

2 August 2018

Future Employment Services Consultation
Department of Jobs and Small Business

By email: Future-Employment-Services@jobs.gov.au

Dear Future Employment Services Consultation,

NSSRN submission to the Future Employment Services Consultation

1. The National Social Security Rights Network (NSSRN) is a peak community organisation in the area of income support law, policy and administration. Our members are community legal centres across the country that provide free and independent legal assistance to people experiencing issues with social security and family assistance payments. The NSSRN draws on this front line experience in developing its submissions and policy positions.
2. The NSSRN welcomes the opportunity to contribute to the Future Employment Services Consultation. Our members assist many people who have engaged with an employment services provider whilst in receipt of unemployment payments. Providers play a significant role in shaping the experience of people on these payments. We hear a range of stories from member centres' clients about issues with the current jobactive system. Many member centres' clients express frustration at the employment options made available to them, inaccurate streaming of services and the challenges of complying with often onerous and inappropriate mutual obligation activities.
3. The NSSRN endorses the comprehensive submission by the Australian Council of Social Services (ACOSS). Our own submission is guided by ACOSS's "Path to Employment" model. In summary, our submission argues that:
 - Any future employment services program should afford participants greater control and flexibility in choosing their provider and designing their employment pathway plan;
 - Compulsory mutual obligation activities, such as Work for the Dole, should be abandoned;
 - Digital services should not replace more traditional methods of communication with providers, and paper-based job search activity records should remain available to all engaged in employment services;
 - Flexible and holistic assessment models should be introduced to ensure appropriate services are provided to participants with complex barriers to employment and requiring intensive support;
 - Greater investment in support services is required to assist long-term unemployed, or those with additional barriers to employment. Additionally, any future employment services program must recognise the various obstacles to full-time employment that are outside of the control of the individual;
 - The employment services industry should be subject to regulation and regular evaluations;
 - This consultation process must seek out and prioritise the views and experiences of those people who have engaged with employment service providers.

Agency of participants and flexibility in activities

4. The NSSRN agrees with the principle that increasing a person's agency to choose their employment services provider and design their employment pathway plan will assist to empower and equip people in their search for employment.
5. The system should be designed so that people can easily change providers if the relationship is not tenable. This will of course be dependent on whether they have more than one provider in their region. We do support consideration of the proposal that each region have more than one provider to ensure that people have agency to work with the provider they consider most likely to assist them into employment.
6. Individuals should also be afforded greater control over appointment times with providers to ensure that activities (such as courses or work opportunities) do not conflict with these appointments. It has been reported that many people from non-English speaking backgrounds are regularly given appointments with their provider that clash with English language classes. To avoid penalties, these people forego their classes.¹
7. Our member centres' clients have long reported frustrations with the inflexibility of employment pathway plans. We support greater flexibility for these plans, in the form of offering a wider range of activities to people searching for employment. Individuals should have the ability to customise their employment pathway plan and include activities that they themselves have identified as engaging and meaningful in their search for employment.

Work for the Dole and compulsory mutual obligation activities

8. The NSSRN has held long-standing concerns over the effectiveness, and occupational health and safety, of the Work for the Dole program. In our view, mutual obligation activities, such as Work for the Dole, should not be compulsory. Any work performed to meet activity requirements should be treated as formal paid work, offering the same wages and workplace protections as regular work.
9. The current Work for the Dole scheme for jobactive participants has operated since July 2014. It was initially costed at around \$1 billion over three years. The 2017-2018 Budget extended with program with some changes. From 1 January 2018, jobactive providers have administered Work for the Dole activities, rather than contracted Work for the Dole coordinators.²
10. An evaluation report of Work for the Dole 2014-2015 found that the scheme improved the probability that an unemployed person would find a job by just 2 percentage points and off a low base.³ Previous independent reports on earlier versions of the scheme had found that Work for the Dole participants spent longer amounts of time on welfare payments, than those not required to participate.⁴ That research, funded by the Commonwealth Department of Family and Community Services, was consistent with international evidence on the ineffectiveness of work-based programs for the unemployed. Reports suggest that jobs available in Work for the

1 Tahiri, S. 'Not Working: Experiences of Refugees and Migrants with Jobactive', Refugee Council of Australia (Report No 03/2017), August 2017, p7.

