

Jobs Australia Submission:

Senate Education and Employment Legislation Committee inquiry into  
the Social Security Legislation Amendment (Welfare Reform) Bill 2017

3 August 2017

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## ABOUT JOBS AUSTRALIA

Jobs Australia is the national peak body which helps not-for-profit employment and community services all over Australia to provide the best possible assistance to disadvantaged communities and people. With our particular expertise in employment services, and because we are funded solely by our members, we can advocate to government and others for what's right and best in helping unemployed people - with real insight and an independent voice.

We represent the largest network of not-for-profit employment-related community services in Australia - with members ranging from small local community agencies to large national charities.

## ABOUT THIS SUBMISSION

Jobs Australia has chosen to respond to the matters in this bill which have the most significance for the ongoing effective operation of employment services and activation strategies. Our response begins with a principle-based perspective on the compliance framework which sets out the justification for our concerns about the measures in this bill we do not support. The following section responds for the activation measures in schedule 1-7 and 9.

## Job Seeker Compliance Measures

### PRINCIPLES FOR SANCTION DESIGN

Jobs Australia supports the principle of active job search and preparation as articulated in the principle of Mutual Obligation. This principle has been a long-standing and widely supported feature of the Australian welfare system. It provides an important signal to benefit recipients that the financial support that the community provides comes with an expectation that those who are able to work actively pursue work. It also reinforces the need for job seekers to be provided with appropriate support to enable them to leave unemployment.

To that end there is an important balance to be struck. Welfare payments in Australia are highly targeted and are set at a rate that provides for, at best, a very basic standard of living. Any suspension or reduction of payments is likely to have a significant adverse impact on the welfare of the job seeker, as well as anyone else in their household. That impact, if too severe, can make it harder to look for work and drive individuals and families further into poverty.

Rather than seek to penalise job seekers (and risking severe harm), sanctions should seek to encourage engagement in employment and support services, with a view to the job seeker gaining employment as quickly as possible. The design should maximise the behavioural impact, while minimising the financial impact. This point is particularly relevant to the proposed drug testing and reasonable excuse measures.

Jobs Australia endorses the principles that were outlined in the final report of the last major review of benefit sanctions in Australia<sup>1</sup>. The principles that were enunciated in the final report continue to be relevant to the design of sanctions.

**Box 1: Independent Review of the Impacts of the new Job Seeker Compliance Framework, September 2010, pp77-78**

#### SOME UNDERLYING PRINCIPLES

3. In assessing impacts of the new compliance system and making recommendations for strengthening its operation, the Review has sought to apply the following principles.

##### *Obligations on job seekers*

4. Unemployed people who wish to receive income support from the government should be required to make reasonable efforts to obtain employment. These requirements can appropriately include attendance at appointments and activities which are likely to improve the job seeker's prospects of employment, including by assessing the kinds of barriers which he or she may face and the kinds of assistance which may be needed.

##### *Requirements for individual job seekers*

5. The requirements placed on a job seeker should take reasonable account of his or her individual circumstances. This includes a job seeker's existing or potential aptitudes as well as circumstances such as health status or family responsibilities which may limit their capacity to take advantage of some types of opportunity or to comply with some types of requirement.

##### *Enforcement of requirements*

6. Requirements should be enforced in order to maximise job seekers' prospects of obtaining employment and to support people and organisations which are engaged to help job seekers to do so. Enforcement is also necessary to prevent abuse of the social security system, unjustifiable loss of government revenue, and erosion of public support for assisting unemployed people to survive financially and to find work.

##### *Methods of enforcement*

7. Enforcement should be pursued in ways which recognise the characteristics and record of the individual job seeker in question. This includes sensitivity to the great difficulty which some job seekers experience in understanding and complying with requirements that may seem simple to others. It also includes vigorous scrutiny of people who appear to have no reasonable excuse for persistent non-compliance.

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<sup>1</sup> This review, which presented its final report to Government in September 2010, was headed by Professor Julian Disney AO, a former law professor and now Chair of the Australian Press Council.

