



Australian Government
Department of Social Services

2020 Formal Performance Assessment - Industry Information Paper **DRAFT without Prejudice**

DISABILITY EMPLOYMENT SERVICES



GENERAL INFORMATION AND INDICATIVE TIMELINE

3 January 2021	Comments due back regarding this Draft without prejudice Industry Information Paper to DESCommunications@dss.gov.au
January 2021	Release of Final industry information paper and the extenuating circumstances provider submission proforma
Mid-February 2021	Release of December 2020 Star Ratings to DES provider CEOs
Mid-February 2021	Extenuating circumstances and formal performance assessment webinar session Providers who wish to attend this session should make a booking through the Learning Centre. Further details will be sent separately.
Late-February 2021 5.00 pm	Closing date and time for extenuating circumstances submissions – ten business days following release of December 2020 Star Ratings
March - April 2021	Conduct formal performance assessment.
April 2021	Providers with in-scope service(s) notified of assessment outcomes.
May 2021 – June 2021	Any required remedial action to rectify performance, or remove a service.

Table of Contents

GENERAL INFORMATION AND INDICATIVE TIMELINE	2
INTRODUCTION	4
SCOPE	4
FORMAL PERFORMANCE ASSESSMENT PRINCIPLES	4
PROCESS SUMMARY	5
Extenuating circumstances process.....	5
Assessment process.....	5
Notification of Results	5
EXTENUATING CIRCUMSTANCES SUBMISSIONS	5
What are ‘extenuating circumstances’?	6
Example One	6
Example Two	7
Minimum requirements for an extenuating circumstances submission	7
Extenuating circumstances proforma.....	7
Timing.....	7
Virus Checking.....	8
Multiple Submissions	8
Department seeking further information	8
Exclusion of extenuating circumstances submissions	8
ROLES AND RESPONSIBILITIES.....	8
FURTHER INFORMATION.....	9

INTRODUCTION

Disability Employment Services (DES) providers operate under the current DES Grant Agreement until 30 June 2023. In accordance with the terms of the Grant Agreement, the Australian Government will be undertaking a formal performance assessment (Clause 155.6) for **both** DES – Disability Management Service (DES-DMS) and DES – Employment Support Service (DES-ESS). The aim of this process is to help maintain a highly effective and efficient service for participants for the remaining two years of the Grant Agreement.

The formal performance assessment will consider the sustained performance of each DES service - the combination, for each provider, of DES sub-program (i.e. DES-DMS or ESS) and Specialisation, operating in an Employment Services Area (ESA).

As set out at clause 155 of the Grant Agreement, the performance of a DES service will be assessed based on Key Performance Indicators 1 (Efficiency) and 2 (Effectiveness), as measured in the DES Star Ratings.

DES services that have achieved at least average or better outcomes for participants for one or more of the four quarters in the 12-month period up to, and including, the December 2020 Star Ratings will not be subject to the formal performance assessment. DES services that have not achieved average or better outcomes at any time during the four quarters up to and including the December 2020 Star Ratings will be subject to a closer consideration through the formal performance assessment and possible remedial action, which could include removal of service.

The core purpose of DES is to help people, whose disability is their main barrier to gaining employment, find and maintain a job. The benchmarks used to measure this are focused on the achievement of outcomes, as reflected in the Star Ratings system. The purpose of the formal performance assessment is to support high performance in the DES program and to ensure the best possible chance of an employment outcome for DES participants.

This industry information paper is intended to assist DES providers to better understand the 2020 formal performance assessment process, by outlining the:

- principles and processes that will support the Department's determinations as to whether or not remedies will be applied to provider services in an ESA; and
- indicative timelines.

This industry information paper is also intended to help ensure that DES providers are both aware of, and able to meet, relevant timeframes, particularly in relation to extenuating circumstances submissions.

SCOPE

Subject to the paragraphs below, DES services in an ESA that have not achieved at least an 'average' performance rating (3 Stars or above) during the period in any of the four performance quarters up to and including December 2020 will be in scope for assessment and subject to the formal performance assessment process.

A DES service will be in scope for formal assessment where it:

- achieved a Star Rating of 1 or 2 in the December 2020 ratings period, and
- did not achieve a Star Rating of 3 or higher in any of the three previous ratings periods.

Note, where a DES service in an ESA has not achieved a Star Rating over the four performance periods, it will not be subject to a formal performance assessment. The department will continue to monitor performance on an ongoing basis.

FORMAL PERFORMANCE ASSESSMENT PRINCIPLES

The formal performance assessment will have regard to the formal performance assessment principles.

The formal performance assessment principles are based on the Commonwealth Grants Rules and Guidelines (issued under the *Public Governance, Performance and Accountability Act 2013* (Cth)), and Parts II and III of the *Disability Services Act 1986* (Cth).

The formal performance assessment principles that will be followed are based on:

- ensuring providers achieve employment outcomes for participants;
- providing participants and employers with access to high performing DES providers;
- providing geographic coverage to ensure participants are able to access providers' sites in each ESA;
- meeting the needs of specific participant groups and local labour markets;
- delivering, where appropriate, participant choice and a diversity of providers, including through a mix of small, medium and large organisations; and
- appropriately managing risks for the Australian Government.

