

# Australian Greens' Dissenting Report

## Introduction

1.1 The Australian Greens dissent from the majority committee report recommendation that the Social Security Legislation Amendment (Youth Jobs Path: Prepare, Trial, Hire) Bill 2016 (the Bill) be passed.

1.2 A number of submitters raised concerns about the tight timeframe for the inquiry on the legislation. The Australian Greens share their concerns and note that due to the limited time allowed for this inquiry, there was no possibility for a public hearing.

1.3 The lack of detail in the legislation is concerning. All measures relating to the internship element of the Youth Jobs PaTH Program (PaTH Program), such as the payment of the incentive payment, should have been included in the Bill to enable the measures to be scrutinised by the Parliament.

1.4 The PaTH Program was announced in the 2016-17 Budget. The PaTH Program focuses on the employability of young people, rather than the lack of jobs currently available in the job market. This illustrates that the PaTH Program is another example of the Government ignoring the real problem, the lack of available jobs for young people. A number of submitters to the inquiry pointed out the PaTH Program will not lead to the creation of new jobs that are so desperately needed in order to provide ongoing employment opportunities for young people. As Anglicare Australia says in its submission, '[t]here needs to be a broader approach to economic restructuring if all young people facing barriers to employment are to have reasonable hope of future work.'<sup>1</sup>

1.5 A number of submitters noted that the PaTH Program is similar to the failed Youth Employment Scheme (YES) in the UK and the wound-up Irish Job Bridge program.

1.6 In this regard, Jobs Australia says in its submission:

In respect of “internships” as a means of assisting young unemployed people, we note in particular, the Irish Job Bridge program on which Youth Jobs PaTH is at least partially based (and which unfortunately came to be known as “Scam Bridge”) has been discontinued as a consequence of high levels of exploitation of young people and displacement of existing workers and the controversial experience of a similar program in the UK. This overseas experience points to some of the risks involved in Youth Jobs PaTH and reinforces the need to implement robust safeguards to ensure that the Australian program does not experience the same problems and that

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1 Anglicare Australia, *Submission 6*, p. 3.

young people get the best possible experience to help them on the way to a job.<sup>2</sup>

1.7 The Australian Council of Trade Unions (ACTU) says in its submission:

The United Kingdom government tried a similar scheme in 2013, the Youth Employment Scheme (YES), which launched in January 2013 and was wind up in July 2014 with fewer than half the estimated placements having been made and no clear increase in real job placements. The YES scheme, like the PaTH program, had a top up element for the participant, a subsidy for the employer, took place over two tranches, a shorter work experience component and a longer skills development component. It is our view that adopting a failed program from the United Kingdom is not an effective or efficient way of reducing youth unemployment.<sup>3</sup>

1.8 The Australia Greens agree that replicating these unsuccessful overseas schemes is unlikely to assist in decreasing the high levels of youth employment. The Government should instead be investing in individualised supports and quality training programs.

1.9 The Australian Greens' key concerns about the PaTH Program relate to the limited remuneration the internship participants would receive, the limited protections provided to the internship participants, whether the internships are genuinely voluntary, the definition of internships, the possibility of existing employees being displaced and "interns" being churned. We are also concerned that much of the PaTH Program is not covered by the legislation.

1.10 The Australian Greens are aware that the Bill only contains provisions relating to:

- The exemption of the fortnightly incentive payment of \$200 from being counted as income so as not to affect the income support payments of the internship participants; and
- The suspension, rather than cancellation, of income support for up to 26 weeks for young people hired under a Youth Bonus Wage Subsidy so they are not required to reapply if they find themselves unemployed 'through no fault of their own'<sup>4</sup> within the 26 week time period.

### **Limited remuneration for participants**

1.11 A number of submissions raised concerns that participants in the PaTH Program internships would essentially be working for less than minimum wage if they worked 25 hours a week. The exception to this is 17–18 year old participants who live away from home.<sup>5</sup>

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2 Jobs Australia, *Submission 11*, p. 5.

3 Australian Council of Trade Unions, *Submission 10*, p. 2.

4 *Explanatory Memorandum*, p. 1.