*Focus on engagement*

8. The main purpose of seeking to enforce requirements should be to achieve or restore active engagement of job seekers with processes and activities which have a reasonable likelihood of improving their employment prospects. Sanctions should be designed and applied to achieve this purpose, not merely to punish, except where it has become clear that the job seeker is persistently and deliberately failing to meet reasonable requirements.

*Impacts on providers*

9. The design and enforcement of requirements on job seekers should take reasonable account of the interests of people providing assistance to job seekers. In particular, they should be clear, consistent, and not subject to arbitrary change. They should not impose unreasonable administrative burdens on providers or unjustifiably hamper providers' ability to deliver appropriate assistance.

*Accountability and efficiency*

10. The design and enforcement of requirements on job seekers, providers and public servants should be consistent with due public accountability and efficient administration. The requirements should be expressed clearly and succinctly, and they should be readily accessible to anyone with a reasonable interest in them. Key elements should be specified in legislation or other material after being available in draft form for public comment. In order to facilitate ongoing review of the compliance system by Parliament and the public, detailed statistics about its operation should be made available promptly and publicly.

*Responding to mistakes*

11. It is inevitable that mistakes will be made by people operating within large and complex systems of this kind. A high priority should be given to promptly identifying and rectifying mistakes, as well as reducing the likelihood of recurrence by improving relevant rules, training or work practices. Job seekers and other people who may be adversely affected by mistakes should have ready access to independent review of decisions relating to them.

In keeping with these principles, Jobs Australia supports better targeting the compliance system on persistent non-compliers, and supports this measure on the following provisos,

**Schedule 15 – Targeted Compliance Framework**

**Jobs Australia broadly supports the introduction of the Targeted Compliance Framework,**

We note the framework should be implemented with high quality training to frontline staff regarding the intention of the framework which is to identify and focus on job seekers who are persistently

non-compliant. The framework should not be used as a mechanism to control or discipline job seekers who are in dispute with their providers about the nature of their participation requirements, activity undertaken to meet mutual obligation or job search requirements. Establishing conditions of mutual trust is an important precursor to securing job seeker engagement and will increase the likelihood of them achieving sustainable employment outcomes.

Furthermore, we support the intention that job seekers in approved programs like the Community Development Program (CDP) should be exempted from the new compliance framework. The way in which this exemption is enacted should be done in a way that ensures any new legislated social security requirements for job seekers in approved programs are appropriately scrutinised by parliament and not introduced as legislative instruments. There are concerns the current wording of the bill would inadvertently create a loophole for participants in approved programs.

**Jobs Australia draws attention to some potential improvements to the compliance framework and proposes the following modifications regarding the use of Financial Penalties:**

*Protections for vulnerable and at risk job seekers*

We believe proactive measures should be implemented to ensure special benefits are accessible to job seekers experiencing extreme financial hardship especially when homelessness may result from the payment cancellations. A review officer at Centrelink should be available to job seekers at the commencement of the payment cancellation to review the adverse effects of the impact, and to assess if homelessness is a risk.

Furthermore, we argue that the Financial Penalties should not apply to vulnerable people including those who identify as at risk of homelessness, single parents, people with disabilities, job seekers with mental health conditions and illnesses including drug and alcohol addictions.

We understand the 4 week payment cancellation is intended to be served concurrently with ordinary and any other relevant wait periods. Measures should be taken to ensure job seekers are reminded to reapply for unemployment benefits a week prior to the end of the cancellation period so there is opportunity for them to attend the newly introduced Workfirst appointment with their employment services agency at the earliest opportunity. Furthermore, job seekers should be given the option to change providers after a 4 week cancellation to avoid future animosity in relations between them and the employment service agency.

*Right of review*

The new compliance framework needs to be revised to ensure there are adequate protections for the right of review. Jobs Australia cannot see these provisions in the model. While employment service providers and Centrelink each may undertake a review at the fourth and fifth penalty point respectively, these reviews are to find out if job seeker are experiencing barriers to participation. It is our experience that when job seekers are repeatedly threatened with financial penalties there is often a break down in relationship with their employment service provider that can exacerbate the reasons for non-compliance. Information about access to Human Services decision reviews and AAT

processes should be made available to job seekers during these interviews for non-compliance.

