



**Australian Government**  

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**Department of Employment**

# **Industry Information Paper**

**jobactive provider services  
18 month business reallocation**

Commonwealth of Australia 2016

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# TABLE OF CONTENTS

<b>GENERAL INFORMATION AND INDICATIVE TIMELINE</b> .....	iv
<b>INTRODUCTION</b> .....	5
<b>Indigenous Outcome Targets</b> .....	5
<b>Maximum Time with Provider policy</b> .....	5
<b>SCOPE</b> .....	5
<b>BUSINESS REALLOCATION PRINCIPLES</b> .....	6
<b>Novations and Transfers of Business</b> .....	7
<b>PROCESS SUMMARY</b> .....	7
<b>Extenuating Circumstances Process</b> .....	7
<b>Business Assessment Process</b> .....	7
<b>Business Reallocation Process – offer of Additional Business</b> .....	8
<b>ROLES AND RESPONSIBILITIES</b> .....	9
<b>EXTENUATING CIRCUMSTANCES SUBMISSIONS</b> .....	9
<b>What are ‘Extenuating Circumstances’?</b> .....	9
<b>Minimum Requirements for an Extenuating Circumstance submission</b> .....	10
<b>Virus Checking</b> .....	10
<b>Duplicate Submissions</b> .....	11
<b>Timing</b> .....	11
<b>Exclusion of Extenuating Circumstances Submissions</b> .....	11
<b>CONTACT DETAILS</b> .....	12

## GENERAL INFORMATION AND INDICATIVE TIMELINE

29 November 2016	Release of draft Industry Information Paper
13 December 2016	Feedback on Industry Information Paper from jobactive providers to <a href="mailto:espurchasing@employment.gov.au">espurchasing@employment.gov.au</a>
22 December 2016	Industry Information Paper published on the Provider Portal
24 January 2017	jobactive provider 18 month business reallocation webinar session. Providers who wish to attend this session should make a booking by contacting Employment Services Purchasing <a href="mailto:espurchasing@employment.gov.au">espurchasing@employment.gov.au</a> or 1300 733 514 between the hours of 9.00 am and 5.00 pm AEDT
13 February 2017	Release of December 2016 Star Ratings
5.00 pm AEDT 27 February 2017	Closing time and date for Extenuating Circumstances submissions
March 2017	<ul style="list-style-type: none"> <li>• Notification of outcomes to Providers with in-scope business</li> <li>• The Department's initial advice on potential offers of additional business</li> </ul>
April 2017	Dispatch of Deed offers and final execution of Deeds
Mid May 2017	Announcement of jobactive provider 18 month business reallocation results
3 July 2017	Date of effect

## INTRODUCTION

The Australian Government is committed to building a strong and prosperous economy that promotes workforce participation and helps more job seekers to find and keep a job. The objectives of jobactive are to:

- ensure job seekers better meet the needs of employers
- increase job seeker activation and
- increase job outcomes for unemployed Australians.

jobactive providers (Providers) are currently contracted under the terms of the *jobactive Deed 2015-2020* (the Deed) to deliver employment services under the jobactive program until 26 June 2020.

The Government has strong expectations that Providers deliver high-quality employment services for job seekers and employers. To this end, the Department of Employment (the Department) will be undertaking the jobactive provider 18 month business reallocation process as a means of driving Provider performance improvement. This in turn will ensure that job seekers and employers continue to receive the highest quality jobactive assistance available.

This Industry Information Paper will assist Providers in understanding the arrangements and requirements for the jobactive provider 18 month business reallocation process, specifically the:

- principles and processes that will determine whether business will be reallocated
- timelines for the process and
- business considerations for Providers during the process

The Industry Information Paper will assist in ensuring that Providers are aware of, and able to meet relevant timeframes, particularly in relation to Extenuating Circumstances submissions and expressing interest in, and otherwise accepting, offers of additional business.

### **Indigenous Outcome Targets**

A separate process will be used to assess performance against Provider's Indigenous Outcome Target (IOT) however the final jobactive provider 18 month business reallocation may consider IOT performance and both will take effect from 3 July 2017. Providers will be advised of the process relating to IOT via a separate Industry Information Paper.

### **Maximum Time with Provider policy**

The timing of the movement of job seekers due to the jobactive provider 18 month business reallocation aligns with the date of effect for the Maximum Time with Provider policy, which will see the daily transfer of job seekers from 1 July 2017 for those in Stream A who have remained with the same Provider for two years. It should be noted that the movement of job seekers under both the jobactive provider 18 month business reallocation and Maximum Time with Provider process will be treated separately.

## SCOPE

Based on information provided in the *Request for Tender for Employment Services 2015-2020* and the Deed, Providers with a 1 or 2 Star Rating at the Employment Region or Site level, at the end of the December 2016 performance period (using the published December 2016 Star Ratings) will be in-scope for business review and reallocation under the jobactive provider 18 month business reallocation process.