5 Australian Council of Social Service, *Submission 15*, p. 5.

1.12 In its submission, the ACTU says:

There must also be significant concern however that PaTH may serve to undermine the minimum wage system. The current program settings, hours worked and additional payments per fortnight, mean that the interns in this program are paid below minimum wage, potentially creating pressure on existing employees' wages or conditions.<sup>6</sup>

1.13 The Australian Council of Social Service (ACOSS) suggests that the possible fortnightly hours should be limited to 30, rather than 50 for the internship placements.<sup>7</sup> This would ensure participants receive 'the equivalent of the relevant hourly minimum wage'.<sup>8</sup>

1.14 Anglicare Australia says in its submission:

More needs to be done to guarantee that the wages, conditions and employment opportunities of existing workers will not be undermined by the introduction of interns. We agree with others who have argued that if this scheme is to go ahead, interns should be paid minimum or training wages to minimise this risk.<sup>9</sup>

1.15 The Australian Greens are concerned about the limited remuneration participants in the PaTH Program internships will receive. At a minimum, participants should be receiving the equivalent to the set minimum wage. If the participants do not receive the minimum wage, there is more chance of businesses exploiting them and other workers suffering as well.

### **Limited protections for participants**

1.16 The legislation does not provide protections in relation to working conditions for those young job seekers who choose to undertake an internship placement.

#### *Exploitation*

1.17 A number of submissions raised concerns that internship participants are not protected from working non-standard hours. This is troubling because participants required to work on the weekends for example would not receive penalty rates.

1.18 ACOSS says in its submission:

Either participants should be classified as employees (with a wage subsidy) or the program should not allow work beyond standard working hours (averaged over a fixed period) or at times that would attract penalty rates of pay if the person was employed (such as weekends)[.]<sup>10</sup>

1.19 Jobs Australia suggested the legislation be amended:

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6 Australian Council of Trade Unions, *Submission 10*, p. 2.

7 Australian Council of Social Service, *Submission 15*, p. 3.

8 Australian Council of Social Service, *Submission 15*, p. 3.

9 Anglicare Australia, *Submission 6*, p. 3

10 Australian Council of Social Service, *Submission 15*, p. 3.

[T]o ensure that times of “work” or unpaid work experience are restricted so that interns are not required to “work” during times which would attract penalty payments under relevant awards – (the risks of exploitation and displacement of existing workers are extremely high in these circumstances and particularly in industries with highly variable levels of employment and of casual work – where it could be difficult to discern whether displacement is occurring)[.]<sup>11</sup>

1.20 The Australian Greens do not want to see young people exploited by businesses that take them on as ‘interns’ under the PaTH Program. It is imperative that participants are appropriately remunerated for the work they do and that they are only required to work standard hours, if they are not going to be paid the prescribed rate for non-standard hours.

#### *Health and safety*

1.21 Health and safety protections also appear to be inadequate for internship participants.

1.22 ACOSS notes that given the participants are not employees it is possible they will not be covered by laws governing health and safety in the states and territories.<sup>12</sup> ACOSS recommended that:

Either State Occupational Health and Safety Laws should apply to participants, or employment service providers (or better still an independent mentor) should be required to:

- explain to participants the protections available to them regarding health and safety in the workplace before an internship commences (both verbally and in writing);
- offer advice and assistance in the event that health or safety are at risk; and
- monitor workplace health and safety in respect of interns.<sup>13</sup>

1.23 The Australian Greens want to see adequate health and safety protections in place for internship participants.

#### *Workers compensation*

1.24 There are concerns regarding the insurance cover that will apply to the internship participants and that it will not be the same level of cover as is provided to employees under the schemes of the states and territories.

1.25 UnitingCare Australia says in its submission:

UnitingCare Australia also notes concerns regarding young people’s access to workers’ compensation schemes in the event of them experiencing a

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11 Jobs Australia, *Submission 11*, p. 5.

12 Australian Council of Social Service, *Submission 15*, p. 4.

13 Australian Council of Social Service, *Submission 15*, pp. 4–5.

workplace incident or accident whilst participating in the PaTH program. It is unclear the extent to which different schemes operating in states and territories will extend to provide the appropriate protections for young people undertaking PaTH. As previously noted, this issues largely relates to ambiguity around the nature of work that will be undertaken whilst participating in the program, and if this subsequently defines participants as ‘volunteers’ or ‘employees’ – the former may prevent their ability to access workers’ compensation. Further consideration is required regarding how protections can be provided for young people voluntarily undertaking work placement through the program.<sup>14</sup>

1.26 As ACOSS says in its submission:

The Department has its own scheme for participants in employment programs but we understand this generally provides lesser benefits than State Workers Compensation Schemes, no periodic payments, and no entitlement to rehabilitation.<sup>15</sup>

1.27 ACOSS then says:

Either participants should be covered by State Workers Compensation schemes or equivalent coverage should be negotiated by the Department.<sup>16</sup>

1.28 It is necessary that internship participants have access to adequate workers compensation cover in the event of an accident. The Department’s current cover for employment program participants is inadequate in the view of the Australian Greens.

