and they are therefore a lower priority for Work for the Dole participation. However, not all job seekers receiving a part-rate of payment are working. Recipients' payment rates can also be reduced by partner income or (for dependent Youth Allowance recipients) parental income — 21 per cent of Newstart and Youth Allowance (other) recipients (171,060 recipients) were partnered as at September 2016 and 55 per cent of Youth Allowance recipients were dependent as at June 2016 (53,054 recipients). Moreover, part rate job seekers who are working fewer hours than their requirements must still make up their hours through other activities if they elect not to have Work for the Dole included in their Job Plan. Activities such as voluntary work are often not significantly dissimilar in character to participation in Work for the Dole — however job seekers on a part rate can be penalised for refusing to participate in one but not the other. This differential compliance treatment is the result of historic arrangements, and there is limited policy rationale for a continued discrepancy.

While outside of the immediate scope of the Review, a potential solution would be to remove the legislative restriction on Work for the Dole being included as a compulsory activity in the Job Plan of part rate recipients. This would allow consistent compliance arrangements to apply to Work for the Dole participants on different rates and remove a potential loop hole in the compliance system. It would also ensure consistent (and therefore potentially less confusing) treatment of similar

approved activities. As per existing arrangements, where job seekers are working, they would not be required to reduce their hours under any circumstances, nor would they be required not to increase their work hours. Under current arrangements part-time work can count towards their requirements and job seekers can miss any requirement due to attending work or job interviews — these arrangements would also be retained. This would have the effect that Work for the Dole hours would in practice be an inverse function of the number of hours worked. However, job seekers who are working and only a few hours short of their AAR may still not be required to do Work for the Dole as hosts may not want to offer these places. This would likely be similar to existing arrangements where these job seekers volunteer to participate in Work for the Dole, and job seekers could continue to meet their requirements by supplementing with other approved activities — such as volunteer work.

There may be some controversy or concerns about fairness regarding job seekers with small rates of payment relative to the hours of Work for the Dole they would be required to undertake in some instances. However, as mentioned, these recipients would otherwise be required to meet their requirements through another means such as voluntary work.

13 Alternative Options

The review has also identified a number of policy proposals that could be adopted to improve the compliance framework, should the Government prefer to adopt an incremental approach rather than the comprehensive overhaul of the framework outlined at Recommendation 1. These largely include adjustments to the current system, building on its strengths and addressing its weaknesses.

This is consistent with the Ministers' undertaking in their letter to the Prime Minister that the review would "seek to build on the fully developed and funded options to improve compliance policy contained within the 'Further Strengthening Job Seeker Compliance' Bill, as well as recommendations from the 'Strengthening the Delivery of Welfare Payments' report by the Boston Consulting Group".

Non-legislative options

The following proposals could be implemented without changes to current legislation. Many of these options were developed as part of the 'Further Strengthening Job Seeker Compliance Framework' (FS) measure, and in response to the recommendations of the Boston Consulting Group's (BCG) report 'Strengthening the Delivery of Welfare Payments'.

| Proposal | Source | Description | Policy Rationale | Legislation required |
|---|----------|---|---|-------------------------------------|
| Suspension of payment for inadequate job search | FS & BCG | Job seekers who fail to undertake adequate job search will be subject to income support payment suspension until they demonstrate genuine job search efforts. | <ul style="list-style-type: none"> • Stronger consequences for poor job search. • Simpler and more consistent compliance processes. | No – but stronger with legislation. |
| Align consequences for 3 rd party appointments with provider appointments. | FS | Sanctions for non-attendance at third-party appointments will be aligned to the rules for non-attendance at provider appointments. | <ul style="list-style-type: none"> • Stronger consequences for non-compliance. • Simpler and more consistent compliance processes. | No, but stronger with legislation. |
| Payment suspensions for failure to attend activities | BCG | Job seekers who fail to attend activities may be subject to a suspension until they reengage with their provider. | <ul style="list-style-type: none"> • Simpler and more consistent compliance processes. | No. |
| Job seekers report Reasonable Excuse | BCG | Give job seekers the option of accepting an outstanding penalty or calling DHS to dispute it, instead of always having to call DHS. | <ul style="list-style-type: none"> • Job seekers demonstrate personal responsibility. • Reduced admin burden for DHS. | No. |

