



22 February 2019

Committee Secretary
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600

By email: community.affairs.sen@aph.gov.au

Dear Committee Secretary

ParentsNext

1. Women's Legal Service NSW ('**WLS NSW**') thanks the Senate Standing Committee on Community Affairs for the opportunity to comment on ParentsNext (the '**program**').
2. WLS NSW is a community legal centre that aims to achieve access to justice and a just legal system for women in NSW. We seek to promote women's human rights, redress inequalities experienced by women and to foster legal and social change through strategic legal services, community development, community legal education and law and policy reform work. We prioritise women who are disadvantaged by their cultural, social and economic circumstances. We provide specialist legal services relating to domestic and family violence, sexual assault, family law, discrimination, victims support, care and protection, human rights and access to justice.
3. WLS NSW has an Aboriginal Women's Legal Program ('**IWLP**'). This program delivers a culturally sensitive legal service to Aboriginal women in NSW. We provide an Aboriginal legal advice line, participate in law reform and policy work, and provide community legal education programs and conferences that are topical and relevant for Aboriginal and Torres Strait Islander women.
4. An Aboriginal Women's Consultation Network ('**AWCN**') guides the IWLP. It meets quarterly to ensure we deliver a culturally appropriate service. The members include regional community representatives and the IWLP staff. There is a representative from the Aboriginal Women's Consultation Network on the WLS NSW Board.
5. While WLS NSW supports the introduction of programs that provide training and education to assist women to become employment ready, we strongly oppose the continuation of the ParentsNext program. Applying the Targeted Compliance Framework ('**TCF**') for those in receipt of parenting payment that come within the ParentsNext eligibility criteria is



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discriminatory and undermines the value of parenting. The program does not take into account the structural barriers facing women who are seeking to re-enter/enter the workforce and, in WLS NSW view will further disadvantage women and children.

6. This submission will focus on the following aspects of concern in relation to ParentsNext:
 - 6.1 The aims of ParentsNext and the extent to which those aims are appropriate having regard to the interests of the participating parents and their children;
 - 6.2 The impact on those subject to the program and their children who are victims and/or survivors of family violence; and
 - 6.3 The appropriateness of the aspects of the program specifically aimed at communities with high Aboriginal and Torres Strait Islander population.
7. In summary, WLS NSW:
 - 7.1 Endorses the recommendation made by SNAICC-National Voice for Our Children and the National Family Violence Prevention Legal Services Forum and the Human Rights Law Centre in their joint submission.¹
8. The purpose of this submission is to:
 - 8.1 highlight our concerns about the inappropriate and discriminatory aspects of the program in relation to women and in particular Aboriginal and Torres Strait Islander women;
 - 8.2 draw attention to the reasons the program will, in our view, fail to meet its stated objectives; and
 - 8.3 provide further detail about the impact of the program on women and children experiencing family and domestic violence.

Introduction: A human rights perspective

9. At the outset, WLS NSW is concerned about the punitive compliance-based nature of the ParentsNext program, which requires that those subject to the program with children as young as 6 months (most of whom are or will be women)² who are reliant on Parenting Payments, meet obligations or risk losing their income support payment.

¹ Human Rights Law Centre Ltd, National Family Violence Prevention Legal Services and National Violence for Our Children, Submission to the Senate Community Affairs References Committee, *Inquiry into ParentsNext*, 5 February 2019.

² Department of Employment, 'ParentsNext National Expansion' (Research Discussion Paper, 12 September 2017, Australian Government) 8.