Two other sets of unpublished December 2016 ratings are being calculated and will be used to inform business review decisions made as part of the assessment and reallocation process for in-scope Employment Regions and sites. These are:

- ratings for which performance measure scores have not been standardised; and
- ratings which also include the change in unemployment rate in the regression methodology.

## BUSINESS REALLOCATION PRINCIPLES

The Department has established a series of principles and approaches to guide decisions about the reallocation of jobactive business.

The principles for the jobactive provider 18 month business reallocation will be underpinned by the value for money principles set out in the Commonwealth Procurement Rules (CPRs) under the *Public Governance, Performance, and Accountability Act 2013*. The four supporting principles are:

- encourage competition and be non-discriminatory
- use public resources in an efficient, effective, economical and ethical manner that is not inconsistent with the policies of the Australian Government
- facilitate accountable appropriate engagement with risk and
- be commensurate with the scale and scope of the business requirements.

As set out in the CPRs, value for money is the primary consideration in procurement exercises, and has been used to guide other employment service business reallocations.

Informed by principles and approaches used by the Department for previous business reallocations of mainstream employment services, value for money for the purposes of the jobactive provider 18 month business reallocation will be defined as the optimum combination of factors that:

- provide job seekers and employers with access to high performing Providers;
- provide geographic coverage to ensure job seekers are able to access high performing Providers;
- meet the needs of specific job seeker groups and local labour markets;
- deliver a diverse range of Providers;
- ensure organisational capacity to deliver optimal services to job seekers;
- minimise unnecessary disruption to employers and job seekers; and
- limit risk for the Australian Government.

Additional considerations which will guide jobactive provider 18 month business reallocation decisions are as follows:

- the Department will take upward (and downward) trajectory and trend of Star Ratings into consideration;
- the Department will review and reallocate business at the Employment Region level. If however, it is determined that a Provider's performance at an individual site level is significantly poorer than at other sites in an Employment Region, and the current and projected performance is on a downward trajectory, the Department may also consider this in-scope; and
- as per section 7.12.11 of the *Request for Tender for Employment Services 2015-2020*, the Department, in its absolute discretion, having regard to value for money and the public interest, may consider a number of options to obtain additional service coverage, including:
  - a select tendering process;
  - offering business to other Tenderers, successful or otherwise, including through direct sourcing; and
  - putting a request to Tenderers and/or Providers to consider providing additional gap-filling services to the Department from time to time, as when agreed with the Department.

- It should be noted that gap-filling will only be considered as an option if the Department is satisfied that the current and projected performance of existing Providers within an Employment Region does not demonstrate the Provider's capacity to deliver high quality jobactive services to job seekers.

## **Novations and Transfers of Business**

Where a Provider has recently accepted additional business in an Employment Region, including as a result of a recent novation or transfer of business, and this has resulted in the Provider's business in that Employment Region being in-scope for the jobactive provider 18 month business reallocation process, the Department will assess the in-scope business in line with the jobactive provider 18 month business reallocation principles and determine whether to reallocate that business in accordance with the framework for the process, as set out in this paper.

## **PROCESS SUMMARY**

### **Extenuating Circumstances Process**

Following release of the December 2016 Star Ratings (in February 2017), Providers with business that has been determined as in-scope (that is 1 and 2 Star Providers) for business review and reallocation will have ten working days to provide the Department with submissions regarding any Extenuating Circumstances which may have impacted their performance in the December 2016 Star Ratings period. Providers may complete an Extenuating Circumstances Form for each relevant Employment Region. Extenuating Circumstances are described on page nine.

Where the Department determines the Extenuating Circumstances submitted by a Provider may have caused its performance to be in-scope, the Provider's in-scope business may be exempted from review and reallocation. The Department's decision to exempt or not exempt business on the basis of an Extenuating Circumstances submission is final. Providers will be notified whether any or all of their business has been exempted before business review and reallocation offers are made to alternative Providers.

### **Business Assessment Process**

Following the assessment of any Extenuating Circumstances submissions, the next step in the process will be to assess relevant in-scope business in accordance with the business review and reallocation principles as set out in the 'Business Reallocation Principles' section.

This assessment will consider a range of performance factors, service delivery issues and conditions applying to the delivery of the business. The assessment of these matters is based on information held by the Department including quality indicators. Providers may not provide any further information or input in relation to these matters, unless requested by the Department.

## **Business Reallocation Process – offer of Additional Business**

Following the business assessment process, the Department may determine to reallocate some or all of the in-scope business that has not been exempted from review and reallocation to higher performing Providers.