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|--|----------|--|---|-----|
| Better feedback for providers from rejected penalties. | BCG | Better feedback for providers where penalties are rejected by DHS. | <ul style="list-style-type: none"> • Reduced admin burden for DHS and providers. | No. |
| Increase comprehensive compliance assessment triggers | FS / BCG | Change CCA triggers – more penalties incurred before CCA is triggered. | <ul style="list-style-type: none"> • Reduced admin churn for DHS. • Stronger consequences for persistently non-compliant job seekers. | No. |
| Restrict waivers for refusing work or persistent noncompliance | BCG | Job seekers may only receive a waiver for their first serious failure. Subsequent serious failures must result in an eight week non-payment period. | <ul style="list-style-type: none"> • Stronger consequences for persistently non-compliant job seekers. | No. |
| Target financial penalties at job seekers with a history of non-compliance | | Guidelines are changed so that job seekers with only a small number of previous failures should only be subject to suspensions and financial penalties, whereas job seekers with several previous failures should always be subject to financial penalties and not just suspensions. | <ul style="list-style-type: none"> • Utilises the principles underpinning rec 1 within the current framework • Reduced admin burden for DHS. • Stronger consequences for persistently non-compliant job seekers. | No. |

Additional options requiring legislative change

In addition to the options listed above, the following options can also be pursued using legislation already drafted.

| Proposal | Source | Description | Policy Rationale | Legislation required |
|---|--------|--|---|----------------------|
| Simplify legislation | FS | Change legislation so all short-term financial penalties are referred to as a 'no show no pay' penalty. | <ul style="list-style-type: none"> • Simplification will make legislation easier to understand. | Yes. |
| More immediate deduction of NSNP penalties. | FS | No show no pay penalties will be deducted from the job seeker's very next fortnightly instalment of income support rather than from the second fortnightly payment after DHS decides to apply a penalty | <ul style="list-style-type: none"> • More immediate consequences for not attending activities or job interviews. | Yes |
| Remove waivers for refusing suitable work | FS | Job seekers who incur serious failures for failing to accept suitable work will no longer be able to get a waiver from the financial penalty by agreeing to undertake a compliance activity. | <ul style="list-style-type: none"> • Stronger consequences for persistently non-compliant job seekers. | Yes |
| Stronger penalties for failure to enter into an EPP | FS | Stronger penalties for job seekers who refuse to enter into a Job Plan, including suspension of payment until they enter a Job Plan and no back pay if they are found not to have had a Reasonable Excuse for their refusal; | <ul style="list-style-type: none"> • Stronger consequences for persistently non-compliant job seekers. | Yes |

Other options considered but not recommended

Remove discretion (BCG)

Removal of discretion without a number of other changes to the compliance framework is expected to significantly increase the costs associated with administering the compliance framework. A previous estimate calculated the cost as approximately \$100m over the forward estimates.

All failures result in financial penalties (BCG)

This would dramatically increase number of penalties and associated administrative costs. Based on current compliance rates, it is estimated this would result in approximately 2.2 million failures requiring investigation per year, a five-fold increase over current rates. This is not considered financially feasible.

Evidence also suggests that financial penalties are unnecessary to ensure good compliance for most job seekers, and may have a negative impact on their future employment outcomes for some job seekers.

Three strikes

A proposal whereby all provider discretion is removed and job seekers are subject to increasing sanctions:

- First strike: Suspend until attend with back pay
- Second strike: Suspend until attend with no back pay
- Third strike: Extended non-payment period

Similar to just removing discretion, this option would be expected to significantly increase the volumes of financial penalties requiring investigation by DHS and associated administrative costs. Based on current compliance rates, it is estimated this would result in approximately 1.6 million failures requiring investigation per year.

This approach would also result in large numbers of job seekers getting financial penalties for their second failure. Evidence suggests this is unnecessary to ensure compliance for most job seekers.

