



St Vincent de Paul Society
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good works

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

1. Background

The St Vincent de Paul Society (the Society) is a respected lay Catholic charitable organisation operating in 149 countries around the world. Our work in Australia covers every state and territory, and is carried out by more than 60,000 members, volunteers, and employees. Our people are deeply committed to social assistance and social justice, and our mission is to provide help for those who are marginalised by structures of exclusion and injustice. Our programs assist millions of Australians each year, including people living with mental illness, people who are homeless and insecurely housed, migrants and refugees, and people experiencing poverty.

The Senate Education and Employment Legislation Committee has called for submissions on Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014. The Society has consulted its members, and welcomes the opportunity to contribute to this inquiry.

2. Outline

The Bill seeks to suspend payments for jobseekers who do not attend an appointment with Centrelink. Their payments will not resume until they attend an appointment, at which point they would receive any back pay accrued. This measure will become stricter from 1 July 2015, as back payments will no longer be made if the jobseeker does not provide a reasonable excuse for missing their appointment.

Under the Bill, the *Social Security Act 1991* will also be amended. The Act currently allows welfare recipients aged 55 or older to participate in part-time voluntary and/or paid work as a way of meeting their mutual obligation requirements. Under the Bill, over-55s will be treated like other jobseekers, and required to look for work in order to satisfy mutual obligation requirements.

The penalty amount will be 1.4 times the value of the payment that the person would have received on those days (Item 24).

3. The change is not necessary

The Explanatory Memorandum fails to provide any evidence that the small numbers of people who miss appointments with no “reasonable” excuse present a real problem within the current system. First, who is missing appointments? Is there a particular subgroup of people who tend to be missing appointments? The Bill points to the fact that more appointments are missed by males than females, and appointments with non-Indigenous clients are missed more than those with Indigenous clients. However, it does not explain these as a percentage of the total number of clients who are on those payments to begin with. If 22% of appointments missed are with Indigenous Australians, but a total of 30% of all appointments are scheduled with Indigenous Australians, then Indigenous Australians

miss comparatively fewer appointments than non-Indigenous. On the other hand, if only 10% of appointments are scheduled with Indigenous Australians, and 22% of all appointments missed are with this group, then ATSI people are quite clearly going to be more negatively impacted by this Bill than non-ATSI people.

The Bill also fails to identify any evidence that cutting people's payments off and depriving them of income for failing to attend appointments will enable them to find work. First, it seems that after an appointment is missed, the interviewee is to contact the provider, and that will begin the process of reinstating payments (Ex Mem page 12). This assumes that the person will always be aware they have missed their appointment, and is aware that they must make another one immediately or risk having their payments cut off. It also assumes that the person has the resources (phone credit, time, English language, physical and mental health) to contact the provider.

Secondly, even if people do engage, we would question how much good monthly appointments with job services necessarily provide. Research shows that the most successful programs for helping people into jobs acknowledge the strengths, aspirations and circumstances of the individual.¹ These programs tailor support to the needs of the person through training, education and adequate social security benefits, and address the many aspects of life that can impact on their ability to gain employment.² What we hear from the people we assist is that many job services do not provide these individualised services, but treat everyone as if they have had the same experiences and challenges.

There is no convincing evidence that missed appointments are a wide-reaching problem in the job-seeking system, as opposed to being an issue affecting only particular groups of jobseekers. If this is the case, then this Bill is using a hammer to crack a walnut. Secondly, there is no evidence that removing payments will get people into jobs. It will not provide any incentive for people who are unaware that they have missed an appointment, for example. Finally, it does not address the deep problems in the job services available to applicants. We believe that these services must be focussed on the individual and their needs, rather than the current one-size-fits all approach.

Given the lack of evidence or logical argument, the current change is clearly not necessary.

¹ Ian Goodwin-Smith & Claire Hutchinson, 'Beyond supply and demand: addressing the complexities of workforce exclusion in Australia' (2014) 10-11 at anglicare.asn.au/userfiles/Beyond%20Supply%20and%20Demand%20final%20without%20embargo.pdf.