PROCESS SUMMARY

It is anticipated that the CEOs of all DES providers will receive their organisation's December 2020 Star Ratings in mid-February 2021.

Extenuating circumstances process

Following receipt of the December 2020 Star Ratings, providers with a DES service that has been determined as being in scope for assessment may make submissions for consideration by the Department regarding any extenuating circumstances that they consider impacted on their performance in the March 2020 through to December 2020 Star Ratings. A period of ten (10) business days from the release of the Star Ratings will be provided for submissions. Submissions must be made on the "Extenuating Circumstances Proforma" issued by the Department.

The Department will, at its own discretion, determine whether a submission qualifies as extenuating circumstances. If the Department accepts a provider's extenuating circumstances submission for a DES service that is in scope for assessment, that DES service will be exempted from the assessment process. Providers will be notified of the results of an extenuating circumstances submission, and whether or not the DES service has been exempted, when receiving the outcomes of their in-scope services. See the 'Extenuating Circumstance Submissions' section of this paper for further information.

Assessment process

Where an in scope service has not been exempted due to extenuating circumstances, the Department will assess the service using the formal performance assessment principles to determine whether to apply remedies, including removal of the DES service. These principles are set out in the 'Formal Performance Assessment Principles' section of this paper.

In undertaking the assessment, the Department will consider a range of factors, including performance factors, service delivery issues and conditions applying to the delivery of the business, as described at clause 155.4 of the DES Grant Agreement.

In assessing these matters, the Department will use information held by the Department. DES providers are not required to provide any further information or input in relation to these matters, unless requested to do so by the Department.

Notification of Results

Following the assessment process, the Department will write to providers outlining the decisions made regarding the assessment of in-scope services. The provider will be notified the outcome of any extenuating circumstances submissions, whether the service will continue (with or without remedial action), or be required to cease operations.

EXTENUATING CIRCUMSTANCES SUBMISSIONS

Providers with services in scope for assessment may make submissions regarding any extenuating circumstances that have impacted on their March 2020 through to December 2020 Star Ratings. A separate submission should be lodged for each in scope DES service the provider considers to have been affected by extenuating circumstances. The decision to exempt or not exempt a DES service from further assessment on the basis of an extenuating circumstances submission is final and at the absolute discretion of the Department.

Note: Providers are not required to lodge submissions, and should not lodge submissions unless they believe that relevant extenuating circumstances apply.

What are ‘extenuating circumstances’?

For the purposes of the formal performance assessment process, extenuating circumstances are circumstances that occurred outside the provider’s control and would not have been taken into account as part of Star Ratings calculations.

Examples of extenuating circumstances may include events confined to the organisation and that damaged a provider’s operational capacity, which were outside the control of the provider. These could be catastrophic events or cultural events affecting a community, which consequently affected the provider’s ability to deliver employment outcomes for the period covered by the Star Ratings periods used for the formal performance assessment process.

When making an extenuating circumstances submission(s), providers must demonstrate that the extenuating circumstances had a unique negative impact on, and was directly related to, their capacity to deliver employment outcomes to participants and that this was the reason for the low Star Rating. Circumstances with a broader impact, which could have affected other providers in the ESA, will generally not be considered to be extenuating circumstances.

Submissions that generally will not be considered to be extenuating circumstances include:

- situations that are internal to a provider’s organisation, such as a change of management or a turnover of staff within the organisation;
- situations that could have affected all providers in the ESA or neighbouring ESAs;
- circumstances that are incorporated in the Star Ratings model, such as changes in local labour market conditions or participant characteristics. For details on the Star Ratings methodology, please refer to the DES Star Ratings Methodology Advice on the Provider Portal.

Example One

Situation:

A fire at the provider’s premises destroyed the building and all assets. An extended period elapsed before the provider was able to source alternative premises and new equipment. Following the provider’s acquisition of new premises, it took some time before the organisation was operational. The displacement of job seekers over this extended period potentially affected the provider’s performance.

Extenuating circumstances submission:

In the above scenario, the fire may be unique to the provider and may have had a negative impact on its capacity to deliver services for an extended period. However, the provider would still have to demonstrate that this was the reason for its low Star Rating. For example, the submission may need to include information that confirms the length of time the provider took to re-establish in new premises, and to become operational, was reasonable. It should also indicate the various circumstances that occurred from the time of the fire until it was again operational and how these issues negatively affected its performance.

In assessing any submission, the Department may take a range of issues into account. These may include (but are not limited to):

- the Star Ratings the provider had achieved over previous performance periods and whether or not these had been trending up or down;
- the extent to which the provider’s Star Rating and Star Percentage changed over the period in question;
- the difficulty (or ease) of acquiring new premises;

-
- the length of time the provider was affected by the circumstances; and
 - whether or not there were other options available to the provider to deliver employment outcomes, for instance, whether or not participants could have been serviced from other sites or outreach locations within the ESA as an interim measure.

