



Australian Council of Social Service

28 October 2014

Senator Bridget McKenzie,
Chair
Senate Education and Employment Legislation Committee
Parliament House
Canberra, ACT, 2600

**Re: Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework)
Bill 2014**

Dear Senator,

Our submission in response to your Committee's inquiry into the above Bill is attached, and the key points are as follows.

Part 1 and Part 2 (items 21-32) restrict the reinstatement of suspended income support payments for unemployed people who have missed provider interviews and their access to back-payment of suspended benefits. While most of these penalties would be small in value, so are Newstart and Youth Allowance payments. These measures would impose financial hardship on large numbers of unemployed people without significantly improving compliance with interview requirements. We recommend that they be rejected.

Part 2 (items 13-19) relate to job search requirements for older unemployed people. While it is reasonable in principle to extend appropriate job search requirements to older people who are unemployed, we are concerned that this does not take account of the greater difficulty most would have in securing employment, given widespread discrimination against older workers.

Under these circumstances, and especially in the absence of adequate public investment in employment assistance and work with employers to shift attitudes towards older workers, the repeated rejections that would result from imposition of the standard requirement to apply for up to 10 jobs a fortnight would demoralise older unemployed people without greatly improving their employment outcomes. The Schedule also relies excessively on Legislative Instruments to spell out benefit requirements that should sit within the primary legislation. We recommend that this Schedule also be rejected.

ACOSS would be pleased to respond any queries the Committee may have about our submission.

Yours sincerely,

Dr Cassandra Goldie



Australian Council of Social Service

Submission to Senate Education and Employment Legislation Committee: Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014

Key points

Items 21-32 in Part 1 and Part 2 restrict the reinstatement of suspended income support payments for unemployed people who have missed provider interviews and their access to back-payment of suspended benefits. While most of these penalties would be small in value, so are the Newstart Allowance and Youth Allowance payments. These measures would impose financial hardship on large numbers of unemployed people without significantly improving compliance with interview requirements. We recommend that they be *rejected*.

Items 13-19 in Part 2 relate to job search requirements for older unemployed people. While it is reasonable in principle to extend *appropriate* job search requirements to older people who are unemployed, we are concerned that these items do not take account of the greater difficulty most would have in securing employment, given widespread discrimination against older workers.

Under these circumstances, and especially in the absence of adequate public investment in employment assistance and work with employers to shift attitudes towards older workers, the *standard* job search requirements would simply demoralize unemployed people without greatly improving employment outcomes. The Schedule also relies excessively on Legislative Instruments to spell out benefit requirements that should sit within the primary legislation. We recommend that this Schedule also be *rejected*.

I. Penalties for non-attendance at interviews

The legislation would, if passed, remove an unemployment payment recipient's entitlement to back-payment of suspended income support payments if they attend a rescheduled appointment with Centrelink or an employment services provider after having missed the first appointment without giving an adequate reason. It would also deny them restoration of income support until they attend the rescheduled appointment, rather than from the time they indicate to Centrelink their intention to do so.

The current rules suspend income support for people who do not attend appointments with employment service providers, and reinstate benefits, with back-payment, after they indicate to Centrelink their willingness to attend a rescheduled appointment. They give



priority to re-engaging unemployed people with service providers rather than penalising them for relatively minor infringements of activity requirements. There are good reasons for adopting this approach.

The context: The non-attendance problem and its causes

The Explanatory Memorandum suggest that the 35% non-attendance rate for provider appointments is evidence that the current compliance system is too weak and that more penalties should be imposed for non-attendance. This statistic taken on its own is misleading since there are legitimate reasons for the majority of missed appointments. For example, in many cases the individual has found employment and no longer needs income support while in others they did not receive the notice of appointment. To inform its work, we suggest that the Committee seek a detailed breakdown of the reasons for non-attendance at various interviews.

The Explanatory Memorandum presents a very narrow view of the circumstances and motives of unemployed people and the way in which the social security and employment services systems interact with them. It implies that the non-attendance problem reflects a motivational deficit on the part of unemployed people that can be solved simply by imposing more penalties.

The reality on the ground is that unemployed people have to deal with social security and employment services systems which are highly complex and difficult to negotiate. Many unemployment payment recipients have limited literacy skills or other vulnerabilities such as a mental illness or homelessness. When they first claim unemployment payments people have very little time (typically two days) to engage with a provider and receive little information to help them choose one and little guidance from Centrelink or providers on the services available to them. Under these circumstances it is inevitable that many people will unintentionally miss appointments.