² Ian Goodwin-Smith & Claire Hutchinson, 'Beyond supply and demand: addressing the complexities of workforce exclusion in Australia' (2014) 11 at anglicare.asn.au/userfiles/Beyond%20Supply%20and%20Demand%20final%20without%20embargo.pdf.

4. The impact is not reasonable or proportionate

The explanatory memorandum argues that any impingement by this Bill on Australians' human right to social security is reasonable and proportionate. We strongly disagree with this conclusion.

The impact will be losing income for usually up to two business days (when the appointment can be re-made immediately), which then may or may not be repaid, depending on circumstances. Where the failure to attend occurs on a Thursday, for example, it is very possible that the next appointment opportunity may not be until Monday. The full effect of this legislation will therefore be a loss of income for up to four days. If the person again misses an appointment, then the suspension will continue for another two business days (42SA(2)(a)(ii)), and so on. Where, however, the person either doesn't realise that they had an appointment, or doesn't have the resources to reschedule it, the penalty of no payment will last until they either realise or until they gain the resources to reschedule. This could be a far longer period.

For those already on Newstart, Youth Allowance, and Parenting Payment, the deprivation of income for any period will cause a severe impact. Newstart has already been shown to be so low as to risk breaching the human rights of its recipients,³ and Youth Allowance is lower again. In 2010, over half of households receiving Newstart Allowance had incomes below the poverty line (50% of the median wage). Nearly half of households receiving the Parenting Payment were also below the poverty line.⁴ This highlights the low level of payment and the low number of recipients who have earnings from employment. Moreover, there is a strong connection between low income from income support and persistent poverty: nearly half of all households surviving on unemployment benefits will still be living in poverty two years later.⁵

Apparently, the Bill intends to help people comply with their Centrelink obligations. However, according to the Explanatory Memorandum, The Bill will also "save" \$56 million in the 2015-2016 financial year. It is clearly anticipated, therefore, that many penalties will still be applied. Whichever way you look at it, this is \$56 million which has been taken away from those most in need. Moreover, this \$56 million is not spread over the whole population of job seekers. There are certain job-seekers who have trouble making appointments due to a range of complex circumstances. Indeed, as the Explanatory Memorandum says, this Bill will only affect "a very small minority of job seekers". What we expect we will see is a certain subgroup of people on Newstart being repeatedly penalised, and losing large amounts of their income.

³ Human Rights Committee Report

⁴ Australian Council of Social Sciences, 'Poverty in Australia', (2010) at acoss.org.au/uploads/ACOSS%20Poverty%20Report%202012_Final.pdf.

⁵ Ben Phillips & Binod Nepal, 'Going Without: Financial Hardship in Australia' (2012) 5 at natsem.canberra.edu.au/storage/2-Going%20Without%20MCP%20Report_Aug%202012.pdf.

This compounds the many deep cuts that have already been made by the 2014 Federal Budget, including many cuts to income support payments, allowances, and to a wide range of government services.⁶

We find it unconscionable that the government would, having providing no evidence as to how these measures are necessary, or will achieve the aim of helping people into work, remove payments from those Australians who are already doing it toughest. Even if this income is subsequently paid back in a later period, the loss of up to four days' income (or more), multiplied by 1.4, in a fortnight represents a 40% or more reduction in income in any pay period. There is no question that this will absolutely devastate people's ability to survive.

5. Stigmatizing and humiliating

By suspending the payment automatically, and only providing back pay when a reason is provided, the amendment makes the presumption that the job-seeker has done the wrong thing.