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10. The program has the effect of threatening the enjoyment of human rights of single women and their children, some of the most vulnerable and marginalised groups in our community.³
11. In particular, the program could breach several of Australia's human rights obligations under the *International Covenant on Economic, Social and Cultural Rights (ICESCR)* including the rights to social security (Article 9), the right to an adequate standard of living (Article 11), and the prohibition of non-discrimination in the enjoyment of these rights (Article 2).
12. The program could also entail a violation of the prohibition of retrogressive measures under Article 2 of the ICESCR as it impacts upon the existing rights under Australia's social security regime.
13. Further, we fail to see how ParentsNext could be compliant with the obligations under the *Convention on the Rights of the Child*. A program that threatens to further disadvantage single mothers does not have the best interests of the child as its primary consideration.
14. According to the Australian Department of Employment's own projections, 96% of those subject to ParentsNext are expected to be women.⁴ As such, the program, which requires that those subject to ParentsNext meet certain mutual obligation requirements or risk suspension of their income support payments will result in direct and indirect discrimination of women by impacting upon their right to social security under ICESCR and violate Australia's obligations under the *Convention on the Elimination of All forms of Discrimination against Women*.
15. Of the 68,000 parents expected to be subject to in the program, 10,000 are expected to be Aboriginal and Torres Strait Islander women.⁵ Under the ICESCR everyone must enjoy the right to social security without discrimination of any kind, however we submit that targeting Aboriginal and Torres Strait Islander women and forcing them to participate in a punitive, compliance-based program which imposes obligations and conditions on their right to receive Parenting Payment is discriminatory.
16. Finally, we question whether there has been meaningful consultation with Aboriginal and Torres Strait Islander communities in accordance with the requirement under Article 18 of the *Declaration on the Rights of Indigenous Peoples*, which has been endorsed in Australia. Article 18 states '*Indigenous peoples have the right to participate in decision-making in matters which would affect their rights*'.

³ Maria Magdalena Sepulveda Carmona and Kamala Chandrakirana, *Special Rapporteur on Extreme Poverty and Human Rights and the Working Group on the Issues of Discrimination Against Women in Law and in Practice*, UN Doc A/HRC/21/39 (12 October 2012).

⁴ Department of Employment, above n 2.

⁵ Department of Employment above n 2. Although according to the Australian Bureau of Statistics, Aboriginal women make up under 2% of the Australian population, see Australian Bureau of Statistics, *Aboriginal and Torres Strait Islander Population* (2016)

<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2071.0~2016~Main%20Features~Aboriginal%20and%20Torres%20Strait%20Islander%20Population%20Data%20Summary~10>

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The aims of ParentsNext and the extent to which those aims are appropriate having regard to the interests of the participating parents and their children.

17. We note the Government's stated objectives⁶ 'underpinning' the introduction of the ParentsNext program:
 1. To increase participation in the labour force;
 2. Reduce welfare dependency; and
 3. Decrease intergenerational joblessness.
18. While WLS NSW supports efforts to assist people to gain skills and education to re/enter the workforce, we submit that the ParentsNext program design demonstrates a fundamental misunderstanding of the barriers to gender equality in Australia and instead reinforces false assumptions about the reasons single mothers are forced to rely on welfare payments.
19. In a recent report,⁷ the Australian Human Rights Commission ('AHRC') concluded that despite some progress, women continue to experience inequality and discrimination which limits the choices and opportunities available to them. The report identified the following complex and systemic factors as barriers to achieving gender equality:
 - 19.1 *A workforce which is segregated and which continues to undervalue female-dominated industries such as aged care, childcare and health and community services – have been historically undervalued.*
 - 19.2 *The over-representation of women as part-time workers in low-paid industries and in insecure work and underrepresentation of women in leadership roles in the private and public sectors.*
 - 19.3 *More than half of women aged 18 or older have experienced sexual harassment in their lifetime.*
 - 19.4 *On average, women spend 64 per cent of their working week performing unpaid care work. They spend almost twice as many hours performing such work each week compared to men.*
 - 19.5 *In 2015-2016 the average Australian woman was reaching retirement with an average of \$113,660 less superannuation than the average male. As a result, women are more likely to experience poverty in their retirement years and be far more reliant on the Age Pension.*

⁶ Department of Jobs and Small Businesses, 'ParentsNext Evaluation Report' (Report, Australian Government, 2017)

⁷ Australian Human Rights Commission, *Face the Facts: Gender Inequality* (Report, Australian Human Rights Commission, 2018).

