



Submission to the
Senate Community Affairs Legislation Committee
regarding the
Social Security Legislation Amendment
(Stronger Penalties for Serious Failures) Bill
2014

Brotherhood of St Laurence

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Summary

The Brotherhood of St Laurence has a long history of assisting jobseekers facing disadvantage in the labour market to find work, gain skills and plan career pathways. We consider this an essential part of our work to end poverty. We are currently designing and delivering cutting-edge programs which connect young people to the world of work and support their transitions from education to employment.

Our approach to working with young people is premised on five key understandings. Young people **want to work and have mainstream aspirations** but some become discouraged and fall into bad habits when left to their own devices for long periods. It is our responsibility as service providers to foster these aspirations. Young people thrive when their **talents and capabilities** are recognised. They benefit from **rapid re-engagement**. This ensures they are linked to services and employment opportunities. The complex nature of today's labour market and education systems means that young people need **careers guidance** and support to develop **employability skills**.

These approaches involve a significant investment in young people's capabilities, but with that investment come high expectations. At the Education First Youth Foyer, young people make a formal commitment as part of 'the Deal' between the young person, the service and the community. Upholding their end of the bargain is a condition of continued engagement.

We support a compliance system that has high expectations of jobseekers, is targeted towards re-engagement and allows sufficient discretion to avoid penalising those who fail to comply through circumstances outside their control. We support a system that has effective penalties for those who wilfully disregard their end of the bargain.

However, we think the rules in relation to compliance measures and penalties should:

- prioritise rapid re-engagement to maximise employment outcomes; and
- make allowances for non-compliance caused by circumstances beyond an individual's control.

This approach is also contingent upon proper assessment and recognition of jobseekers' individual circumstances.

The BSL is concerned that the Stronger Penalties for Serious Failures Bill will result in an unacceptably high risk of unintended consequences for some jobseekers. As a result the objective to achieve rapid re-engagement of jobseekers in work will be compromised. We are also concerned that the restrictions on the capacity for waiver of penalties may have adverse consequences, compounding or causing significant financial hardship for jobseekers who struggle to meet their obligations due to circumstances beyond their control, such as homelessness, mental illness and domestic violence.

The Brotherhood of St Laurence – assisting jobseekers into work

The BSL has a long history of assisting jobseekers facing disadvantage in the labour market to find work, gain skills and plan career pathways. We consider this an essential part of our work to end poverty. Our current focus includes the crisis of youth unemployment. The ‘My Chance, Our Future’ campaign has highlighted the significant costs of failing to address this issue. We are designing and delivering innovative programs which connect young people to the world of work and support their transitions from education to employment:

- The Youth Transitions Program provides support for young jobseekers in unemployment ‘hot spots’ in Melbourne’s outer suburbs
- The Education First Youth Foyers enable young people experiencing homelessness to continue their education and connect with work.¹

These approaches are based on a number of key principles:

Young people **want to work and aspire to mainstream goals** of meaningful employment, a decent home and strong connections with friends or family.

Young people thrive when their talents and **capabilities** are recognised, instead of the focus being on their deficits.

Young jobseekers, especially early school leavers and those facing disadvantage, benefit from **rapid re-engagement** to ensure they are linked to services and employment opportunities.

Young people need **careers guidance**. Today’s labour market and education and training systems are complicated and will continue to be so in the future.

Young people need opportunities to develop **employability skills** such as teamwork, problem solving and the expectations of Australian employers. These are not innate qualities but are learned from good role models and **links with employers**.

However, the **investment we make in young people’s capabilities comes with high expectations**. In our youth programs, young people make a formal commitment as part of ‘**the Deal**’ between the young person, the service and the community. Upholding their end of the bargain is a formal condition of continued engagement.² This mutual obligation approach ensures that young people are valued, but also that they value the support they receive and make an investment in their own futures.

Compliance measures should promote re-engagement, not penalise unintended non-compliance

The BSL supports a compliance framework that is designed to encourage re-engagement and recognises the individual circumstances of jobseekers, particularly those who might fail to meet their obligations due to adverse circumstances.

We consider that the existing rules regarding the imposition of penalties for serious failures do not meet these objectives.

The Stronger Penalties for Serious Failures Bill 2014 seeks to:

1. Remove the capacity for waiver of an 8-week non-payment penalty for jobseekers who refuse or fail to commence employment (a 'serious participation failure'); and
2. Restrict the granting of a waiver for those who face an 8-week non-payment penalty on the basis of 'persistent non-compliance' (three or more activity breaches in 6 months, such as failure to attend a meeting). Under the proposed amendment, a person breached for persistent non-compliance will only be eligible for a waiver once during any period of receiving unemployment payments.