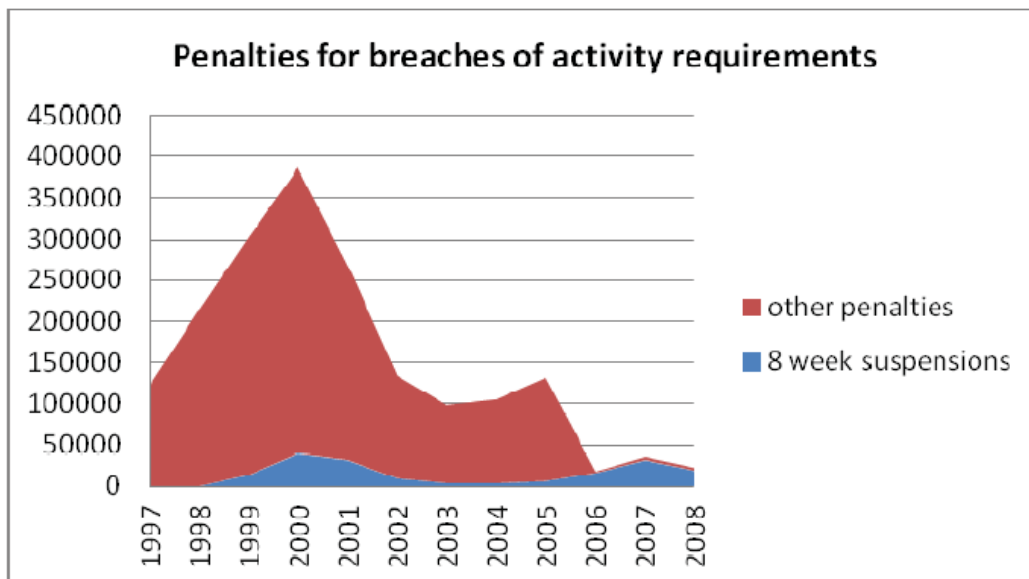
People cannot reasonably be expected to comply with rules which the average person has difficulty comprehending, let alone people in the vulnerable circumstances described above. Many of those penalised under these rules are young people with highly insecure housing circumstances which inhibit them receiving regular postal communications, and with mobile phones which are frequently without credit and charge, leading to missed calls from employment service providers.



There is a risk that, instead of simplifying the system, the Bill would add more layers of complexity. For example, the Explanatory Memorandum notes that:

‘New Sub-section 42T(3A) makes clear that a penalty can only be imposed in respect of a day in a period for which the payment is suspended due to an initial failure to attend an activity or appointment, not in respect of day in a period for which payment is suspended due to a failure to attend a rescheduled appointment.’ (Explanatory Memorandum P33)

The proportion of appointments that are missed has generally stayed in the range of 35% to 45% over the last 15 years, despite numerous changes to compliance arrangements and penalties. An effective compliance regime is important but the main impact of changes to compliance systems and their administration has been to increase or reduce the number of penalties applied. The graph below shows historical trends in activity test breach rates (the vast majority of which were for non-attendance at appointments). These large swings in participation failures reflect compliance system changes, including the tightening of the compliance system in the early and mid-2000s.



Source: Davidson & Whiteford 2011, OECD.

This suggests that the solution to the non-attendance problem does not lie in further tightening of compliance systems. In our view it is more likely to lie in improved communication and personalised contact with new applicants, and giving people adequate time to choose and register with an employment service provider. Recent innovations such as the texting of interview reminders to unemployment payment



recipients have probably made a difference. Giving Centrelink a modest role in the provision of employment assistance and a greater role in monitoring compliance with activity requirements for people assigned to Stream 'A' of the new employment service system who have limited barriers to employment would also help, by removing the need for many people - who typically receive a very limited service from Job Services Australia providers in any case - to deal with two separate agencies. Many people fall through the net during the initial handover from Centrelink to employment service providers.

The 'Statement of Compatibility with Human Rights' notes that 22% of those who missed appointments this year were of Aboriginal or Torres Strait Islander background, and that 40% were 21 to 30 years old. If these statistics are compared with the overall representation of these groups among people on unemployment payments we find that they are heavily and consistently over-represented. They would be disproportionately affected by the new penalties in the Bill, if passed. ACOSS has argued for many years for targeted information and engagement strategies to improve the accessibility of services provided to these two groups and strengthen compliance with activity requirements.

Key changes proposed in the Bill

ACOSS supports reasonable and relevant activity requirements for people on unemployment payments. The present compliance system has weaknesses – including its complexity, the lack of legislative limits on the duration of payment suspensions, and the severity of eight week payment suspensions, but in other respects, there is a reasonable balance between preventing hardship and keeping people engaged with employment services and the labour market.

The present system relies mainly on payment suspensions rather than penalties to encourage people to attend interviews with providers. The suspension of income support until an unemployed person agrees to re-engage with their provider is an effective way to encourage them to do so. There is no need to apply any financial penalty once they agree to attend the rescheduled meeting, and even less so once they attend it.

The Explanatory Memorandum raises the concern that people may indicate to Centrelink their willingness to attend a rescheduled meeting and then deliberately fail to do so. No evidence is presented of the extent of this problem, which is likely to be much less common than non-attendance at interviews generally. The present system already deals with this issue by penalising people for their failure to attend the second meeting. Unlike



the first breach, there is no back-payment on that occasion. This ‘participation failure’ may also lead to an eight week suspension of payments later on.

Compared with the present system the Bill would penalise people who miss appointments without acceptable reason in two ways. First, their payment would continue to be suspended even when they indicate their willingness to Centrelink to attend a rescheduled appointment. Secondly, it appears that they would no longer, in most cases, be ‘back-paid’ the suspended payment once they attend the appointment.