This approach is also expected to result in significant numbers of vulnerable job seekers incurring non-payment periods, which would attract criticism from stakeholders and make the passage of legislation difficult.

14 Glossary

| Term | Description |
|--|--|
| Activity | An activity as part of job seekers' Job Plan e.g. Work for the Dole, training, work experience etc. |
| Activity Test | See Mutual Obligation Requirements. |
| Annual Activity Requirement (AAR) | Job seekers who have mutual obligation requirements need to complete an Annual Activity Requirement (AAR) for six months each year if still in jobactive after 12 months. They can do this by participating in Work for the Dole or another approved activity, such as part-time work, part-time study in an eligible course, accredited language, literacy and numeracy training or voluntary work. The number of hours that a job seeker needs to do to meet their AAR varies according to their circumstance, with job seekers aged under 30 usually required to complete 25 hours per week and older job seekers usually required to do 15 hours per week. Job seekers who have an assessed partial capacity to work or who are principal carer parents are required to complete about half the number of hours as full capacity job seekers. |
| Community Development Program (CDP) | Employment services program that operates in remote communities. The Community Development Program replaced the Remote Jobs and Communities Program (RJCP) on 1 July 2015. |
| Compliance Activities | <p>Any job seeker who incurs an eight week non-payment penalty as a result of a Serious Failure for persistent non-compliance (determined through a CCA) or for refusing to accept or commence a suitable job, can have their payment reinstated if they agree to undertake a Compliance Activity for up to eight weeks.</p> <p>Generally a job seeker with full-time Mutual Obligation Requirements undertaking a Compliance Activity must undertake intensive participation in activities for a total of 200 hours over eight (8) weeks at 25 hours per week.</p> |
| Comprehensive Compliance Assessment (CCA) | <p>A detailed assessment of a job seeker's circumstances intended to identify the reason for their non-compliance.</p> <p>A CCA will be automatically triggered after a job seeker has had either three connection, non-attendance or reconnection failures applied or three NSNP failures applied in a six month period. If, during the previous six months, the job seeker has already had a CCA or has had a serious failure period applied for persistent non-compliance, any failures that occurred before either of those things do not count. Employment services providers or DHS may also initiate a CCA at any other time if they believe a job seeker's circumstances warrant it.</p> <p>Comprehensive Compliance Assessments can result in a range of outcomes including:</p> <ul style="list-style-type: none"> • Employment Services Assessment • Revised JSCI • Vulnerability indicator added to job seekers record • Serious failure for persistent non-compliance • No outcome |

| Term | Description |
|---|---|
| Connection Failure | <p>A connection failure may be applied if a job seeker has failed to:</p> <ul style="list-style-type: none"> • attend a mandatory appointment with a third party provider); • enter into a Job Plan (Employment Pathway Plan for the purpose of Social Security Law); or • meet a job search requirement in their Job Plan without a reasonable excuse. <p>A connection failure does not result directly in a financial penalty but is counted towards the number of penalties required to trigger a Comprehensive Compliance Assessment.</p> |
| Department of Human Services (DHS) | Responsible for making payments and administering the compliance framework. |
| Discretion | <p>Under the current framework, providers have discretion whether to use the compliance framework when a job seeker fails to meet a mutual obligation requirement.</p> <p>For some requirements (like attendance at provider appointments), the provider is required to record the use of discretion, but for other requirements the provider may simply choose not to take any action.</p> |
| Disability Employment Services (DES) | Employment services program that provides services to job seekers with a disability. This includes recipients of participation payments and disability support pension. |
| Eight week non-payment penalty | <p>The current penalty for incurring a serious failure. A Serious Failure can be applied for:</p> <ul style="list-style-type: none"> • refusing a suitable job offer; • failing to commence in a suitable job (after having accepted it); or • persistent and wilful non-compliance (can only be applied following a Comprehensive Compliance Assessment. • Income support payments are not paid to a job seeker for eight weeks as a result of a Serious Failure to comply with their Mutual Obligation Requirements. <p>Note: a job seeker can elect to undertake a Compliance Activity in lieu of serving an eight week non-payment penalty for the reasons above. If a job seeker is unable to undertake a compliance activity, they may also receive a waiver if they meet the criteria for severe financial hardship.</p> |
| Employment Pathway Plan (EPP) | The term for a job plan in social security law (see Job Plan). |
| Employment Service Provider | Generic term for a jobactive, DES or CDP provider. |
| Exemption | An exemption from mutual obligation requirements. Job seekers with exemptions are not required to participate in employment services or undertake any mutual obligation requirements for the duration of their exemption. An exemption can only be granted by DHS, and applies for a range of circumstances where the job seeker is unable to participate for more than 8 hours per week. |
| Financial Penalty | A deduction of income support from a job seeker's payment. This can be all or part of a job seeker's payment, and is only applied by DHS after investigation of the failure that led to the penalty. |

