

4 May 2021

Parliamentary Joint Committee on Human Rights
Parliament House
Canberra ACT 2600

By email: human.rights@aph.gov.au

Re: Invited Submission on the Social Security (Parenting participation requirements – class of persons) Instrument 2021

I welcome the opportunity to make a submission on the current legislative instrument. In making this submission, I draw on research on welfare conditionality arising from two Australian Research Council grants.¹ This research indicates that welfare conditionality is frequently experienced as intensively burdensome rather than genuinely supportive by numerous social security recipients who are subjected to it. Heavy handed welfare conditionality compromises people's rights to social security, an adequate standard of living, and equality and non-discrimination.

I note that the Committee states that under the legislative instrument"

A person who is a compulsory participant would ... be subject to the targeted compliance framework under the *Social Security (Administration) Act 1999*. Under this framework, where an individual fails to comply with their participation obligations their payment may be suspended, and where they are deemed to have persistently failed to meet their obligations without a reasonable excuse, their payment may be reduced by 50 to 100 per cent for a period, suspended, or cancelled.²

Punishing parents and the children in their care with a system of social security payment reductions, suspensions and cancellations undermines their right to social security and their right to an adequate standard of living. Although there are exceptions to this punitive framework, the burden is placed on people experiencing very difficult circumstances in terms of navigating these processes – which is not appropriate.

A punitive compliance framework that allows families to go without essentials does not embody the least rights restrictive mechanism for supporting parents into paid work, education or training. It is therefore not a proportionate limitation on the human rights

* The author of this submission draws on research arising from two Australian Research Council grants: Australian Research Council Discovery Early Career Researcher Award (DECRA): *Regulation and Governance for Indigenous Welfare: Poverty Surveillance and its Alternatives* (DE180100599) and Australian Research Council Discovery Project (DP): *Conditional Welfare: A Comparative Case Study of Income Management Policies* (DP180101252).

² Parliamentary Joint Committee on Human Rights, *Report 2 of 2021*, p 59.

that are adversely affected, and not a legitimate restriction on the human rights in question. A less rights restrictive approach would be to provide incentive payments to people who participated in various aspects of the program—and to have the program be voluntary. Other less rights restrictive approaches to achieving the government's stated goals of seeing people on the program (who are mostly women)³ 'prepare for future study or employment'⁴ include the provision of affordable housing, affordable child care, affordable public transport, and adequate income. These things are not widely accessible in Australia for the cohort in question – and the investment in punitive welfare conditionality comes with an opportunity cost in terms of other support structures that could genuinely help those who need assistance.

I observe that the Australian Human Rights Commission has raised serious concerns about the ParentsNext program, and I share these concerns:

certain aspects of ParentsNext are manifestly inconsistent with Australia's human rights obligations. These concerns relate to the right to social security, the right to equality and non-discrimination and children's rights. The punitive compliance approach also risks entrenching and exacerbating poverty and inequality in Australia.

The disproportionate impact of ParentsNext on women and Indigenous Australians raises serious concerns about the right to equality and non-discrimination. Women, children and Indigenous Australians are disproportionately affected by the program, with women comprising around 96% of the 68,000 participants, and Aboriginal and Torres Strait Islander people comprising around 19% or 14,000 participants.

... the Commission has called for the program be voluntary and opt-in rather than mandatory, and for the removal of the Targeted Compliance Framework so that participants cannot be subject to suspension, reduction or cancellation of their Parenting Payment.⁵

I endorse the position of the Australian Human Rights Commission.

In terms of Indigenous social security recipients, the targeted compliance framework can 'cause severe hardship for the individuals concerned, their children and others

³ 'Participants, 95 per cent of whom are women' in Explanatory Statement, Social Security (Parenting payment participation requirements – class of persons) Instrument 2021, p 6; Australian Human Rights Commission, 'ParentsNext limits right to social security for parents and children'

<https://humanrights.gov.au/about/news/parentsnext-limits-right-social-security-parents-and-children>

⁴ <https://www.servicesaustralia.gov.au/individuals/services/centrelink/parentsnext/what-it>

⁵ Australian Human Rights Commission, 'ParentsNext limits right to social security for parents and children' <https://humanrights.gov.au/about/news/parentsnext-limits-right-social-security-parents-and-children>

due to a web of extended family and cultural relationships'.⁶ Kimberley Community Legal Services have rightly described 'instituting compulsory participation' under ParentsNext as 'a major overreach'.⁷

I note that the Parents Next program can also require people to have counselling.⁸ This is an interference with the right to a private life, and may also be counter-productive if the person is not at a point in their life where they are open to counselling. A journey towards emotional healing or personal growth cannot be forced by external parties, including the government. It is concerning that the Federal Government increasingly seeks to eliminate the right to a private life for people who need government income support, which happens through a range of welfare conditionality programs. This undermines autonomy, agency and confidence for those affected by such programs, all of which are important qualities for people seeking paid employment.

Recommendations

- **That any participation in the Parents Next Program be voluntary rather than compulsory.**
- **That no payment reductions, suspensions or cancellations be applied to people in need of social security, as doing so undermines their right to social security and their right to an adequate standard of living. It also undermines the rights of their children to access what they need through their parent's social security payments.**
- **That the government make a genuine commitment to cease engaging in indirect discrimination as is required under the international human rights conventions to which Australia is a signatory (e.g. the ICERD and the Convention on the Elimination of all forms of Discrimination Against Women).**

If I can be of further assistance I would be happy to oblige.

Yours sincerely,

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⁶ Kimberley Community Legal Services, Submission to the Senate Community Affairs References Committee

Inquiry into the ParentsNext program, March 2019, p 9.

⁷ Kimberley Community Legal Services, Submission to the Senate Community Affairs References Committee

Inquiry into the ParentsNext program, March 2019, p 8.

⁸ Parliamentary Joint Committee on Human Rights, *Report 2 of 2021*, p 59.

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