The St Vincent de Paul Society finds this approach offensive. When someone simply misses an appointment, we believe that the presumption ought to be that they had a good excuse, and should continue to receive their payment, until the converse is shown. Indeed, for most people, this will be the case. What we hear from the vast majority of the people we assist is that the system is very complex and difficult to navigate. A high proportion of our clients have problems with their communications with Centrelink. They are often given unclear or contradictory information, and are not always supported to comply. Moreover, our clients tell us, things happen that prevent them complying with all Centrelink directives all the time. Many have children, or others to care for. Health issues arise quickly, or family emergencies draw them away. Lack of funds due to low income support payments mean they can't afford credit for their phone, or petrol for their car. In all of these situations, it makes no sense to instantly penalise them for missing an appointment. Instead, we consider it offensive, demeaning, and often incorrect to assume, in the first instance, that someone has done the wrong thing and deserves a punishment.

Assuming the people can't manage their own money or time, and punishing them and controlling them accordingly, is fundamentally coercive. Like compulsory income management, these punitive measures are the markers of a state that devalues the inherent capacity and autonomy of its own citizens, instead of recognising and empowering our shared humanity.

⁶ See St Vincent de Paul, Budget Submissions 2014, at http://www.vinnies.org.au/page/Publications/National/Submissions/Budget_Submissions/.

Not only is this offensive, it will create additional administrative costs. The new measures may result in substantial extra work for Centrelink staff, requiring the removal and subsequent reinstatement of payments for the majority of people who don't attend an appointment. This process is considerably more involved than simply removing the payment when it is shown that a reasonable excuse is not given.

6. Removing the review mechanism (Items 10 and 11)

Review of government decisions is a fundamental right in a society that lives under rule of law principles. We should all be able to question decisions made about our lives by those in power, and have recourse to a review system where we feel a decision has been made unfairly.

It is shocking that, given the possibility for grave harm to people described above, the right to review is also being taken away by this Bill. That \$50 or \$100 worth of income may be the difference between secure housing and eviction; between buying groceries and going hungry; between being able to pay a bill and having the electricity cut off.

In particular, our members tell us the existing legislation already wreaks havoc in situations of sudden illness, unforeseen accidents and incidents. The Society was supporting a mother with five children who was bitten by a white-backed spider and rushed off to hospital. She was there for several days and struggled to get help for her kids. In the midst of this emergency situation she missed one appointment and was summarily cut off from benefits. They were restored over a few days once the circumstances were explained, but if there is no appeal mechanism, it is disturbing to imagine what would happen – especially in cases of real emergency. It is not acceptable, in a liberal democracy, to give ultimate power to any one decision-maker, and just “trust” that they will make the right decision. This is particularly true when what is being decided is something as subjective as the “reasonableness” of the excuse.

7. The over 55's

The current system recognises that many over 55's who receive Newstart or Parenting Payment face significant barriers in finding paid work. Many grapple with physical health issues after a lifetime of manual labour – studies show older workers experience a higher rate and cost of injury than younger workers⁷, and also tend to have more severe work-related injuries, as well as more severe outcomes (such as greater loss of work time and longer periods of rehabilitation).⁸ All will face the age discrimination that is documented

⁷ WorkCover Authority of NSW, *Statistical Bulletin 2007-2008* (2004) 17 at workcover.nsw.gov.au/formspublications/publications/Documents/statistical_bulletin_2007_2008_5906.pdf.

⁸ Michael Silverstein, 'Meeting the challenges of an ageing Workforce', *American Journal of Industrial Medicine* 51 (2008) 273 at agefriendlyworksite.org/trainers/silverstein_ajim.pdf.

and pervasive in the Australian economy: nearly one in three unemployed people aged 45 years and over described their main obstacle to finding work as being considered too old by employers.⁹ Many too will have missed out on the higher education opportunities that are now a pre-requisite for many jobs – while 44% of Australians aged 25-34 had attained tertiary education in 2010, that number was only 30% for 55-64 year olds.¹⁰ From direct experience, our members tell us there is little to no viable opportunities for employment for this age group, due to employers' fear of workers' compensation claims and the erroneous belief that these older people are just past it.

At present, the default is that the over 55's are able to meet their Newstart or Parenting Payment requirements by volunteering or working part-time. This Bill seeks to remove the ability for the over 55's to meet their requirements by volunteering or working part-time, regardless of the employment opportunities available to that person.