2 Department of Employment, *Work for the Dole*, (25 October 2017), <<https://www.employment.gov.au/work-dole>>.

3 Australian National University's Social Research Centre, *Evaluation of Work for the Dole 2014-15*, November 2015, <https://docs.employment.gov.au/system/files/doc/other/evaluation_of_work_for_the_dole_2014-15_accessible_final.pdf>, v.

4 Jeff Borland, 'Work for the Dole doesn't work, so why is it Coalition policy?', *The Conversation*, 13 April 2011 <<https://theconversation.com/work-for-the-dole-doesnt-work-so-why-is-it-coalition-policy-784>>.

Dole predominantly involve menial tasks requiring low-supervision.⁵ They therefore do not offer significant skill development for those seeking ongoing work.

11. The NSSRN is also concerned about the safety of participants on Work for the Dole work sites. In April 2016, Josh Park-Fing, an 18 year old, died while participating in Work for the Dole.⁶ His death highlighted significant issues on safety and lack of proper workplace training. The tragedy also highlighted the inadequacy of the Work for the Dole insurance scheme, which offers compensation amounts that are much lower than workers compensation schemes.⁷
12. Work for the Dole schemes do not increase the long term availability of jobs. Providing better training opportunities to people who have the support of adequate unemployment payments is more likely to improve employment outcomes and the wellbeing of people on income support.

Digital services should not replace traditional means of communication or activity records

13. Whilst the provision of digital services will be welcomed by many people, any future employment service must recognise the diversity of people engaged with employment services and the various barriers to using digital tools. This includes people with language and literacy barriers, disabilities, and those with limited access to mobile phones and computers, or limited access to internet services.
14. New digital employment services should not replace traditional face to face services, but merely provide an alternative method of engaging with an employment service provider. The NSSRN is particularly concerned that people with barriers to using the digital services will be adversely affected by the compliance framework underpinning any employment service. Formal notice in writing of appointments or obligations must be provided in the form of letters, rather than being subsumed by digital notifications.

Targeting of services and streamlining of participants

15. The NSSRN supports directed targeting of services towards those who require additional assistance in finding employment and sees value in streaming people into differently targeted groups.
16. However, we note reports that the current jobactive streaming process does not adequately identify all participants with complex barriers to employment, resulting in many being incorrectly streamed into groups requiring limited support. For instance, the Refugee Council of Australia has reported that many people from refugee or migrant backgrounds who require significant support in finding employment have been incorrectly classified into the lowest support category by the current Job Seeker Classification Instrument (JSCI).⁸
17. Accurate streaming requires a flexible and holistic assessment model. This may involve other agencies such as health and disability services and other support workers. This type of model will

5 Heath Aston, 'Work for the dole has little effect on finding work: review', *SMH Online*, 11 February 2016 <<http://www.smh.com.au/federal-politics/political-news/work-for-the-dole-has-little-effect-on-finding-work-review-20160211-gmrpvw.html>>

6 Dana McCauley, 'Family mourns 'larrikin' Josh Park-Fing, killed in a tragic accident while working for the dole', *news.com.au*, 27 April 2016, <<http://www.news.com.au/finance/work/at-work/family-mourns-larrikin-josh-parkfing-killed-in-a-tragic-accident-while-working-for-the-dole/news-story/5db56cad4e3a0adcd0b44d35304a45ed>>

7 Ibid.

8 Tahiri, S. 'Not Working: Experiences of Refugees and Migrants with Jobactive', Refugee Council of Australia (Report No 03/2017), August 2017, p9.

enhance the ability of employment support agencies to identify underlying issues for particular individuals, and facilitate these people to receive appropriate supports both within and outside of the employment services program. However, it is important that people have agency to determine what other services may be involved in their assessments and how information is shared.

18. We are aware of increasing use of online JSCI self-assessments. We are concerned that online JSCI's will not always provide accurate assessments, particularly for vulnerable people with complex or unique circumstances, or those with low English language literacy.
19. Consideration should be given to introduce specialised employment service providers that have expertise in assisting people from culturally and linguistically diverse backgrounds, and those in long-term unemployment. We also urge increased funding for the use of interpreters across all providers.