Where the Department has determined that a Provider may retain some of its business in a particular Employment Region, and the Provider agrees to retain such business, to facilitate this, the Provider may need to close one or more of its sites in the relevant Employment Region. Where this occurs, the Provider must provide the Department with sufficient assistance and cooperation to enable job seekers at that site to be transferred.

All Providers with in-scope business (whether they submitted extenuating circumstances submissions or not) will be advised of the outcome of the business review and reallocation process via correspondence from the Department. It is anticipated this will occur in mid-March 2017.

All Providers that will be offered additional business as a result of the jobactive provider 18 month business reallocation process will be advised in accordance with the process set out below.

It is anticipated that the jobactive provider 18 month business reallocation process, including the transfer of affected job seekers to new Providers, will be completed by 3 July 2017.

Additional business will be offered to Providers on the basis of their performance, capacity to deliver additional business and preparedness and ability to satisfy any conditions relating to that business.

As clarified in the business reallocation principles, the Department will encourage competition and deliver a diversity of Providers in the Employment Region.

Once the assessment process has been completed, the Department will contact potentially gaining Providers to get an indication of whether they would be prepared to accept or decline any offer of additional business, including on the basis of any conditionality that may be attached to that offer. The Department's request and the Provider's response are not legally binding on either the Provider or the Department.

It is anticipated that the first letters of offers will be made to relevant Providers in March 2017. Any letter sent to Providers for this purpose will include advice about the Provider's current and proposed business share in each relevant Employment Region, and will also require the Provider to indicate its preparedness to accept or decline any such offer, if made, within five business days.

Where a Provider indicates it would be prepared to accept an offer of additional business in a particular Employment Region, but would not be prepared to satisfy one or more of the conditions for the relevant business, the Department may, at its absolute discretion, decide to:

- enter into negotiations with the Provider as to the conditions for the relevant business, or
- treat the Provider's response as indicating it would not be prepared to accept an offer of additional business.

Where a Provider indicates it is not prepared to accept an offer of additional business, or where a Provider does not respond to an offer of additional business within the required timeframe, the Department may, at its absolute discretion:

- make an offer to another suitable Provider in the relevant Employment Region or another Employment Region or



- undertake gap filling exercises (as explained in the 'Business Reallocation Principles' section) to find an appropriate Provider.

Providers are encouraged to begin considering whether, if they are offered additional business, internal management processes require particular preparations. For example, Providers may need to schedule governing committee meetings during this time to ensure that key decision makers are available to make a timely decision in regard to an offer of additional business within the required timeframe.

## ROLES AND RESPONSIBILITIES

Departmental staff based in State, Territory and National offices with appropriate expertise, training and regional knowledge of Providers' business will be involved in the jobactive provider 18 month business reallocation process, including the extenuating circumstances process, the business assessment process and business reallocation process.

Departmental staff will consider all submissions regarding extenuating circumstances, review all in-scope business and make recommendations to a Business Review Committee (the Committee) on whether to reallocate some or all of the business to appropriate higher performing Providers or to exempt the business from reallocation.

Each recommendation to the Committee will be made based upon supporting evidence.

The Committee will oversee the jobactive provider 18 month business reallocation process. The Committee will review each of the recommendations made by staff and will accept or reject the recommendations before making a final recommendation to the Departmental delegate.

The delegate will consider the recommendations and make all final decisions on whether to reallocate business.

An external probity adviser has been appointed for the jobactive provider 18 month business reallocation process. The probity adviser will observe and monitor, but will play no role in, the process.

## EXTENUATING CIRCUMSTANCES SUBMISSIONS

### **What are 'Extenuating Circumstances'?**

Extenuating Circumstances, for the purpose of the jobactive provider 18 month business reallocation, are circumstances that occurred outside the Provider's control and not already taken into account for the December 2016 Star Ratings.

Extenuating Circumstances are unforeseen events that impeded a Provider's operational capacity for an extended period of time and contribute to making the Provider in-scope for the jobactive provider 18 month business reallocation in the Employment Region. In their submission, Providers must indicate that business reallocation may not be appropriate due to the extenuating circumstances.

When making Extenuating Circumstances submissions, Providers must demonstrate that the Extenuating Circumstances had a unique, negative, and significant impact on their capacity to deliver outcomes to job seekers rather than a broader impact, which would have affected many or all other Providers in the Employment Region.

Factors that will not be considered to be Extenuating Circumstances include:

- the fact that jobactive is a new employment services market or that there have been changes to jobactive policy since its commencement as all Providers are impacted equally
- situations that are internal to a Provider's organisation, such as change of management or turnover of staff within the organisation
- situations that would have affected all Providers in an Employment Region, such as widespread flooding or predictable seasonal factors
- circumstances that are already incorporated in the Star Ratings model, such as changes in local labour market conditions or job seeker characteristics (for details on the Star Ratings methodology, please refer to the jobactive Performance Framework Guideline on the Department's Provider Portal), and
- where a Provider has recently accepted additional business in an Employment Region, including as a result of a novation or transfer of business. This issue is dealt with in more detail under the heading 'Novations and Transfer of Business'.

