



Australian Government  
Department of Education,  
Skills and Employment

# 2021 COVID 19 Viability Support Package – business continuity payments

## Guidelines

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## 1 About the Payment

On 23 August 2021, the Australian Government announced that the viability support payment – or business continuity payment – under the Viability Support Package will be made to eligible services in a COVID-19 hotspot (defined as a Commonwealth-declared and subject to restrictions) if;

- the COVID-19 hotspot runs for more than 7 days and the state or territory government has limited who can access child care, or
- the COVID-19 hotspot extends beyond 28 days.

These supports were provided until the state or territory lifted restrictions around access to child care (or school in the case of Outside School Hours Care). The purpose of the viability support payment is to maintain the viability of services and to retain staff, ensuring there is access to child care for those that need it.

Viability support payments are contingent on services:

- having reasonable expectations attendance will fall by 50%
- not accessing other Commonwealth Government-funded business supports
- waiving gap fees for all families whose children are not attending
- maintaining staffing levels, and
- agreeing to a fee freeze for the duration of viability support payments.

The Department of Education, Skills and Employment (the department) may request evidence from services showing how they have met the conditions of the viability support payment.

This payment will be paid by Services Australia on behalf of the department.

This payment is made under section 205C of the *A New Tax System (Family Assistance) (Administration) Act 1999* and Division 1 of Part 4 of Schedule 3 to the *Child Care Subsidy Minister's Rules 2017*.

## 2 Payment amount and payment period

Eligible providers will be offered a viability support payment calculated from when individual services become eligible, but no earlier than 23 August 2021 and no later than 30 November 2021.

See Schedule A for detail on how the viability support payment for eligible approved services will be calculated. Broadly, for each fortnight in a payment period, providers will be paid a percentage of what they earned in a reference period.

The reference fortnight is the fortnight that is used to calculate each service's baseline as listed in Schedule A.

The viability support payment will be paid to providers in fortnightly instalments, payable once the provider responds to the Department's invitation to apply.

## 2.1 The payment process

Providers in COVID-19 hotspots will receive a viability support payment invitation from the department.

When a service is no longer in a COVID-19 hotspot and no longer has restrictions on access to child care (or school in the case of Outside School Hours Care services), the viability support payment for the service will cease. All viability support payments will cease on 30 November 2021.

If a service comes out of the COVID-19 hotspot or restrictions on access to child care are lifted within the payment fortnight, the service will receive the full fortnightly payment. Services will be required to continue waiving the gap fee in these circumstances.

Should the circumstances of the service change in a way that would deem them ineligible for payment while within a COVID-19 hotspot, the provider must notify the department by emailing [ECECViabilitySupportPackage@dese.gov.au](mailto:ECECViabilitySupportPackage@dese.gov.au) requesting a change of circumstances form.

The department is monitoring COVID-19 hotspots and will cease and commence payments as appropriate. Providers are not required to notify of changes to hotspot locations.

**Providers were required to complete the offer sent to them via DocuSign for the first payment by 11.59pm Friday 3 September.**

All providers that wished to opt in to receive viability support payments needed to complete the form by this date. For those that did not meet this deadline, no payment for the fortnight 23 August-5 September 2021 will be made. Once services have opted in and agree to meet the conditions, fortnightly payments will be made without the need to reaffirm eligibility for the ongoing payment. This includes where a service exits and subsequently re-enters a COVID-hotspot.

For services that wish to update their access to viability support payments, either because they no longer meet the conditions or circumstances have changed that make them able to meet conditions (when previously they did not), services will need to submit a form by the Thursday of the first week of the payment fortnight. For example:

**Table 1: Payment fortnights**

Payment	Final date to submit updated details	Payment fortnight
1	Friday 3 September	23 August – 5 September
2	Thursday 9 September	6 September – 19 September
3	Thursday 23 September	20 September – 3 October
4	Thursday 7 October	4 October-17 October
5	Thursday 21 October	18 October – 31 October
6	Thursday 4 November	1 November – 14 November
7	Thursday 18 November	15 November – 28 November

**Table 2: Payment fortnights Vacation Care Only**

Payment	Final date to submit updated details	Payment fortnight
1	Thursday 7 October	20 September – 3 October

New services and transfer of ownership services will receive their viability support payments invitation in December 2021. These services may receive retrospective payments based on their eligibility.