There is little doubt that if people were automatically penalised in all cases for not attending an interview without an acceptable reason, the number of financial penalties imposed would rise dramatically. The Explanatory Memorandum refers to ‘over 280,000 job seekers’ who are currently breached each year (and may have their payment suspended) for missed appointments. No evidence is presented to show that the Bill would achieve anything other than imposing financial hardship on large numbers of people who have very limited financial resources. To inform its work, we suggest that the Committee ask the Government for its estimates of the additional number of penalties that are likely to apply if the Bill is passed.

We appreciate the Government’s intention to keep these penalties modest. Yet even a few day’s payment is very important to people who live on a Newstart Allowance of \$36 a day. Only a minority of unemployment payment recipients have significant incomes apart from their benefits and few have significant savings. Most rent their accommodation and even a small reduction in payments would increase the risk of homelessness. Not all have access to financial support from their families. A large increase in the number of penalties applied is likely to put further strain on agencies providing emergency relief and housing.

The implementation of this measure poses significant practical problems. If payments are suspended until the person attends a rescheduled appointment then employment service providers will come under considerable pressure to organise alternative appointments within two days. Otherwise, unemployed people could experience extended financial hardship through no fault of their own. We question the value of these rushed appointments in providing effective employment assistance (as we do the requirement for unemployed people to choose and register with a provider within a similar period).

The pressure to organise a large number of meetings in a hurry would force providers to divert their resources from their main task – helping people secure paid employment – to compliance administration. This runs contrary to one of the stated goals of the Bill: to



reduce 'red tape' for providers. It is not clear whether giving providers, rather than Centrelink, the task of rescheduling appointments with each unemployed person will improve attendance rates. On the face of it, it is more efficient for providers to organise these meetings directly but in the past when Centrelink was 'bypassed' in this way attendance rates fell dramatically.

We welcome the Government's apparent decision to withdraw proposals to give employment service providers the authority to decide whether people should receive back-payment. This would have further diverted their efforts towards compliance management and given them a task (fair and consistent benefit administration) for which they have limited expertise. However, if the Bill is passed in its present form the outcome may be worse for unemployed people because it appears on the face of it that back-payment would no longer be offered in most cases. The Bill would give Centrelink the power to refuse back-payment but it is not clear under what circumstances this would occur. Social security legislation that deprives people of income should clearly spell out the circumstances in which this would occur.

Recommendation

We recommend that Part 1 and Part 2 (items 21-32) be *rejected*.

2. Activity requirements for older unemployed people

Part 2 (items 13-19) of the Bill would remove exemptions from job search requirements for specified groups of unemployed people over 50 years of age who are currently engaged in alternative activities such as part time employment or voluntary work.

The context: Labour market circumstances of older unemployed workers

The main reason for the existing exemptions is that people who are unemployed and over 50 years have much greater difficulty, on average, securing paid employment due to age discrimination and also their lower average qualifications. Older unemployed people are also much more likely to be unemployed long-term, which further disadvantages them in the labour market. This is a major reason for steady growth over the long term in the proportion of Newstart recipients who are over 50, which currently sits at over 25%.



Much more could be done, and should be done, to encourage employers to give older workers opportunities and to reskill them and better prepare them for the adjustments workers have to make in today's labour market. This may include a change of career late in working life, which poses a big challenge for most people. ACOSS does not generally favour age-based employment services since the diversity of need is usually as great within age groups as between them. However, we have consistently argued for greater investment in employment assistance for people unemployed long-term, many of whom are older workers, and support the funding of specialised employment services within the mainstream JSA system.

We welcome the Government's wage subsidy scheme for older long term unemployed workers and believe the employment impact of these schemes is sufficiently favourable to make more investment in them worthwhile – on the basis of unemployment duration rather than age. Well-targeted and well-administered wage subsidies give people opportunities they would not otherwise have to experience paid employment, demonstrate their value to an employer, and improve their skills and networks.

However, once someone is unemployed long term, their JSA provider has few resources and few incentive to invest in other forms of training or to partner with employers to give long term unemployed people a chance. Under the new JSA system, providers will typically receive a credit of just \$500 in their Employment Pathway Fund once an unemployed person has been out of paid employment for a year.

The likely impact of the Bill on older unemployed people

ACOSS supports in principle greater consistency in activity requirements for people in different age groups but this must be matched with greater consistency in their treatment in the labour market. We share the concern that the current blanket exemption from job search requirements for those engaged in part time or voluntary work distances older unemployed workers from the labour market, but if this exemption is abruptly closed by imposing the standard requirement to apply for up to 10 jobs a fortnight the repeated rejections will further demoralise many people whose mental health and self-esteem have already taken a blow through unemployment.

This is likely to occur regardless of which age cohort is targeted in the first instance.



We suggest that the Committee and the Government consider alternative solutions in discussion with older unemployed people, the community sector and employment services.

Recommendation

We recommend that Part 2 (items 13-19) be rejected, and that the Committee recommend consultation with older unemployed people, the community sector and employment services over alternative measures to strengthen skills and workforce engagement among older unemployed people.