This Bill will create an unacceptably high risk of unintended consequences, by impacting upon jobseekers who may find themselves in breach due to circumstances beyond their control.

Stronger penalties may work against re-engagement or employment outcomes

Evidence about the **role of penalties in motivating and improving** jobseekers' engagement in job seeking activities and work is limited. What evidence there is suggests that sanctions may be effective if an immediate return to compliance reduces the penalty.³

In allowing jobseekers to avoid an 8-week non-payment penalty by engaging in intensive activity, such as Work for the Dole, for the 8-week period, the current policy provides an incentive for immediate re-engagement. However, the removal of this provision removes the incentive for re-engagement and may also reduce opportunities for better assessment and review of vulnerable jobseekers.

Stronger non-payment penalties may have a disproportionate impact on the most disadvantaged jobseekers

Who are the jobseekers most affected by the penalties?

Australian research evidence does exist about the broad impact of previous compliance and penalty policies on jobseekers, including breaches for participation failures and the imposition of non-payment penalties. It points to the detrimental, unintended consequences for highly disadvantaged jobseekers. People who are homeless, those with drug and alcohol dependency and mental health issues, and single parents are most impacted by participation failures and penalties.⁴ Young people and Indigenous Australian income support recipients, who may have circumstances which make compliance difficult, have also been found to be disproportionately breached and to receive undue penalties.⁵

What is the impact of the penalties?

Unintended impacts of breaching have been found to include problems paying for basic necessities such as food or utilities, difficulty paying rent or mortgage payments, transport problems, increased debt and negative health outcomes.⁶ Other studies have found that an extended non-payment period penalty can result in some recipients engaging in illegal activities to support themselves.⁷

The impact of reduced income from a breach on rent payments can cause people to move to outer metropolitan and regional areas to find more affordable housing. This not only diminishes their opportunities for employment but also leaves the jobseekers vulnerable to further penalties for moving to areas of low employment.⁸ The penalty can also impair individuals' ability to meet future compliance obligations, putting them at risk of a perpetual cycle of breaches and penalties.⁹

Why do some jobseekers fail to comply with their obligations?

The reasons that income support recipients fail to comply with activity requirements have also been highlighted in the research evidence. These reasons are often directly related to the forms of disadvantage they face.

Barriers to meeting activity test requirement have been found to include geographic location, availability of employment opportunities, drug and alcohol dependency, mental health issues (including undiagnosed conditions), communication issues (including English as a second language or limited literacy and numeracy) and homelessness.¹⁰ Unstable housing can result in people having to prioritise their immediate needs such as food, shelter and personal safety before participation obligations.¹¹ More disadvantaged jobseekers also often have a poor understanding of the rules for compliance¹² and often have limited networks on which they can rely for financial or other support.¹³

How does the system identify vulnerable jobseekers?

The limited capacity of the current system to correctly identify the circumstances of individuals who have triggered an 8-week non-payment penalty, particularly if the scope for waiver is restricted or removed, has also been highlighted as an issue.

Centrelink assessments of jobseekers' circumstances are often unreliable, leading to the misallocation of some jobseekers to inappropriate 'streams' within the JSA system.¹⁴ Incorrect identification of issues such as mental health problems and homelessness can also be a factor in causing unintended non-compliance.¹⁵ The 2010 review of the then new Jobseeker Compliance Framework identified that, in 40 per cent of cases, serious breaches that led to a Comprehensive Compliance Assessment (CCA) actually resulted in the jobseeker being moved to a higher stream or referred to a Job Capacity Assessment.

It is unclear whether under the tightened penalty framework in the Stronger Penalties for Serious failures bill the CCA will provide an opportunity for review, given the proposed restriction of discretion around waiver.¹⁶

Failure to correctly identify those jobseekers who trigger these penalties due to issues outside their control could have a serious negative impact on their circumstances, including making it harder for them to re-engage and look for and gain employment.

The most vulnerable jobseekers need investment and support

The BSL's engagement with jobseekers facing disadvantage, particularly young people, suggests that a new approach is needed, not just small changes to existing policies. The approach of the Education First Youth Foyers suggests a way forward for assisting the most vulnerable young people, those facing homelessness¹⁷. This approach recognises that by focusing on young people's abilities, rather than on their deficits or problems, an investment is being made in the future prosperity of the whole community.¹⁸

Similarly, the BSL's innovative Youth Transitions Program (YTP) recognises the particular challenges faced by young jobseekers moving from school to work. It involves coaching for young people aged 15–24 years who are unemployed, in preparation for sustained and active engagement in the workforce. Informed by international research and practice evidence from the field, the YTP model utilises an outcomes-focused coaching framework not only to connect young people with real jobs and employers, but also to develop their capacity to independently sustain full-time work and economic participation.¹⁹

With investment come high expectations

Both these BSL youth programs focus on early intervention. **These approaches also involve a significant investment in young people's capabilities, but with that investment come high expectations.** In these programs, young people make a formal commitment as part of 'the Deal' between the young person, the service and the community. Upholding their end of the bargain is a condition of continued engagement.²⁰ But the BSL also understands that young people who face significant disadvantage may slip up due to adverse circumstances, and our systems ensure that these factors can be recognised and addressed, and the young people are **rapidly re-engaged**.