### 3 Eligibility criteria

To be eligible to receive the viability support payment in respect of a service, the provider must:

- be an approved provider under Family Assistance Law, and be approved in respect of the service;
- remain open and continue to provide child care unless;
  - the services provide care to predominantly Indigenous children, or
  - a relevant Commonwealth, state or territory government authority or health agency has advised or required the service to close because of the COVID-19 pandemic, or
  - the service is closed for no more than 14 days due to having a number of staff directed or advised to quarantine or self-isolate by a state or territory public health official that results in the service being unable to meet the required educator to child ratio.
- be located in an area which;
  - a) is a COVID-19 hotspot and the state or territory government has limited who can access child care for more than 7 days, or
  - b) is a COVID-19 hotspot for more than 28 days; or
  - c) previously had (a) or (b) apply and remains subject to state or territory restrictions on school attendance or access to child care immediately following the cessation of the COVID-19 hotspot.
- not charge hourly session fees while receiving the viability support payment that exceeds the hourly session fees charged by the provider in the fortnight prior to becoming eligible for the payment;
- reasonably expect that during each viability support payment fortnight, attendance at the service will be less than 50% of the charged sessions the service experienced during the reference fortnight;
- not reduce staffing levels at the service for the duration that the service is in receipt of the viability support payment;
- be waiving the gap fee for all children who are not attending the service;
- not have had an adverse cancellation decision made against them under Family Assistance Law (i.e. a decision under section 195 or Division 4 of Part 8 of the *Family Assistance Administration Act* (other than a decision under section 197AA or section 197C) in relation to the service or the approved provider of the service;
- comply with any applicable obligations under section 2.4 in relation to becoming a participating institution in the National Redress Scheme for Institutional Child Sexual Abuse.<sup>1</sup>

**Note:** the additional reasons for closure outlined above are to provide flexibility for services during the COVID-19 pandemic. These exemptions recognise that the Indigenous community is at a higher risk from COVID-19 and that many services may choose to close to mitigate the health risk to those children. Similarly, it also recognises that if child care staff become close contacts of a confirmed COVID-19 case, those staff members may be required to self-

<sup>1</sup> Information about institutions that have not joined the Scheme are available at the National Redress Scheme website.

isolate for 14 days. Where the exposure has occurred in the workplace, many staff may be affected, meaning the child care service may not have enough staff to continue operating and may decide to close for the period of self-isolation.

### **3.1 Additional eligibility criteria for new services**

In addition to the eligibility criteria above, a new service must:

- be Child Care Subsidy approved after 30 May 2021, and
- provide CCS approved care for two full consecutive weeks following provider approval being obtained from the department.

Payments will be based on the service type and revenue in the 'reference period'. For services that started providing care at least two weeks before 23 August 2021, the reference period is the fortnight with the highest number of charged hours. For all other new services, the reference period will be the first fortnight in which they provided Child Care Subsidy approved care. There may be a delay in the processing of viability support payment for newly approved services.

## **4 Conditions of the viability support payment to be met by all services**

An eligible service for the purposes of the viability support payment is a child care service operated by a provider that complies with Family Assistance Law and which must meet the following conditions:

### **4.1 Fee guarantee**

The provider does not charge child care hourly fees that are higher than the hourly fees it charged in the fortnight prior to becoming eligible for the viability support payment.

### **4.2 Gap fee waiver**

Gap fees must be waived in full for all children that are not attending care at the service.

Where services have children enrolled that do not receive the Child Care Subsidy due to family ineligibility, there is no requirement to waive fees where these children do not attend. This will not impact a service's compliance with the gap fee waiver condition for the payment.

Services that are directed by a local authority to close, or that close for other reasons, may still be able to waive gap fees. This includes services that close for no more than 14 days due to having a number of staff directed to quarantine or self-isolate by a state or territory public health official that results in the service being unable to meet the required educator to child ratio.

Services will also be able to waive gap fees if they close due to providing care to predominantly Indigenous children. This is in recognition of advice from the Department of Health that Aboriginal and Torres Strait Islander people are at greater risk from COVID-19.