The Department may also take into account any other relevant information which is available, or which it acquires through its own enquiries.

Example Two

Situation:

The major employer in a regional centre closes with a significant negative effect on employment in the area.

Extenuating circumstances submission

In the absence of any other relevant circumstances, this is likely to be considered to be a situation that would have affected all providers in a region or ESA, and as such, is unlikely to be accepted as the reason for a lower Star Rating in the relevant period.

Minimum requirements for an extenuating circumstances submission

To make an extenuating circumstances submission(s), the minimum requirements set out as follows must be satisfied:

- providers must make a submission using the Extenuating Circumstances Proforma ('the proforma'), which is available from the Formal Performance Assessment page of the DES Provider Portal. The proforma is attached as a separate document to this paper;
- a separate submission must be made for each service in an ESA and, where relevant, each Specialisation, for which extenuating circumstances are being claimed;
- each submission must not exceed a maximum of 8,000 characters (including spaces);
- completed submission(s) must be returned to the DES Communications mailbox (DESCommunications@dss.gov.au); and
- each submission must be received by 5pm Canberra time, ten (10) business days from the day December 2020 Star Ratings have been released to the CEOs of DES providers. The exact date for lodgement of extenuating circumstances submissions will accompany the distribution of the December 2020 Star Ratings.

The Department has the absolute discretion to not consider submissions that do not meet these requirements.

Extenuating circumstances proforma

In completing the proforma, providers must answer all questions. Note that attachments or additional information, including graphs or tables, submitted outside of the proforma will not be considered.

Timing

As stated above, all extenuating circumstances submissions:

- may be submitted from the release of the December 2020 Star Ratings to the CEOs of DES providers; and
- must be received by 5pm Canberra time, ten (10) business days from the day December 2020 Star Ratings have been released to CEOs of DES providers. The exact date for lodgement of extenuating circumstances submissions will accompany the distribution of the December 2020 Star Ratings.

Providers should consider preparing submissions in advance using the proforma where there are concerns that:

- a DES service is likely to be in scope and there are extenuating circumstances which may have impacted on their Star Ratings, and

-
- they will have difficulty meeting the timeframe for making extenuating circumstances submissions.

A confirmation of receipt email will be sent from the DES Communications mailbox to providers submitting extenuating circumstances proformas. It is recommended that providers save this auto-reply email as evidence of receipt by the Department.

Please note the timeframe for lodging extenuating circumstances submissions. Please also note that any extenuating circumstances submissions provided after the closing date and time may not be considered, at the Department's absolute discretion.

Virus Checking

When emailing submissions, all providers warrant that they have taken reasonable steps to ensure that the extenuating circumstances proforma is free from computer viruses, worms or other disabling features that may affect computing environments. The Department retains the absolute discretion to not consider any documents found to contain viruses, worms or other disabling features.

Multiple Submissions

Providers that submit multiple extenuating circumstances responses for the same in-scope DES service in the same ESA, prior to the closing date and time, must notify the DES Communications mailbox (DESCommunications@dss.gov.au) in writing and advise which submission is the final and completed version.

In doing so, providers must provide their legal name, trading name, DES sub-program (i.e. DMS or ESS) ESA, Specialisation 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 DES Communications mailbox, the Department will consider the latest receipted submission.

Department seeking further information

The Department reserves the right to seek further information from providers, including the ability to correct errors or omissions that the Department considers, in its absolute discretion, to be unintentional, seek clarification, or obtain further information.

Exclusion of extenuating circumstances submissions

All extenuating circumstances submissions will initially be assessed to ensure they meet the minimum requirements as set out above.

Where a submission does not meet one or more of these minimum requirements, including where the submission is incomplete, late or has been provided in an incorrect format (for example, is not on the extenuating circumstances proforma), the submission may, at the Department's discretion, be excluded from further consideration.

ROLES AND RESPONSIBILITIES

Departmental staff ('assessors') based in State and Territory Offices with appropriate expertise, training and regional knowledge of a provider's DES service will be involved in all stages of the formal performance assessment process.

The assessors will consider all valid submissions regarding extenuating circumstances, review all services that are in scope and make recommendations to a Departmental Performance Assessment Committee (the Committee) on whether or not to apply remedies, including removal of in scope service.

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

The Committee will oversee the entire formal performance assessment process. The Committee will review each of the recommendations made by assessors and will accept or reject them before making final recommendations to the Delegate.

The Delegate will consider the recommendations and make all final decisions on whether or not to apply remedies, including removal of services.

An external probity adviser has been appointed for the formal performance assessment process. The probity adviser will observe, monitor and advise on issues of probity.

FURTHER INFORMATION

Queries, and requests for further information, should be put in writing and directed to the DES Communications mailbox: DESCommunications@dss.gov.au clearly labelled as relating to the formal performance assessment process.

DRAFT without prejudice

**EXTENUATING
CIRCUMSTANCES
SUBMISSION FORM
WILL BE ATTACHED
TO THE EMAIL AS A
SEPARATE
DOCUMENT**