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- 19.6 *More than one in three Australian women have experienced physical or sexual violence in her lifetime and one in two experiences sexual harassment.*
- 19.7 *It is estimated that violence against women and their children costs the Australian economy \$22 billion in 2015-16.*
20. WLS NSW is concerned that ParentsNext, and in particular the mandatory component of the program, not only fails to acknowledge these factors in its design and implementation but may in fact perpetuate some of these factors that continue inequality in our society, such as forcing women into low-paid, insecure work, and undermining the value of parenting in our society by forcing women with children as young as 6 months to place their children in childcare so that they can undertake training and education.
21. WLS NSW shares the concerns raised by Good Shepherd Australia and New Zealand (GSANZ) that ParentsNext could '*inadvertently worsen*' women's employment opportunities.⁸ GSANZ warns that by relying on existing service providers to administer the program, those subject to ParentsNext, most of whom are single mothers and already facing precarious employment opportunities due to their need for flexible employment that can accommodate their caring responsibilities, will force some women to accept positions that '*lack security, adequate remuneration, or a long-term career pathway that will lead to financial security*'.⁹
22. Given women and particularly single mothers spend so much of their working week performing unpaid care it is unhelpful, as GSANZ highlights, to characterise single mothers of young children as unemployed workers. WLS NSW questions the efficacy of a program that places extra burden on single mothers with young children to meet obligations or risk losing financial support.¹⁰
23. We also have concerns about how children are to be cared for while those subject to ParentsNext are meeting their obligations. We note that children are welcome to attend appointments however it is unclear what childcare arrangements will be available once a participant is enrolled in a course or is employed. What happens if the children are having difficulty settling into the childcare? Who pays for child care while a mother is participating in study or work? And how much will it cost?

⁸ Good Shepherd Australia New Zealand, Submission to Department of Employment, *ParentsNext National Expansion*, October 2017, 8.

⁹ Ibid.

¹⁰ McLaren and Maury say "*We find it illogical that the demographic which has the least amount of time on their hands is being targeted by the ParentsNext policy, while there are many other groups who also experience barriers to employment. Why not de-couple ParentsNext from mothers and instead provide this service to all marginalized groups who are struggling to create an employment pathway? For example, assisting young people, who are experiencing high levels of underemployment, to complete qualifications and find productive employment is true early intervention for parents of young children. It is also surprising that fathers are not more of a focus for this program*". Juanita McLaren and Susan (18 October 2017) *Parents Vexed? Parentsnext is poorly designed to support mothers into work*. <http://www.powertopersuade.org.au/blog/parents-vexed-parentsnext-is-poorly-designed-to-support-mothers-into-work/18/10/2017>

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24. Further, we are concerned that it would be unduly onerous for any mother with primary carer responsibilities for young children (as 6 months old) to meet ParentsNext program obligations, let alone a single mother who has experienced domestic and family violence. This is in contrast to women in paid employment who generally have a right to 12 months leave from work if they have been in their job for at least 12 months and sometimes take longer to care for children.¹¹
25. The program criteria indicates that once the youngest child reaches the age of 6, the mother is no longer eligible to be on ParentsNext. What happens if the mother is part way through her study? Will she be supported to complete her study?
26. According to feedback provided by members of our Aboriginal Women's Consultation Network, there are inconsistencies in the way Project Providers are determining what is and is not an acceptable "compulsory activity". For example, one woman was told by her Project Provider that steps she was taking to set up her own business did not meet the requirements of a "compulsory activity" for the purposes of the ParentsNext program.
27. Finally, the punitive nature of the ParentsNext program not only removes agency, and self-determination, it imposes a level of monitoring on mothers of young children that is intrusive, offensive and unnecessary.¹²

The impact on participants and children who are victims and/or survivors of family violence.

