

The Job Seeker Compliance Framework – Explanatory Notes

Role of the Job Seeker Compliance Framework

When a job seeker receives activity tested income support payments they are required to enter into a Job Plan which sets out their mutual obligation requirements. These requirements include looking for work and undertaking other activities to improve their employment prospects. These requirements are consistent with general community expectations that income support payment recipients are doing all that they can to find suitable work. If a job seeker fails to meet their requirements without a good reason they can be penalised under social security law. This is known as the Job Seeker Compliance Framework.

Recent changes to the Framework

Changes have been made to the Job Seeker Compliance Framework in three stages, through the 'Strengthening the Job Seeker Compliance Framework' measure. These changes were in relation to non-attendance at provider appointments and include the introduction of the Non-Attendance Report (1 July 2014); 'Suspend til attend' policy, meaning job seeker's income support payments remain suspended until they attend a subsequent appointment – not just agree to attend (1 January 2015); and the ability for providers to recommend a financial penalty be applied through the submission of a Provider Appointment Report (1 July 2015).

Procedures for reporting non-compliance

Most job seekers are required to participate in employment services, which include jobactive (for the majority of job seekers), Disability Employment Services and the Community Development Programme. Employment services providers work with a job seeker and negotiate the mutual obligation requirements to be included in the Job Plan. If these requirements are not met, providers can initiate action under the compliance framework by submitting compliance reports to the Department of Human Services for investigation. Employment services providers have discretion as to whether they decide to report instances of non-compliance to the Department of Human Services. This choice depends on what providers think the most appropriate strategy is to re-engage the job seeker.

Before deciding to submit a compliance report to the Department of Human Services, providers must attempt to contact the job seeker to find out why they did not contact their provider beforehand to let them know they could not attend, and if they had a valid reason for not attending the appointment or activity. If the provider is unable to contact the job seeker or if the provider does not believe the job seeker has a reasonable excuse, the provider may then submit the appropriate report.

Different Types of Compliance Reports

A ***Non-Attendance Report*** notifies the Department of Human Services that a job seeker has not attended an appointment with their provider and either was unable to be contacted by the provider or the provider does not believe they have a reasonable excuse for missing the appointment. Upon receipt of a Non-Attendance Report, the Department of Human Services check that the job seeker had mutual obligation requirements on the day the appointment was scheduled to occur. Where this is confirmed, the job seeker's income support payment is immediately suspended. The job seeker receives notification of the suspension and is told to contact their provider to arrange a new appointment. The job seeker's income support payment usually remains suspended until they attend this new appointment.

When contact is made between the provider and job seeker the provider will arrange the new appointment. Since 1 July 2015, providers have also been able to make the decision to submit a ***Provider Appointment Report*** to recommend to the Department of Human Services to impose a financial penalty. Providers may only do so where they do not believe the job seeker had a reasonable excuse for the non-attendance after speaking with them about it.

A provider may submit a ***Participation Report*** if the job seeker has not attended or has behaved inappropriately at an activity, job interview or appointment (other than an appointment directly with the

provider); refused to enter into Job Plan; refused suitable employment; become voluntarily unemployed or behaved in such a way as to be dismissed from suitable employment.

These reports are available to encourage the job seeker to remain engaged with their provider and where possible change behaviour to ensure active participation in return for their income support payment.

Reasonable excuse and notification requirements

When investigating if a penalty should be applied, the Department of Human Services investigates whether the job seeker was properly notified, if the mutual obligation requirement was reasonable and if the job seeker had a 'reasonable excuse'. A reasonable excuse is something that prevented the job seeker from complying and was either unforeseeable and/or outside their control. If they are able to, a job seeker is expected to let their provider know beforehand if they cannot attend an appointment or activity and this forms part of the reasonable excuse determination under social security law.

Protections for vulnerable job seekers

Job seekers who have vulnerability, such as homelessness or a mental health illness are identified by a Vulnerability Indicator on the IT systems used by employment services providers and the Department of Human Services. Vulnerability indicators help ensure that both providers and the Department of Human Services are aware of personal circumstances that may impact on a job seeker's capacity to meet their requirements.

Consequences of non-compliance

A penalty applied by the Department of Human Services for not attending an appointment with an employment services provider results in the loss of 1/10th income support per business day until the job seeker attends a new (re-engagement) appointment. This penalty is called a Non-Attendance Failure in social security law and was introduced on 1 July 2015.

If a job seeker does not then attend the re-engagement appointment, they may incur a further penalty. This also results in the loss of 1/10th income support per business day until the job seeker attends a further re-engagement appointment. These further penalties are called Reconnection Failures in social security law.

Connection and Reconnection failures

Job seekers are required to attend appointments with other organisations as well as employment service providers. For example this could be an appointment with a specialist service provider (such as a career adviser or training provider) or a Work for the Dole host organisation to arrange their activity. These appointments are crucial in ensuring that job seekers are getting the support and specialist services they need to find employment. Where the provider reports this non-attendance to the Department of Human Services, a job seeker's income support payment is suspended whenever they fail to attend an appointment, regardless of who the appointment was with.

No Show No Pay failures

Most job seekers are also required to undertake activities included in their Job Plan such as training or Work for the Dole that will give them the skills, experience and commitment necessary to find paid work. Financial penalties may be applied for failing to participate in these activities. These are referred to as 'no show no pay penalties' and result in the loss of one tenth of the job seeker's fortnightly income support payment for each day the job seeker fails to attend their activity or behaves inappropriately during the activity. A no show no pay penalty can also be applied if a job seeker fails to attend a job interview without a reasonable excuse or deliberately acts in a way intended to make sure they are not offered the job.

Persistent non-compliance - Comprehensive Compliance Assessments

If a job seeker continues not meeting their requirements and has three compliance penalties of the relevant type applied over a six month period, they will be referred for a Comprehensive Compliance Assessment. During this assessment, a senior or specialist Department of Human Services officer will investigate the job seeker's circumstances to identify any barriers to employment and possible alternative service options.

Serious failures and compliance activities

Looking for work is the most important part of a job seeker's mutual obligation requirements. Receiving an offer of suitable work should be the end of the job seeker's time on income support. If a job seeker has persistently failed to comply with their mutual obligation requirements or refuses an offer of suitable work or fails to commence suitable work, an eight week period of non-payment may be imposed. However, this can be ended if the job seeker agrees to undertake a compliance activity (generally 25 hours per week for eight weeks of Work for the Dole or a similar activity) or if the job seeker does not have the capacity to undertake a compliance activity and serving an eight week non-payment period would cause severe financial hardship.

Unemployment non-payment penalties

A job seeker's income support payment will not be paid for a period of eight weeks if they become unemployed due to their misconduct as a worker or voluntarily leave a suitable job (unless the voluntary act is reasonable).

While unemployment non-payment periods are generally for eight weeks, if a person who has received Relocation Assistance to get a job, voluntarily leaves the job without reasonable excuse, or is dismissed for misconduct within the first six months, they may be subject to a non-payment penalty period of 12 weeks. This penalty may also be applied if the job seeker accepts the job and relocates but does not commence employment.