| Term | Description |
|--|--|
| jobactive | Employment services program that operates in the majority of Australia, excluding remote communities. on 1 July 2015, jobactive replaced the previous contract Job Services Australia. Based on their work readiness, job seekers are divided between three streams of jobactive, A, B and C. |
| Job Plan | A plan that sets out a job seeker's mutual obligation requirements, as well as other activities they have agreed to undertake on a voluntary basis. Job seekers are required to enter into a job plan as a condition of receiving income support. |
| Job Seeker Classification Instrument (JSCI) | <p>The Job Seeker Classification Instrument is used to measure a job seeker's relative difficulty in gaining and maintaining employment and to identify those job seekers who have complex or multiple barriers to employment that need further assessment.</p> <p>Job seekers are assessed when they first register for employment assistance and any time they experience a significant change in their circumstances. This ensures they are allocated to the most appropriate level of jobactive assistance or other services such as Disability Employment Services and the Remote Jobs and Communities Programme.</p> <p>Under jobactive, the Job Seeker Classification Instrument is used to allocate job seekers to one of the first two levels of employment assistance – Stream A or B as appropriate to their needs. It also identifies job seekers who have complex or multiple barriers to employment and may require a more comprehensive assessment through an Employment Services Assessment.</p> |
| Mutual Obligation Requirements | What a job seeker is required to do in order to receive income support. A job seeker's mutual obligation requirements are set out in a job plan, and differ according to their capacity and circumstances. |
| Non-attendance Failure | <p>A failure applied for failing to attend an appointment with an employment service provider, or for misconduct at an appointment.</p> <p>A non-attendance failure results in a loss of one-tenth of the job seeker's fortnightly Income Support Payment for each business day from the day they were notified or were deemed to have been notified of the failure until the day before they attend the re-engagement appointment (or fail to attend with a reasonable excuse).</p> |
| Non-Attendance Report (NAR) | <p>An electronic report submitted tot DHS by a provider when a job seeker has failed to attend an appointment.</p> <p>Following an automatic DHS IT system validity check, the job seeker's Income Support Payment may be suspended until the job seeker attends a re-engagement appointment.</p> |