28. The program also fails to recognise the high levels of domestic and family violence and sexual violence, and how this impacts upon women in their everyday lives.
29. Despite the Minister insisting that '*the targeted compliance framework has many safeguards to ensure that parents are not inappropriately or unfairly penalised*',¹³ we foresee there will be challenges for some participants to meet obligations, particularly those who are victims and/or survivors of family violence.
30. Our understanding is that Department of Human Services (DHS) will make the initial assessment about a person's eligibility for the ParentsNext program and can also grant an exemption on the grounds of domestic violence. Those subject to the program will then be connected to a project provider, who has the authority, delegated to them by the Secretary of DHS, to temporarily exempt them from their participation requirements if they experienced a major personal crisis or significant disruption'. We have the following concerns about this process:

¹¹ See Fair Work Commission, *National Employment Standards* (28 December 2018) <https://www.fairwork.gov.au/employee-entitlements/national-employment-standards>

¹² One woman reported that buying uniforms, lunchboxes and books were reportable actions. See Renée Meier Parenting *My ParentsNext Centrelink nightmare* (9 January 2019) <https://www.kidspot.com.au/parenting/real-life/reader-stories/my-parentsnext-centrelink-nightmare/news-story/2e8d963f149c274d7d5884c531d36e24>

¹³ Luke Henriques-Gomes, 'Service Providers Call for Parents Next Overhaul After Families Left Without Food', *The Guardian* (Australia), 19 December 2018.

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- 30.1 It is unclear how the assessment is made and whether the project provider has the appropriate expertise or training to make such an assessment. While we support decision-making at the local level, we question whether project providers have the necessary training and experience to identify and respond appropriately to domestic and family violence and in a trauma-informed way.
 - 30.2 We understand an exemption is only available for 16 weeks. What is the procedure for seeking an extension on the exemption in circumstances of domestic and family violence? When does this process start? Are there limitations, either in policy or practice on how many extensions can be sought?
 - 30.3 We also question whether the decision by the project provider is a reviewable decision and if not, how are Project Providers being held accountable for their decisions?
 - 30.4 We question if the burden of seeking an exemption and the pressure to meet the requirements after a 16 week exemption would compound any trauma. This is a rigid and unrealistic timeframe. It takes time and proper support to heal from trauma.
 - 30.5 It is well established that there are significant barriers to reporting domestic violence, child sexual abuse and sexual assault. It is common for victims to fear retribution by the perpetrator, or intervention by the Department of Family and Community Services. Still others, particularly Aboriginal and Torres Strait Islander communities and culturally and linguistically diverse communities, fear reporting to government agencies. Our experience with victims leads us to understand that when victims report such crimes, many will report the crime they experience to a non-government organisation rather than a government agency. This is especially the case in smaller communities in rural and remote areas where victims may have relationships with staff in a variety of government agencies or where there may be no government health services, only non-government health services.
31. The effectiveness of so-called "safeguards" that recognise that those subject to the ParentsNext program may experience events that prevent them from meeting obligations under the program are premised on the assumption that women will disclose when such events arise. However, in our experience this is not always the case.
 32. How are women who are experiencing family or domestic violence but are too afraid to disclose such violence being protected from financial penalty under the ParentsNext program? How are Project Providers trained to recognise such situations?
 33. The onus on women experiencing or escaping from family and domestic violence to disclose these circumstances in order to be granted an exemption and avoid a financial penalty will place women and children at risk of further harm.

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The appropriateness of the aspects of the program specifically aimed at communities with high Aboriginal and Torres Strait Islander population.