When a hotspot declaration is lifted or restrictions end during a viability support payment fortnight, services must continue to waive the gap fee for the full duration of the payment fortnight.

### **4.3 Other Commonwealth-funded COVID 19 business supports**

Services will not be eligible to receive Commonwealth-funded COVID 19 business support payments while in receipt of the viability support payment. These supports include JobSaver, ACT COVID-19 Business Support Grant, and the Small Business COVID Hardship Fund (Victoria).

Where services have previously been in receipt of other payments, they will need to determine which support they will receive and notify the relevant authority if they are opting out of the jurisdiction-based support going forward.

In the event services make this notification prior to 6 September 2021 but due to administrative delays they receive the payment after this date, no recovery action will be taken.

This condition does not refer to the COVID-19 Disaster Payment, which is available to individuals. Nor does it preclude services from receiving the viability support payment if they receive grant funding through the Community Child Care Fund (CCCF) Restricted or CCCF Open rounds.

For services that have previously received payment through the CCCF Special Circumstances, they will also be able to access the viability support payment if they meet the eligibility criteria. For future rounds of the CCCF Special Circumstances, any viability support payments provided to a service will be included as part of the assessment of eligibility for a new grant payment.

### **4.4 The employment (including educator) guarantee**

The provider must maintain the current staffing profile including maintaining the head count of permanent full-time, permanent part-time and long-term casual covered employees, and continue to employ those employees and educators who were employed during the relevant employment reference fortnight.

The reference period for the employment guarantee will differ from the reference period for attendance and revenue. For the employee head count, it will be the fortnight prior to eligibility for the payment.

- For Greater Sydney, the ACT and Melbourne Outside School Hours Care services, this will be the fortnight ending 22 August 2021.
- For regional NSW and the rest of Victorian services, this will be the fortnight ending 27 August 2021.

This guarantee does not include employees that are let go due to misconduct or performance management or choose to leave themselves such as moving to a new job or retirement.

A covered employee is an individual whose principal duties relate to the provision of early childhood education and care or the operation of a service, who was paid salary or wages, or leave entitlements, by the provider in relation to the employment guarantee fortnight and who was not on long-term leave (leave that is three months or longer in duration).



#### 4.4.1 Additional Information

##### **Business continuity payments must be passed on in Family Day Care (FDC) and In-home Care (IHC)**

The provider must ensure that, in relation to each FDC service or an IHC service for which it is paid ('service amount') for a period, it spends an amount equal to at least 80 per cent of the viability support payment on salaries and wages for covered employees, and payments for individuals or educators engaged under contract whose principal duties relate to the provision of early childhood education and care or operation of the service for that period.

##### **Eligibility for FDC services**

For an FDC service to be eligible to receive the viability support payment, all educators within that service must meet the criteria as outlined above, except for the gap fee waiver condition. Where educators are not in a hotspot location, but the service is, those educators will not be required to waive gap fees for children not attending care as the gap waiver relates solely to educators in the hotspot locations.

For example, where educators are providing care outside a hotspot location, fees cannot be waived for children not attending care due to illness or being on holiday. But for educators that are in a hotspot location, they must be waiving gap fees for children not attending if the service wishes to access the viability support payment.

All other conditions, including the fall in attendance, are to be assessed at the service level.

##### **Outside School Hours Care**

Outside School Hours Care services that offer before and after school care as well as vacation care, will be paid viability support payments using the reference periods for each care type listed in Schedule A. Outside School Hours Care services that do not operate over the school holiday period will not receive payment for this fortnight.

#### 4.5 National Redress Scheme for Institutional Child Sexual Abuse

**4.5.1** If, prior to 30 June 2020, the approved provider was named in the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) or in an application received by the National Redress Scheme for Institutional Child Sexual Abuse (Scheme) as an institution where child sexual abuse occurred or was alleged to have occurred, the approved provider must have been a participating institution and not cease to be a participating institution.

**4.5.2** If paragraph 4.5.1 does not apply and the approved provider was or is named in an application received by the Scheme on or after 30 June 2020, as an institution where child sexual abuse occurred or was alleged to have occurred, the Provider must:

- (a) become a participating institution within 6 months after being contacted by the Scheme and requested to join; and
- (b) not ceased to be a participating institution.