To this end we support a compliance system that has high expectations of jobseekers, is targeted towards re-engagement and allows sufficient discretion to avoid penalising those who fail to comply through circumstances outside their control.

¹ Education First Youth Foyers (EFYF) Practice Framework, <http://www.hanover.org.au/youth-foyer/education-first-youth-foyer-practice-framework/>

² EFYF Practice Framework, <http://www.hanover.org.au/youth-foyer/education-first-youth-foyer-practice-framework/>

³ Schnurer, E & Kolker J 2002, *Welfare reauthorization and the states: do penalties motivate recipients to work?*, Centre for National Policy, Washington DC.

⁴ Jones, N, Sheldon, G, Donaghey, J & Balanzategui, J 2007, *Welfare to work reforms and the breaching cycle*, National Welfare Rights Network and the Queensland Welfare Rights Centre, Brisbane.

⁵ Eardley, T 2006, 'The impact of breaching and financial penalties on income support recipients', *The Economic and Labour Relations Review*, vol.17, no.1, pp.79–105; Sanders, W 1999, *Unemployment payments, the activity test and Indigenous Australians: understanding breach rates*, Centre for Aboriginal Economic Policy Research, Australian National University, Canberra.

⁶ Eardley, T 2006, 'The impact of breaching and financial penalties on income support recipients', *The Economic and Labour Relations Review*, vol.17, no.1, pp.79–105.

⁷ Eardley, T 2006, 'The impact of breaching and financial penalties on income support recipients', *The Economic and Labour Relations Review*, vol.17, no.1, pp.79–105.

⁸ Wilson, L 2001, *Sink or swim: housing impacts of Centrelink breaches*, Shelter SA and Welfare Rights Centre SA, Adelaide.

⁹ Kerr, Lorraine, Savelsberg, Harry, 2003 *Breaching and disadvantaged young people: the social and financial impacts*, University of South Australia and Adelaide Central Mission, Adelaide.

¹⁰ Jones, N, Sheldon, G, Donaghey, J & Balanzategui, J 2007 *Welfare to work reforms and the breaching cycle*, National Welfare Rights Network and the Queensland Welfare Rights Centre, Brisbane.

¹¹ Kerr, L & Savelsberg, H 2003, *Breaching and disadvantaged young people: the social and financial impacts*, University of South Australia and Adelaide Central Mission, Adelaide.

¹² Carney, T 2006, Welfare to work: or work discipline revisited, *Australian Journal of Social Issues*, vol. 6, no. 41, pp. 27–48.

¹³ Kerr, L & Savelsberg, H 2003, *Breaching and disadvantaged young people: the social and financial impacts*, University of South Australia and Adelaide Central Mission, Adelaide.

¹⁴ Service Delivery Pathways and Homelessness: ‘Connecting the Dots’,

<http://www.acu.edu.au/about_acu/faculties,_institutes_and_centres/centres/institute_of_child_protection_studies/our_work/current_previous_work/completed_in_2013/connecting_the_dots>.

¹⁵ Jones, N, Sheldon, G, Donaghey, J & Balanzategui, J 2007, *Welfare to work reforms and the breaching cycle*, National Welfare Rights Network and the Queensland Welfare Rights Centre, Brisbane.

¹⁶ Disney, J, Buduls, A & Grant, P 2010 *Impacts of the new Jobseeker Compliance Framework: Report of the Independent Review*, Canberra. (p. 24)

¹⁷ EFYF Practice Framework <http://www.hanover.org.au/youth-foyer/education-first-youth-foyer-practice-framework/>

¹⁸ EFYF Practice Framework <http://www.hanover.org.au/youth-foyer/education-first-youth-foyer-practice-framework/>

¹⁹ BSL 2014 *Investing in our future: Opportunities for the Australian Government to boost youth employment*, Brotherhood of St Laurence, Melbourne.

²⁰ EFYF Practice Framework <http://www.hanover.org.au/youth-foyer/education-first-youth-foyer-practice-framework/>