Investment in services

20. The NSSRN supports greater investment in services that will assist a higher number of participants overcoming barriers to employment, including subsidies for vocational training.
21. Some people, such as long-term unemployed people require more intensive support to re-enter employment. However, the barriers to employment can be complex and include financial disadvantage, inadequate housing, poor health and disability. Investment in intensive employment services should be coupled with investment in other social supports, such as health services, affordable housing and adequate levels of social security income support payments. This may be achieved through a whole of government approach to addressing inequality.
22. The system must also recognise that some barriers to employment are outside of the control of the participant. Lack of employment opportunities is a key hurdle for many people living in regional areas. Those that do have employment opportunities often find that these are casual or precarious positions with no long-term security. A number of discriminatory attitudes also prevent people from attaining employment.

Quality of standards and evaluation of providers

23. The NSSRN strongly supports the introduction of regulation for employment service providers. Despite employment services costing a reported \$7.3 billion per year to the government, there has been little regulation of the industry and no evidence indicating that providers are effective. Recent figures have found that only 20 per cent of people in employment services find long-term work.⁹
24. Our member centres' clients often report mistreatment by providers, in addition to inconsistent and unsatisfactory service delivery. Unfortunately, many people are failed by the system, including vulnerable long-term unemployed people. For example, a recent Administrative Appeals Tribunal case, *Dudinski and Department of Social Services*¹⁰, reviewed the decision to

⁹ Long term work is defined as work that lasts longer than 26 weeks. See Commonwealth, *Parliamentary Debates*, House of Representatives, 6 September 2017, 9444 (Ed Husic).

<<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=CHAMBER;id=chamber%2Fhansard%2F7b047e39-bfd8-4640-80d0-84aa52c19e5d%2F0034;query=Id%3A%22chamber%2Fhansard%2F7b047e39-bfd8-4640-80d0-84aa52c19e5d%2F0040%22>>

¹⁰ *Dudinski and Secretary, Department of Social Services (Social services second review) [2018] AATA 1843* (26 June 2018), <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/AATA/2018/1843.html>

cancel a person's unemployment payments on the basis of non-compliance with their employment pathway plan. In affirming the decision to cancel payments, the tribunal member commented:

"58. The Tribunal has some sympathy for Mr Dudinski's rationale for not applying for 20 jobs a month. The Tribunal finds that the system has failed Mr Dudinski, as he is now classified as a long-term unemployed, having been unemployed for 26 years. Mr Dudinski advised the Tribunal that he had not secured a single job interview in that time. The quality and presentation of Mr Dudinski's resume indicated that his various job service providers had not greatly assisted him in job searching, preparing, or submitting applications. The Tribunal concurs [sic] with Mr Dudinski that merely applying for jobs for the sake of meeting a target would now seem both fruitless and demoralising."

The experience of Mr Dudinski is unfortunately not unique. In fact, so many people have similar experiences that it has become the subject of a theatre production which featured at the Sydney Fringe Festival.¹¹

25. We support the introduction of minimum standards for front line staff assisting people into employment. Some of our member centre clients have described incidents with their provider that have resulted in a penalty, however many of these incidents may have been prevented if the staff member had appropriate training across the following areas:
 - Interpersonal Skills
 - Communication Skills
 - Computer skills including how to use the relevant software applications
 - Job Preparation
 - Recruitment Techniques
 - Career Guidance
 - Health and safety in the work place
 - Culturally and Linguistically Diverse awareness
 - Indigenous Culture awareness
 - Managing clients with challenging behaviours
 - Use of Interpreters.
26. In addition to the above, we recommend that all providers undertake training to equip them to engage in appropriate interactions with employers. Some of our member centre clients have raised concerns that their provider is jeopardising their new job by continually contacting their employer requesting reports about the client. Many of these clients have obtained their employment without any assistance from their provider and their concerns are very genuine.
27. Employment service providers should be subject to regular public and independent evaluations of employment services. The results of these evaluations should be made readily available to all people and stakeholders associated with the program. As part of any evaluation, the views of people who have engaged with an employment services provider should be included.