Examples of Extenuating Circumstances may be disasters confined to the organisation that damaged a Provider's operational capacity for an extended period, or cultural events affecting a whole or a section of a community, which consequently placed the Provider in-scope for review.

### **Minimum Requirements for an Extenuating Circumstance submission**

To make an Extenuating Circumstances submission(s) the minimum requirements set out below and in this section, as relevant, must be satisfied:

- Providers must make a submission using the Extenuating Circumstances Form, which will be available on the Department's Provider Portal prior to the release of the December 2016 Star Ratings
- a separate submission must be made for each Employment Region for which Extenuating Circumstances are being claimed
- each submission must not exceed 8,000 characters (including spaces)
- completed submissions must be returned to the Employment Services Purchasing Hotline mailbox ([espurchasing@employment.gov.au](mailto:espurchasing@employment.gov.au))
- each submission must be received by 5.00 pm AEDT 27 February 2017.

In completing the form, Providers must answer all relevant questions as required by the Department. Note, graphs, or tables submitted as part of the form or outside the form will not be considered.

When submitting the form, Providers should not print or PDF the document to sign it before emailing the completed document to the Employment Services Purchasing Hotline. Where the signature is required, Providers should type in the name of the person who has authorisation (this will be considered the signatory) to submit the Extenuating Circumstances then save the form and email it to the Employment Services Purchasing Hotline ([espurchasing@employment.gov.au](mailto:espurchasing@employment.gov.au)).

### **Virus Checking**

In submitting an Extenuating Circumstances form electronically, all Providers must take reasonable steps to ensure that the response file is free from computer viruses, worms or other disabling features that may affect computing environments. Documents found to contain viruses, worms or other disabling features may be excluded from the assessment process.

## Duplicate Submissions

Providers that submit duplicate or multiple submissions, prior to the closing date and time must notify the Hotline by email and advise which submission is the final and completed document. In doing so, Providers must provide their legal name, ABN, Employment Region and the time and date of the new and any previous submissions. Where a Provider fails to provide such notification to the Department through the Hotline, the Department will proceed with the latest received submission.

The Department may seek clarification from Providers about errors and Providers may be given the opportunity to correct unintentional errors on the submission. The Department may also seek clarification from Providers about any other matter relevant to the process.

## Timing

Further to the information provided above, all Extenuating Circumstances submissions:

- (a) must be sent to the Purchasing Hotline ([espurchasing@employment.gov.au](mailto:espurchasing@employment.gov.au))
- (b) may be sent from the release of December 2016 Star Ratings on 13 February 2017, and
- (c) must be received by 5.00 pm AEDT on 27 February 2017.

Providers may wish to consider preparing submissions in advance using the proforma where there are concerns that:

- their business is likely to be in-scope and there are Extenuating Circumstances that may have impacted on their December 2016 Star Ratings
- they will have difficulty meeting the timeframe for making Extenuating Circumstances submissions.

Once Providers have submitted their Extenuating Circumstances submissions, they will receive an automated response email from the Hotline mailbox stating that their email has been received. It is recommended that Providers save the auto-reply email.

Any Providers that have not received an automated response within 24 hours of submitting their Extenuating Circumstances submission should contact the Hotline by phone on 1300 733 514.

**Important: Please note the timeframe for returning Extenuating Circumstances submissions. Please also note that any Extenuating Circumstances submissions provided after the closing date and time may not be considered.**

## Exclusion of Extenuating Circumstances Submissions

All Extenuating Circumstances submissions will initially be assessed to ensure they meet the minimum requirements set out in the 'Minimum Requirements for an Extenuating Circumstance submission' section. Where a submission does not meet any of these minimum requirements, including for instance where the submission is incomplete, late or has been provided in an incorrect format (for example, is not on the Extenuating Circumstances Form), the submission may, at the Department's discretion, be excluded from further consideration.

## CONTACT DETAILS

The Employment Services Purchasing Hotline ([espurchasing@employment.gov.au](mailto:espurchasing@employment.gov.au)) (the Hotline) is the primary means of contact during the jobactive provider 18 month business reallocation process.

Questions and clarification about this Industry Information Paper and the jobactive provider 18 month business reallocation process can be requested by:

- Phone - 1300 733 514, the Employment Services Purchasing Hotline (Monday to Friday, 9.00 am to 5.00 pm AEDT, excluding ACT and national public holidays)
- Email - Employment Services Purchasing Hotline ([espurchasing@employment.gov.au](mailto:espurchasing@employment.gov.au)).