
Response to the Inquiry into the Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014

Prepared by BoysTown



BoysTown

Fresh start.
New hope.

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About BoysTown

BoysTown is a national youth service and registered charity with 53 years of experience in working with disadvantaged young people and their families. Our mission is 'to enable young people, especially those who are marginalised, and without voice, to improve their quality of life.'

BoysTown operates the national Kids Helpline service, Parentline, family refuges, as well as delivering parenting and family engagement programs. We also deliver individual support, personal development, alternative education, school-to work transition, work preparation training, transitional employment and job placement services for disadvantaged young people. This includes the delivery of youth-specialist Jobs Services Australia (JSA) services.

BoysTown provides youth specialist JSA employment services in South East Queensland (Logan City, Browns Plains, Redlands and Inala), Western Sydney (Blacktown and Campbelltown) and South Australia (North Adelaide and Port Pirie). As a youth specialist service provider, we focus on working with marginalised young people from highly disadvantaged social groups.

During the financial year 2013-14 BoysTown supported 9,862 people in our JSA programs. Furthermore, 1,866 of these people received intensive specialised support to overcome barriers to employment, mostly funded through BoysTown's own resources.

All of our regional services and programs are geared to help young people who are at high risk of social exclusion to overcome multiple barriers and engage successfully with the community, learning and work. Our aim is to short circuit the cycle of disadvantage for these young people, (and ultimately, for their children), by improving their capacity to participate fully in learning and work, and to make a positive contribution to society.

BoysTown is well placed given our extensive operational experience to provide comment from a JSA practitioner viewpoint on these proposed changes.

Response

BoysTown has carefully considered the Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014. Whilst we support the stated objective of the Commonwealth Government for these legislative amendments; *'more job seekers meeting their mutual obligation requirements and moving from welfare to work'*¹ we believe that the enforcement strategies being proposed to achieve these objectives will be counterproductive and have the potential to create deepening hardship and marginalisation.

We base this assessment on the following:

1. [The impact of breaching jobseekers more frequently is likely to be increased employment barriers and longer periods of unemployment for those job seekers](#)

¹ Bills: Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014, Second Reading Speech by Hartsuyker, Luke, MP

It is our reading of the proposed amendment that these provisions will apply to all JSA participants across all classification streams. Young people classed in Stream Four are a particularly vulnerable group.

BoysTown profiled the needs of this cohort in one JSA office. This study for example, showed that:

- 60% had issues with their social support networks

Many of these clients are socially isolated because they are estranged from their families and they either have no friendships or their peer relationships are detrimental to their social well-being.

- 58% had mental health disorders

Almost all were dealing with more than one mental health concern such as anxiety, depression, schizophrenia, mood disorders, post-traumatic stress disorder and grief and loss.

Furthermore, this group has a high incidence of undiagnosed mental health conditions. It was found that one-third of these cases were not being treated. This situation will cause increased future costs to both JSA providers and Government health services as people's social functioning deteriorates due to the unmanaged state of their mental health conditions

- 55% had poor emotional wellbeing

Many of these clients had low self-esteem and confidence together with high stress levels, low social functioning, poor concentration and a general inability to cope. The high stress levels are commonly associated with dysfunctional family or unstable accommodation issues

- 19% had experienced some form of previous trauma or abuse

Many of these clients had been a victim of child abuse, domestic violence or had witnessed family violence. In almost all of these cases, clients were still traumatised by these experiences and were not receiving assistance to address these issues.

- 10% had a history of self harming or suicidality

It was found that 5% had self harmed in the past and 5% had attempted suicide but were not currently suicidal

- 10% were carers

In 10% of these cases, clients had carer responsibilities because family members were unwell or elderly or the main caregiver was in prison with the family responsibilities falling to the client.

There may be many reasons why a Stream four (4) job seeker may refuse employment or engage in non-compliant behaviour. This could for example be linked to their cycle of mental illness that may not be apparent to JSA staff. The increased incidence of losing income support which is the stated aim of this policy for non-compliant JSA participants would likely lead to a further exacerbation of these conditions and/or a greater than before risk of self harm, further reducing capacity for work.

Newstart payments are provided to job seekers to promote their capability to seek and secure employment. Job seeking activity incurs expenses such as transportation costs. If the job seeker is left with no income support then the ability to secure employment will be significantly constrained.

Furthermore this proposed legislative amendment also does not take into the account the impact on dependants that the affected job seeker may be supporting.

2. The proposed legislative changes are contrary to existing Department of Employment policy directions

JSA providers are expected to provide individualised employment servicing arrangements for participants. The introduction of provisions regarding automatic eight week non-payment penalties and limiting the number of waivers curtails the discretion of Employment Consultants and consequently their ability to provide jobseekers with individualised case management.

3. Increased viability issues and reduced effectiveness for JSA providers

The introduction of these legislative changes will compromise the current viability and effectiveness of JSA providers particularly those that specialise in providing employment support to youth as:

- Increased numbers of young people will disconnect from the JSA system once they experience a non-payment penalty. In the absence of income support there will be no incentive to engage with a JSA provider. From a provider perspective this will reduce income flow from registrations and outcome payments. From a Government perspective it would be expected that increased costs will be incurred in the health and justice sectors
- Workforce planning in JSA organisations will become problematic increasing operational costs. Currently staff are selected on their skills in engaging with a job seeker and in providing individualised case management. These legislative changes and other changes currently being debated at a political and community level to the administration of employment support will require JSA staff to become more heavily involved in compliance monitoring and supervision

It is our industrial experience that the skill sets required to provide individualised case management compared to compliance monitoring and supervision are different. The changing role of an Employment Consultant brought about by these shifts in the legislative and policy framework relating to employment support may result in staff skilled in case management leaving the industry. The impact of this anticipated trend would be increased costs in delivering employment services due to higher staff attrition and a gradual loss of industry knowledge

