

Senate Community Affairs Legislation Committee

BUDGET ESTIMATES – 5-6 JUNE 2014 ANSWER TO QUESTION ON NOTICE

Department of Human Services

Topic: Income Support Payments - Job Seeker Compliance

Question reference number: HS 22

Senator: Siewert

Type of question: Hansard pages 5-6, 6 June 2014

Date set by the committee for the return of answer: 25 July 2014

Number of pages: 2

Question:

Senator SIEWERT: When somebody is breached for not taking a job when offered, if someone rejects a contract that offers nil-hours, does that qualify as a breach?

Ms Golightly: If it is an offer of a job then I think prima facie it would meet that criteria.

Senator SIEWERT: In other words, what you are saying—and this is very important because it is what is happening with some of the carers situations at the moment where people are being offered contracts that do not guarantee any work, they are nil-hour contracts—is that somebody can be breached for not accepting a job that actually offers them no official work.

Ms Campbell: So that is no guaranteed work—

Senator SIEWERT: It is a nil-hour contract. In the contract it is actually a nil-hour contract.

Ms Golightly: What I was saying was that, on the surface, if they are offered a job, then prima facie that meets the criteria. If there are unusual circumstances—

Senator SIEWERT: This is a reality now. People are being offered no-hour contracts.

Ms Golightly: I think there is a difference—and possibly the experts would need to look at the contract—between no guaranteed work and a contract that says you will not get any hours.

Senator SIEWERT: What is the difference?

Ms Golightly: I am just saying that would be a different circumstance. I am not—

Senator SIEWERT: Can you tell me what would happen if there were no guarantee of work?

Ms Golightly: What happens is that if a person is unsure of what they should do, they can ring.

Senator SIEWERT: I am asking you what the department does.

Ms Golightly: I am sorry, Senator, I am trying to get to that. If someone is reported for not accepting a job offer and they believe that they had a reasonable reason for doing that, they can ask for that to be looked into.

Senator SIEWERT: What is your position?

Ms Golightly: I would have to check. I have never seen such a contract, so I would have to check. Personally, I would have to check.

Answer:

The department can be advised of a job seeker refusing to commence or failing to accept a suitable job offer either directly by an employer or via the submission of a Participation Report from the job seeker's employment services provider.

When this advice is received, the department is required to investigate whether or not a serious failure or Unemployment Non Payment penalty period should be applied.

Departmental staff actioning these reports have a number of resources available to them when assessing whether an employment offer is deemed suitable. If the staff member is still unsure, advice can be sought from the Department of Employment as the policy owners as to whether a certain type of employment can be considered suitable work.

An eight week serious failure penalty can be applied if a job seeker refuses to accept a job without good reason. A serious failure penalty would not be applicable in the event of a job seeker refusing a nil hour contract because they could not be taken to have refused a job as no actual work had been offered.

The Department of Employment has advised, however, that the legislation allows for a "No Show, No Pay" penalty to be applied in a number of circumstances, including if a job seeker deliberately behaves in a manner designed to ensure that they will not receive a future job offer with an employer. A "No Show, No Pay" penalty results in the loss of one tenth of the job seeker's fortnightly payment.