1.29 The Australian Greens are deeply concerned about the lack of protections provided through legislation and otherwise to the internship participants because they are not classified as employees.

### **Genuinely voluntary?**

1.30 The Australian Greens have been, and continue to be, concerned about whether the internships are genuinely voluntary or whether young job seekers may be forced to include an internship placement in their Job Plan by their jobactive service provider, meaning they could face penalties if they do not comply with the requirements of their plan.

1.31 Jobs Australia suggested the legislation be amended:

[T]o incorporate a clear stipulation that participation in internships is voluntary and that there will be no income support penalties as a consequence of failure to attend or participate or for ceasing a placement (to ensure there are no subsequent adjustments to administrative arrangements which could result in participation being mandatory and relevant job seekers being subject to penalties)[.]<sup>17</sup>

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14 UnitingCare Australia, *Submission 4*, p. 6.

15 Australian Council of Social Service, *Submission 15*, p. 5.

16 Australian Council of Social Service, *Submission 15*, p. 5.

17 Jobs Australia, *Submission 11*, p. 5.

1.32 In their joint submission, the Multicultural Youth Advocacy Network Australia and the Federation of Ethnic Communities' Councils of Australia raised concern regarding the authority some migrants and refugees confer upon service providers acting for the Government and the potential for those migrants and refugees to 'regard the presentation of what is actually a voluntary option, as a requirement that must be followed.'<sup>18</sup>

1.33 These internship placements should be genuinely voluntary and provision should be made to ensure that they are. Provision should also be made to ensure that information regarding the internship placements is provided in the job seekers preferred language to ensure there are no misunderstandings about what is and is not required.

### **Displacement of existing employees and churning of interns**

1.34 There is concern that availability of PaTH Program "interns" may lead to existing employees being displaced and replaced with internship participants. There is also concern that businesses may "churn" through interns, rather than fill a vacancy.

1.35 The ACTU in its submission says:

The ACTU is concerned that the scheme may encourage employers to replace existing minimum wage workforces with government sponsored interns or to reduce their wages or conditions. Interns are not paid superannuation or subject to worker's compensation and so represent a significant saving to employers when compared to regular employees.<sup>19</sup>

1.36 In its submission, Interns Australia says:

Interns Australia is surprised the Bill contemplates so directly many of these new employees being fired 'through no fault of their own'. As employers will receive a subsidy for employing these individuals, we have concerns this provision may encourage employers to hire an employee to receive the subsidy, terminate their employment, then hire another employee to receive the subsidy again. This will worsen a similar phenomenon created by the incentive payment to internship providers under the internship programme... Interns Australia would like to see a counterbalance included in the Bill to prevent this 'churn culture' from developing.<sup>20</sup>

1.37 In its submission, ACOSS says:

A set of rules should be formalised by Legislative Instrument to restrict the scope for 'displacement' and 'churning', and ensure that host organisations that engage in these practices cannot host more interns under the program.<sup>21</sup>

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18 Multicultural Youth Advocacy Network Australia and the Federation of Ethnic Communities' Councils of Australia, *Submission 12*, pp. 2–3.

19 Australian Council of Trade Unions, *Submission 10*, p. 2.

20 Interns Australia, *Submission 1*, p. 3

21 Australian Council of Social Service, *Submission 15*, p. 5.

1.38 The Australian Greens are deeply concerned that the PaTH Program internship placements may have an effect on the existing workforce of participating businesses and that some businesses will exploit the intention of the PaTH Program to gain cheap labour. There is no legislative safeguard to stop either the displacement of current employees or the continued use of interns for a vacant position.

**Recommendation**

**1.39 The Australian Greens recommend that the bill not be passed, in its current form.**

**Senator Rachel Siewert**

**Australian Greens**