34. The statistics outlined in the AHRC report do not reflect the particular challenges faced by Aboriginal and Torres Strait Islander women in our community. Added to these are: racism and discrimination, intergenerational trauma as a result of loss of identity, belonging, community, country connection and impact on well-being. Many people have also experienced trauma as a result of sexual and/or physical abuse which occurred following the forced removal of children from their families.
35. The design and implementation of the ParentsNext program does not appear to have considered these factors, instead focusing solely on the statistics of unemployment among Aboriginal and Torres Strait Islander communities.
36. The Government has estimated that the expanded program would involve 10,000 Aboriginal and Torres Strait Islander women.¹⁴ The program targets "Indigenous families" purportedly in order to address the '*consistently greater risk of higher rates of persistent joblessness*'.¹⁵
37. We have concerns about the cultural sensitivity and safety of the program. The Government insists it is committed to providing 'culturally appropriate' assistance for Aboriginal and Torres Strait Islander. It states that organisations working with Indigenous parents will be required to have '*effective and inclusive attitudes, policies and procedures; culturally sensitive monitoring mechanisms, and the allocation of sufficient resources to foster culturally appropriate behaviour and practice levels of the organisation*'.¹⁶ However, apart from encouraging Aboriginal led employment agencies to become providers, neither the discussion paper nor the evaluation report provide any guidance as to how practically this is going to be achieved. Before targeting Aboriginal and Torres Strait Islander parents through the ParentsNext Intensive stream, we question what, if any, steps the Government has taken to seek advice from Aboriginal and Torres Strait Islander organisations. And how have Project Providers demonstrated that they are culturally competent to be delivering the service and have a good understanding of family and culture in Aboriginal and Torres Strait Islander communities?
38. WLS NSW IWLP team members are concerned that forcing vulnerable women to comply with the requirements of the ParentsNext is setting up women to fail.¹⁷ They raised concerns that young mums would struggle to meet the obligations of the program and this could lead to an increase in homelessness and children being placed in out-of-home care. They were also concerned about how women with undiagnosed cognitive disabilities would

¹⁴ Department of Employment, Above n 2.

¹⁵ Department of Jobs and Small Businesses, 'ParentsNext Evaluation Report' (Report, Australian Government, 2017) 18.

¹⁶ Department of Employment, Above n 2, 10.

¹⁷ Human Rights Law Centre Ltd, National Family Violence Prevention Legal Services and National Violence for Our Children, Above n1, 10.

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meet the demands of the ParentsNext Program and how those with small children and without a licence or access to a car would attend appointments.

Conclusion

39. Already the evidence suggests that women are being financially penalised for failing to comply with the program.¹⁸ In WLS NSW view, the effect of this will be dire for women and children.
40. The TCF to which those subject to the ParentsNext program must adhere, denigrates the role single mothers play in caring for their children and disempowers them from making choices about when and how they return to work.
41. Other programs applying TCF have recently shown, not only are the structural barriers to finding employment overwhelming, under a TCF, the most disadvantaged members of our community, will be the most likely to have their support payments cut.¹⁹
42. For the IWLP team the message is clear: stop imposing punitive programs on our communities and instead increase long-term sustainable funding of community led, culturally safe, strengths based and trauma informed parenting and other support programs that are independent of Government support payments.
43. The program ought to be scrapped but if it is to be continued it should be strictly voluntary and provide an opportunity to engage and support women rather than penalise them.
44. If you would like to discuss any aspect of this submission, please contact Kira Levin, Solicitor on 02 8745 6900.

Yours faithfully,
Women's Legal Service NSW

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¹⁸ Recent data has revealed that one in five women have had their payments reduced in the first 6 months of being placed on the program. See Luke Henriques-Gomes 'One in five parents had payments cut in first six months of new welfare program' The Guardian (online), 7 February 2019 <https://www.theguardian.com/australia-news/2019/feb/07/one-in-five-parents-had-payments-cut-in-first-six-months-of-new-welfare-program>

¹⁹ In a recent evaluation of the Community Development Programme, the Winangali/Ipsos consortium said - "*The job seekers who were most penalised in the eight communities surveyed were those with high transport disadvantage and low levels of English literacy, those who live in high disadvantaged employment regions and those who are the most difficult to contact. Poor mental or physical health, disabilities or other personal problems (as reported in the JSCI) were also associated with the likelihood of being penalised.*" Winangali/Ipsos consortium, Submission to Department of the Prime Minister and Cabinet, Australian Government, *The many pathways of the Community Development Programme - Summary report of community voices and stakeholder perspective from eight communities*, 5 February 2019, 12.