#### Schedule 12 – Establishment of a Drug Testing Trial

##### **Jobs Australia does not support this measure**

The drug testing trial should not proceed because it will be ineffective – we urge to committee listen to respected views of drug treatment agencies and peaks such as VAADA . The Parliamentary Library prepared a briefing which quoted international sources which indicate

*that drug treatment is most effective when the person themselves decides to stop using and seeks treatment. For example, Tony Trimingham and Gino Vumbaca argue that ‘the evidence for coerced treatment is one of high cost and poor outcomes’.[14] According to this argument, the Government would achieve better results if it directed funds towards improving access to treatment for income support recipients who chose to seek help<sup>2</sup>.*

Jobs Australia is also concerned the drug testing measures may result in people exiting welfare and this will increase the distance between them and drug and alcohol treatment services. In the longer term this which will entrench the disadvantage and marginalisation of job seekers with substance abuse and addiction issues and this may ultimately undermine social cohesion.

Jobs Australia is also concerned about potential privacy breaches in sharing health information that would be required to manage this measure.

#### Schedule 13 – Removal of Exemptions for Drug or Alcohol Dependence AND

#### Schedule 14 – Changes to Reasonable Excuses

##### **Jobs Australia does not support these measures**

Drug and alcohol impairments have been retained as allowable items on the DSP impairment instrument and their impact on people’s capacity to attend employment service appointments needs to be given reasonable consideration as a reasonable excuse as would onset of other illness. Job seekers should be provided with support to deal with their substance abuse or addiction issues but not through linking income support to drug treatment compliance.

Allowing job seekers to use this excuse once only will be administratively clumsy and requires record keeping about drug and alcohol matters which would need to be shared between employment services agencies and Centrelink. Jobs Australia is also concerned about potential privacy breaches in sharing health information that would be required to manage this measure.

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<sup>2</sup> APH Drug testing for welfare recipients:

[http://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/BudgetReview201718/WelfareRecipients](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/BudgetReview201718/WelfareRecipients)

Jobs Australia believes job seekers who repeatedly disclose drug and alcohol dependency issues as a reasonable excuse should be assessed for Stream C services.

We believe that training for employment services consultants about drug and alcohol awareness should be enhanced.

#### Schedule 1-7– Creation of the Jobseeker Payment

***Jobs Australia supports this measure in so far as it will create a simpler benefits system.***

We hold concerns about the implicit activation measures that will be applied to recipients of the new job seeker payments who may have previously been exempt from activity tests. Care should be taken to ensure activation measures are appropriate to the capacity for all recipients of payments, of particular note should be carers, parents and people with disabilities.

Furthermore, in extending activity tests, care should be taken to ensure that these reasonably reflect the range and availability of activities that are available for job seekers. We understand that activities in excess of 15 hours per week are difficult to source, and this will cause frustration for employment service providers as well as job seekers.

#### Schedule 9 – Changes to Activity Tests for Persons Aged 55 to 59

***Jobs Australia does not support this measure.***

We are concerned this measure will create unreasonable administrative work for employment service providers and unnecessary inconvenience for job seekers when it is well understood that mature age job seekers face high levels of discrimination when trying to re-enter the workforce. The low rate of Newstart provides sufficient incentive for these job seekers to look for employment to alleviate poverty. We understand from research<sup>3</sup> that mature age job seekers are amongst the most motivated groups looking for work and many of the barriers to employment they experience are structural. We believe participation in voluntary work is sufficient to meet mutual obligations for this cohort.

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<sup>3</sup> We draw the committee's attention to research from the Brotherhood of St Laurence that justifies this position: Too old to work, too young to retire report: <https://www.bsl.org.au/knowledge/browse-publications/too-old-to-work-too-young-to-retire/>