- Health and Safety considerations for JSA staff are likely to require increased focus as it is expected that clients presenting with anxiety/high levels of agitation will be more frequent. Under current arrangements staff in JSA programs make recommendations to the Secretary, Department of Human Services in relation to non-compliance. It is the Secretary that makes the decision in regard to the imposition of non-payment penalties on the job seeker. Under the proposed legislative changes the onus will be placed more on JSA staff as there will be automatic imposition of non-payment penalties if

for example a job seeker refuses to accept an appropriate job offer as assessed by the Employment Consultant. Furthermore the intent of the policy is to increase the number of penalties for non-compliance by reducing the discretions associated with the use of waivers. Job seekers will enter a more restrictive regime when compared to the current situation where in most cases waivers are used by the Department²

Subsequently, conflict levels between job seekers and JSA staff is likely to increase. This will drive increased operational costs for JSA providers arising from projected workplace health and safety claims from staff

These issues will collectively impair the effectiveness of JSA providers in facilitating employment placements for job seekers.

Other Issues

Further clarification is also required in relation to the definition of suitable work. Social security law details a number of current tests that can be used to determine unsuitable work i.e. the job seeker does not have the required skills or opportunity to access training, medical concerns and safety factors.

The Australian labour market is undergoing significant structural change. Young people are now more likely to be engaged in casual work and to enter the labour market through casual employment.³

However current Department of Employment policies treat casual employment in a contradictory manner. If a young person accepts an offer of casual fixed term employment with an agreed end date of less than 13 weeks, then on completion of this work they can resume their unemployment registration on the same basis as existed at the time of their acceptance of the job offer. If however the casual job extends for 13 weeks or more then the Jobseeker will need to undergo reassessment.

This will become particularly relevant if the proposed changes to the administration of Newstart payments are implemented and an initial non-payment period of six months for Stream 1&2 jobseekers is introduced. It will mean that a young person who accepts casual, fixed term employment of longer than 13 weeks in good faith will be penalised as they will need to recommence the six month wait period for the payment of benefit on completion of the work period.

In relation to the current legislative changes being examined by this Committee a scenario could occur whereby a job seeker was offered suitable casual fixed term employment with an end date over 13 weeks duration. The job seeker may refuse the offer as they will be disadvantaged by the fact that they will need to wait six months for income support on completion of the casual placement. It is unclear in the amendment and associated Explanatory Memorandum as to whether they may also be further penalised by an automatic eight week non-payment period for refusing suitable work.

² Bills: Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Bill 2014, Second Reading Speech by Hartsuyker, Luke, MP

³ Foundation for Young Australians 2013: How Young Australians are Faring 2013

The following case scenarios illustrate these issues:

Joe is a job seeker in Port Pirie and has been classified as a Stream 3 participant (most young people in regional areas have a Stream 3 or 4 classification). Joe accepts from his Employment Consultant a 16 week cropping job on a local farm (seasonal employment is significant in rural areas). The Employment Consultant deems this to be a suitable job offer. Joe completes the 16 week work placement. The Job Service provider gains an outcome payment for the 13 week placement.

Joe's job ends as planned as the cropping season is over. Joe is now unemployed and reregisters with Centrelink. Joe needs to wait a month for assessments and other administrative procedures to be completed. He receives no Newstart Allowance or other income during this time. Joe is reclassified as a Stream 1 or 2 as he has demonstrated an ability to work. He therefore under other proposed changes to the eligibility criteria for Newstart Allowance can receive no payment for six months. It is unlikely that Joe will find other work in the area until next cropping season.

This scenario is not exaggerated. It represents a typical case that we encounter in regional Australia. It highlights the contradictions in the proposed changes to both the administration of Newstart Allowance and compliance. In this case Joe may have been financially better off if he had not accepted the job placement. He would have been penalised by receiving an 8 week non-payment period but he would still have been classified as a Stream 3 job seeker and would have resumed receipt of Newstart Allowance at completion of the non-payment period. In accepting the employment offer he may have exacerbated his financial hardship as he will be without income support for 6 months.

Alternatively if the position had been for only 12 weeks and four days then Joe would have resumed his Stream 3 status on completion of his work placement and resumed receiving Newstart Allowance.

We do not believe that it is the intent of policy makers to penalise young people for accepting casual work placements of over 13 weeks in duration. These placements are critical in enabling unemployed youth to gain work experience and skills that will maximise their chances of securing sustainable work in the future. A way around this issue would be to treat all young people in casual fixed term work placements similarly. In other words, regardless of the length of the casual fixed term employment, young people would be provided with the same conditions in relation to their unemployment registration as existed prior to their acceptance of the work offer.

Conclusion

BoysTown has carefully considered the proposed changes to current social security legislation. Whilst we support the Commonwealth Government's goal of increasing mutual obligation compliance and employment outcomes based on our operational experience it is our view that the proposed changes will not satisfactorily achieve these goals. We would maintain that the changes may inadvertently prolong periods of unemployment for certain job seekers due to the impact of the eight week non-payment penalty and reduced discretion around waivers for non-compliance.

Although the current system has weaknesses it may be more productive in respect to securing employment outcomes for the retention of the existing option to seek agreement from the jobseeker to enter a period of intensive activity

linked to job search and skill development that will promote their opportunities for securing employment rather than the automatic option of a non-payment penalty and a reduction of discretion in regard to waivers.

Consequently it is our view that the current system should remain in place whilst further consultation with the Employment sector and community service providers is undertaken as well as consideration of contemporary evidence from Universities and other research centres be made in relation to the identification of strategies to improve current arrangements.