| Term | Description |
|---|--|
| No Show No Pay (NSNP) Failure | <p>A No Show No Pay (NSNP) failure may be applied if the job seeker has failed to:</p> <ul style="list-style-type: none"> • attend or behave appropriately at an activity in the Job Plan, or • attend or behave appropriately at a job interview with a prospective employer. <p>Following DHS investigation into the non-compliance, the job seeker may lose one-tenth of their fortnightly Income Support Payment for every day they do not participate and did not have a Reasonable Excuse. A NSNP penalty does not reduce the job seeker's Income Support Payment for the pay period in which it is incurred; the penalty amount is deducted from the payment period following the payment period in which the job seeker was notified of the decision to apply the failure.</p> <p>If the employment service provider indicates that the job seeker has become disengaged from the activity, payment may additionally be suspended until the job seeker agrees to attend a re-engagement appointment.</p> |
| Participation Failure | <p>Any failure to meet a mutual obligation requirement.</p> <p>A participation failure refers to the event – e.g. the failure to participate in an activity where that event has been reported to DHS and DHS has determined that the job seeker did not have a reasonable excuse for the failure.</p> |
| Participation Report (PR) | <p>An electronic report submitted to DHS by a provider when a job seeker has failed to meet a mutual obligation requirement. Participation reports include:</p> <ul style="list-style-type: none"> • No Show No Pay failures • Some Reconnection Failures • Connection Failures • Serious failures for refusing or failing to commence in suitable work) <p>Participation reports do not include:</p> <ul style="list-style-type: none"> • NARs • PARs <p>DHS investigates participation reports, including by speaking to the job seeker, and decides whether to apply or reject the failure.</p> |
| Provider Appointment | <p>Appointment between a job seeker and their Employment Service Provider.</p> |
| Provider Appointment Report (PAR) | <p>An electronic report submitted tot DHS by a provider when a job seeker has failed to attend an appointment. A PAR may be submitted after a NAR, only when the provider makes contact with the job seeker and the provider is not satisfied that reasonable excuse exists. DHS will investigate and determine whether the job seeker has a reasonable excuse for not attending.</p> <p>If reasonable excuse does not exist, the job seeker will incur either a Non-Attendance Failure or a Reconnection Failure (a Non-Attendance Failure is the first in a series and a Reconnection Failure is the second or subsequent in an unbroken series of financial penalties).</p> |
| Participation Solutions Team (PST) | <p>DHS officers who administer the compliance framework. This includes conducting investigations of non-compliance, applying financial penalties, and conducting comprehensive compliance assessments.</p> |

| Term | Description |
|---|--|
| Reasonable Excuse | <p>A participation failure can only be applied where the job seeker has no reasonable excuse for the failure. Decisions about reasonable excuses are based on a legislative instrument under social security law, the:</p> <p>Job seekers are expected to contact their provider beforehand to notify of their inability to attend their appointment or activity. Even if the job seeker clearly had a reasonable explanation at the time of the non-attendance, their excuse may be rejected if it was reasonable for the job seeker to contact their provider beforehand but failed to do so.</p> |
| Reconnection Failure | <p>A failure applied for failing to attend a reengagement appointment with an employment service provider, or for failing to meet a reconnection requirement.</p> <p>A Reconnection Failure results in loss of payment from the date of the failure until the day the job seeker meets a further reconnection requirement (such as attending a further appointment)</p> |
| Re-engagement | <p>The process by which:</p> <ul style="list-style-type: none"> • a provider re-engages a job seeker with employment services following an incident of non-attendance at a provider appointment; or • DHS re-engages a job seeker with employment services following an incident (or incidents) of non-compliance with their Mutual Obligation Requirements, a period of Exemption or the completion of an approved activity. |
| Suspension of Payment / Payment Suspension | <p>A temporary suspension of a job seeker's payment. When a job seeker's payment is suspended, the job seeker will not receive any income support until a specified condition is met (e.g. the job seeker attends an appointment). Once a suspension is lifted, the job seeker receives full back pay for the duration of the suspension.</p> <p>Note: Job seekers whose payment is suspended for 28 days may have their payment cancelled.</p> |
| Third Party Appointment | <p>Appointments with third parties such as Work for the Dole activity providers, training and education providers, not-for-profit organisations and community service organisations.</p> |
| Twelve week non-payment period | <p>Job seekers will be subject to a 12-week Non-Payment Period if they receive Relocation Assistance to Take Up a Job and within the first six months, they voluntarily leave or employment is terminated due to misconduct.</p> |
| Unemployment Non-Payment Period (UNPP) | <p>A non-payment period that applies when a job seeker voluntarily leaves a suitable job without a reasonable excuse, or is dismissed from a suitable job for misconduct. Under current arrangements, a UNPP lasts for eight weeks.</p> <p>For job seekers who are making a new claim for an Income Support payment, this means they will not be entitled to receive a payment for up to eight weeks and job seekers who are already in receipt of payment will have their payment stopped for eight weeks.</p> <p>UNPPs can be waived where the job seeker meets the criteria for severe financial hardship and is a specified class of person.</p> |
| Unemployment Payment | <p>Income support payment received by a job seeker. This includes Newstart Allowance, Youth Allowance (Other) as well as activity-tested Parenting Payment Single and Special Benefit</p> |

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