## 5 Notification of the payment

Payment can be made through the Child Care Subsidy System once eligible and approved services have accepted the conditions of payment.

The Commonwealth may recover funds paid if there is a breach of eligibility criteria. It is the responsibility of the approved provider to notify the department of any change in circumstances which would deem them ineligible to continue to receive payment. Failure to notify of a relevant matter is an offence.

The amount of the payment will be determined in accordance with Schedule A of these guidelines.

Viability support payments will be paid into the bank account currently nominated for a service in the Child Care Subsidy System (CCSS), that has been used to pay the CCS. Services should ensure that their bank account details in the CCSS are up to date.

## 6 Payment evaluation

The Department will evaluate this payment to measure how well the outcomes and objectives have been achieved. Acceptance of the payment requires providers to make available information to assist with the evaluation, if asked by representatives of the Department.

## 7 Variation of Payment Guidelines

The Department may change these Guidelines at any time.

## 8 Schedule A – Calculation of Viability support payments

### 8.1 Amount of fortnightly Payment

The fortnightly amount in relation to an approved child care service is the reference amount multiplied by the viability support payment percentage.

The payment percentage is the percentage determined in accordance with the following table.

Type of Service	Business continuity payment percentage
Centre Based Day Care (CBDC) Family Day Care (FDC) In-Home Care (IHC) services	25%
Outside School Hours Care (OSHC), including Vacation Care (VAC)	40%

The viability support payment percentage in relation to a service is 0% if:

- (a) the service is closed for a reason other than:
  - because the services provides care to predominantly Indigenous children, or

- because a relevant Commonwealth, state or territory government authority or health agency has advised or required the service to close because of the COVID-19 pandemic, or
  - for no more than 14 days due to having a number of staff directed to quarantine or self-isolate by a state or territory public health official that results in the service being unable to meet the required educator to child ratio.
- (b) the provider fails or has failed to comply with these Guidelines (including the eligibility criteria) in relation to the service.

## 8.2 Reference fortnight amount and reference fortnight for a service

The reference amount for a service is the sum of reference hourly fees up to the hourly rate cap (that applied during the reference fortnight) for all sessions of care provided by the service during the reference fortnight for the service.

In these Guidelines:

- a) the reference fortnight for a service is as per the table below:

State / Territory	Care Type	Fortnight reference date
NSW	Centre Based Day Care, Family Day Care, In Home Care, Outside School Hours Care	17 to 30 May 2021
	Vacation Care	5 to 18 April 2021
ACT	Centre Based Day Care, Family Day Care, In Home Care, Outside School Hours Care	17 to 30 May 2021
	Vacation Care	28 June to 11 July 2021
Victoria	Centre Based Day Care, Family Day Care, In Home Care, Outside School Hours Care	10 to 23 May 2021
	Vacation Care	28 June to 11 July 2021
NT	Centre Based Day Care, Family Day Care, In Home Care, Outside School Hours Care	17 to 30 May 2021

- (b) For payment calculation purposes, Outside School Hours Care services who offer before and after school as well as vacation care services will observe the relevant reference period in accordance with each care type delivered and its location.
- (c) For new services, payments will be based on the service type and revenue in the 'reference period' being the fortnight with the highest number of charged hours before 23 August 2021. If a new service only provided Child Care Subsidy approved care after 23 August 2021, their reference fortnight will be the first two weeks of providing Child Care Subsidy approved care.

The reference hourly fee for a session of care is the lower of:

- the hourly session fee for the session; and
- the CCS hourly rate cap for the session during the relevant reference fortnight.

**Note:** The CCS hourly rate cap for a session of care is set out in the table at subclause 2(3) of Schedule 2 to the *A New Tax System (Family Assistance) Act 1999*.

## **9 Commonwealth's right to recover payment**

The Commonwealth may recover viability support payments that the provider was not eligible to receive. This may involve the department using administered data to monitor attendance levels to ensure compliance with the conditions.

Should a debt occur, the department will notify you that debt recovery processes will be put in place.