Apparently, this is intended to stop people "retiring" onto Newstart at age 55, and volunteering or working part-time instead of looking for work. No evidence is provided that there is a single person who has quit their job at 55 in order to "retire" into a life of Newstart (\$35 per day) and voluntary work. In fact, given the very low rates of Newstart, it seems very unlikely that anyone able to find work would choose to be on it. It is also offensive to the not-for-profit sector, including the St Vincent de Paul Society, that volunteering is not seen as a worthwhile activity. Volunteers are the heart of much of our sector, and their time, experience, and passion is what drives the Society's work. To equate volunteering with a lazy choice for those too idle to work is insulting to our 58,000 volunteers.

Secondly, this will clearly see older Australians dropping out of part-time work (including self-employment) and volunteering activities, as they are now required to spend significant time engaged in job-seeking. Bizarrely, this will be the case even where there are manifestly no employment opportunities open to them. The Bill will therefore move people from a position of contributing via civic engagement and casual or part-time work to a situation where they are spending much time complying with job-seeking requirements for jobs that they will never get. This seems a very strange use of human capital.

Items 22, 23, and 24 extend the above system of control and humiliation when appointments are missed to the over 55s. The same points are therefore relevant.

⁹ Australian Bureau of Statistics, 'Table 8 Unemployed Persons, Age group (years) and sex – By main difficulty in finding work', 6222.0 - *Job Search Experience, Australia, July 2013* (2013) at http://www.abs.gov.au/ausstats/subscriber.nsf/log?openagent&6222do008_201307.xls&6222.0&Data%20Cubes&DC5E9FB063456BF4CA257C75000F1A3D&0&July%202013&05.02.2014&Latest.

¹⁰ Organisation for Economic Co-operation and Development (OECD), 'Country notes: Australia', *Education at a Glance: OECD Indicators 2012* (2012) 8 at oecd.org/australia/EAG2012%20-%20Country%20note%20-%20Australia.pdf.

8. Conclusion

This Bill is not supported by evidence, logic, or law. The Bill cites no evidence that its measures will actually help anyone to get into work. In fact, it goes against all the evidence that low payments are already a barrier to paid work.¹¹ Moreover, in an environment where there is only one job for every ten people seeking work, it is completely illogical to believe that cutting income from those who are the most marginalised will somehow enable them to be *more* competitive with the nine other people who are not as disadvantaged who are applying for that job. Finally, the Bill threatens violating Australian citizens' inalienable right to social security, and a decent standard of living.¹² As described above, removing income from people who may not realise they have not complied for an indefinite amount of time risks seriously threatening their ability to house and feed themselves and their children.

While this appears to be partially justified as enabling “job seekers to engage with their right to work by encouraging them to remain engaged with their employment providers and participation obligations”, this shows a very deep misunderstanding of what human rights are. But the right to work is not an obligation that every citizen is compelled to attain. It is a *right*: something that people are *entitled to*, and that the *government* has an obligation to facilitate.

Entering from unemployment into the labour market in Australia today is like breaking through a brick wall. The right to work puts an obligation on government to either break down that wall, by creating more unskilled and low-skilled flexible jobs, or giving people the tools to break it down themselves, including meaningful training and education, public transport infrastructure, childcare availability, etc. What the “right to work” does not mean is government trying to force people to break down the wall with their bare hands by making life more and more unbearable on one side. Making life more miserable for the poor is not what a just and compassionate society does.

The Society believes that Australia needs a Jobs Plan for Australia, which will address the challenge of creating the types of jobs we need into the future for inclusive economic and social progress. We must empower people to fulfil their desires and their destinies, by increasing, not decreasing, the support that we give to the people who need it most. This is the only practical pathway to building a society that is fair, equal, respectful and inclusive.

¹¹ See, eg, Business Council of Australia, *Submission to the Senate Education, Employment, and Workplace Relations References Committee Inquiry into the Adequacy of the Allowance Payment System for Jobseekers and Others* (August 2012).

¹² International Covenant on Economic, Social, and Cultural Rights, Arts 9, 11.