11 *Job Ready* (2017), written by Caitlin Doyle-Markwick, portrayed the experience of a person entering the employment services system. The comedy found its laughs in very relatable yet absurd interactions with employment service providers, who consistently failed to provide relevant support to this person to gain employment. The play had sold out shows at the Sydney Fringe festival and clearly spoke to the experiences of many who have struggled with employment service providers. See archived performance information at 107 Projects: <http://107.org.au/event/job-ready/>

28. In our view, there are inherent problems and contradictions in an employment services system where some providers operate for-profit. We urge the government to move away from profit-driven providers towards a system of secular not-for-profit agencies. Privatisation of the employment services system has led to a number of complaints. We consider that these issues are intrinsically linked to cost-cutting measures by providers. A number of these issues were revealed in an ABC Four Corners report in 2015. A summary of the report noted that:

*"In 2015, Four Corners reported that the Federal Government had retrieved more than \$41 million worth of false claims over a three-year period. They found that the privatised system was vulnerable to exploitation and fraudulent activity within the scheme was widespread. There have been reports of job agencies pushing people into fake jobs, manipulating attendance figures, forging signatures and harassing clients for pay slips."*¹²

29. We encourage caution when considering how employment or other outcomes will be rewarded as this may have a direct correlation to the impact of the new compliance framework for people on unemployment payments. We do not support a system that results in financial incentives for providers when they record demerit points or non-compliance. We urge consideration of the drastic impact provider financial incentives have had on people in the remote employment Community Development Programme, leading to overwhelming penalties for non-compliance.¹³
30. A further issue relating to financial incentive affects people intending to claim for Disability Support Pension (DSP). Our member centres report a common issue for clients who are engaged with a provider and participating in a Program of Support (POS). A POS is a tailored employment services program for people with a disability. Many people who have claimed for the Disability Support Pension (DSP) are ruled ineligible until after they participant in a POS for at least 18 months in the 3 years before making their DSP claim.¹⁴ Some people are unable to fully complete the 18 month POS due to their disability. A provider can exit a person early from the program for this reason and the shorter participation period will be deemed to satisfy the POS requirement. However, in our experience, providers are often extremely unwilling to exit clients from their program and they commonly outright refuse to do so. We regard this as a consequence of an inherent conflict of interest, as providers are paid to deliver services and may lose out when a client is exited early.

The importance of consulting with people engaged with employment service providers

31. Any reform of the employment services program will impact many thousands of people on unemployment payments. This process must be conducted with the rights of these individuals affected at the forefront of any future proposal. A future employment services program has the potential to strengthen or undermine a person's right to self-determination¹⁵, social security¹⁶ and an adequate standard of living.¹⁷

12 Dan Rexter, 'Commonwealth Employment Service: The pitfalls of privatisation', *Independent Australia*, 18 March 2018, <https://independentaustralia.net/business/business-display/commonwealth-employment-service-the-pitfalls-of-privatisation,11304>

13 Lisa Fowkes, *Social security penalties applied to participants in the Community Development Programme Overview of first 2 years (1 July 2015-30 June 2017)*, (Report, Centre for Aboriginal Economic Policy Research, ANU) December 2017, 3.

14 Department of Human Services, "Program of Support for Disability Support Pension", DHS website (accessed 2 August 2018) <https://www.humanservices.gov.au/individuals/enablers/program-support-disability-support-pension/29776>

15 International Covenant on Civil and Political Rights, art 1.

16 International Covenant on Civil and Political Rights, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) art 9.

17 International Covenant on Civil and Political Rights, art 11.1.

32. In a human rights model approach to decision making, individuals are empowered to participate in decisions affecting their human rights. We therefore encourage the consultation process to prioritise the views and experiences of those people who have engaged with employment service providers.

Conclusion

33. The NSSRN welcomes a review of the employment services program. An improved future employment services system would increase agency to participants, introduce greater flexibility to employment pathway plans, provide flexible and holistic assessments models, recognise the complex and varied barriers to employment, and introduce regulation and evaluation of employment services providers.
34. This review process will only be credible and useful if it takes into account and prioritises the views and experiences of those people who have engaged with the employment services system.

Contact for this submission

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