



Australian Federation of Disability Organisations

## **Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014**

**Submission to the Senate Education and Employment Legislation Committee – October 2014**

### **About the Australian Federation of Disability Organisations**

The Australian Federation of Disability Organisations (AFDO) is the primary national voice to Government that fully represents the interests of people with disability in Australia. AFDO and our member organisations are governed and operated by people with disability for people with disability. Our member organisations are individual consumer peak bodies representing a range of disabilities.

Our mission is to champion the rights of people with disability in Australia and help them participate fully in Australian life.

To achieve our mission and vision, AFDO provides policy advice and representation to the Australian Government on matters that impact on the lives of people with disability. AFDO also works to inform and educate the general community about disability, support disability organisations and people with disability and undertake and support joint and collective campaigns towards elimination of structural and attitudinal barriers for people with disability.

This submission has been prepared by AFDO in conjunction with Inclusion Australia. We have chosen not to comment on all of the amendments listed in the Bill but to focus only on those areas which directly impact people with disability as jobseekers.

### **Our comments**

AFDO does not support the introduction of further compliance measures which penalise income support participants, including people with disability.

People with disability experience one of the highest levels of unemployment and poverty, with almost one in two people with disability in Australia living in or near poverty (45%) and almost one in two people with disability disengaged from the labour market (47%).

According to the Disability Support Pension Recipients & Earned Income report of 2011, only 8.5% of pension recipients reported earnings from work; with 4.1% earning less than \$125 per week and 2% earning less than \$250 per week.

From 2003 to 2009 there was no significant change in the national labour force participation rate for people with disability. These statistics indicate that tightening compliance, without parallel strategies to address low levels of employment of people with disability by Australian businesses, will not address the woeful workforce participation of people with disability nor lessen income support dependency.

Addressing the successful transition from income support to open employment of people with disability is complex and requires a multi-faceted approach, rather than the further introduction of punitive measures disguised as encouragement to search for a job. AFDO and disability consumer organisations have maintained that a jobs strategy to increase the workforce participation of people with disability is desperately needed.

AFDO is supportive of reasonable and relevant activity requirements for people with disability who receive income support *only* where this is coupled with parallel strategies by the Australian Government to implement effective, evidence informed measures that create jobs and support people with disability into employment. AFDO members and Inclusion Australia contend that the focus of this Bill – to ensure people with disability meet compliance requirements and attend jobseeker appointments – fails to provide due attention to the real problems at hand: the availability of jobs for people with disability to enable them to successfully transition from income support to paid work and the expertise and effectiveness of employment service providers to support people with disability into open employment. Compliance will not lead to jobs if there are no jobs for people with disability to move into.

As a case in point, of the four streams in Job Services Australia, less than 10% of participants in Stream 1 reach a 26 week outcome rate (a person being employed for 26 weeks or greater), Streams 3 and 4 sit at less than 20% 26 week outcomes and Stream 2 at less than 30% 26 week outcome rates. In a best case scenario, just 30 in 100 people are in paid employment after 26 weeks of commencing employment. In the worst case, just 10 in 100 people gain an employment outcome of 26 weeks.

The introduction of stricter compliance mechanisms is incorrectly being viewed as a panacea to incentivise jobseekers to attend jobseeker appointments, with the view (unsupported by evidence) that this will lead to increased levels of employment. As noted by Jobs Australia in their submission to the Committee, there is evidence to indicate that overly punitive sanctioning can have the wrong effect on job seeker behaviour. Rather than promote genuine engagement, "...it can promote grudging compliance. Job seekers end up 'jumping through the hoops', technically meeting their mutual obligation requirements without being genuinely motivated to find employment".

We believe that the best incentive for jobseekers to attend appointments is access to high quality employment services which have a good record of getting people into a job that is sustainable beyond 26 weeks – which currently 70% or more of jobseekers using job services do not have access to. The statistics as they currently stand indicate that no matter how conscientious jobseekers on income support are in meeting the participation requirements, they are unlikely to get a job. Mandating that a jobseeker go to providers who do not have the expertise in providing support tailored to the specific needs of the jobseeker and who are not achieving high placement outcomes is not only an ineffectual use of government spending but can contribute to disengagement by jobseekers from jobsearch activities and the labour market.

Cycling through a system which requires jobseekers to apply for jobs which may be poorly suited to the skills of the jobseeker and undertaking 13 week and 26 week placements that are unlikely to lead to ongoing employment to meet compliance targets misses the intention of the program: to get people off income support into sustainable work. With low 26 week employment outcome rates, it is unclear how the measures in the Bill will lead to additional employment opportunities, without parallel employment reforms by government focused on supporting and incentivising businesses to hire disadvantaged jobseekers, including people with disability.

Until employment outcome rates are improved, it is unreasonable to apply harsher penalties than those currently in place to people who are unemployed, particularly people with disability. The introduction of more stringent compliance also places increased pressure for job providers to focus on organising meetings within a very short timeframe, with the Australian Council of Social Service (ACOSS) rightly noting that this will force providers to divert their resources from their purpose – to help people secure paid employment – to administering compliance.

People with disability can also experience particular difficulties in meeting compliance requirements as a result of their disability. These difficulties can lead to increased vulnerability in having payments suspended for an indefinite period of time. For people with a cognitive impairment or intellectual disability and for other cohorts such as people with brain injury, this can include poor literacy, not understanding the instructions given, poor time keeping, poor understanding of the consequences of non-compliance and a lack of problem solving skills. People with intellectual disability are also increasingly likely to experience social isolation with access to fewer supports. These characteristics can present difficulties for people with an intellectual disability in meeting their obligations and also in acting on a suspension. Without support, people with intellectual disability may well not know that they have to reconnect or how to reconnect.

The capacity for people with disability to attend appointments is also dependent on whether accessibility considerations are met by employment service providers.

Deaf Australia, in their submission responding to this Bill, have raised concerns that the application of the requirements of the Bill could unfairly affect people who are Deaf or hard of hearing who have communication access needs, such as access to Auslan interpreting by accredited interpreters – needs which are often not met by employment service providers. The limited availability of interpreters is also a significant issue, with Deaf Australia noting that bookings can be required up to four weeks in advance to source an appropriately qualified interpreter. Low levels of literacy in English is also an issue for people who are Deaf and for people from a culturally and linguistically diverse (CaLD) background which can present difficulties in comprehending and understanding compliance requirements and the tailored support, if any, that an employment service provider can offer.

Following on from these points, it is therefore critical that the legislation ensures that people with disability continue to have their particular circumstances taken into account in the application of compliance regimes, in the design of their participation plan and in the failure to attend appointments. It is also imperative that individual circumstances are considered to ensure that people with disability are not unfairly targeted for suspension for situations which are beyond their control.

AFDO is also concerned about provisions within the Bill which target people who are unemployed aged over 55 years of age. Older people with disability often experience multiple layers of disadvantage due to their age and disability (with can be further compounded for women, CaLD and people from an Aboriginal or Torres Strait Islander background). These issues can be further exacerbated for people with disability who have been long term unemployed and people who have acquired their disability later in life and have exited the workforce due to unsupportive work environments or issues associated with their disability. Simply expecting older people (including people with disability) to re-engage with a workforce which may have been unsupportive to begin with, without access to successful job matching programs and tailored support, is not the solution.

Our member organisations note that better strategies must be implemented across all industries and businesses to encourage workplace diversity which is inclusive of hiring people with disability over the age of 55. For older people with disability who have exited the workforce, the targeting of a workforce strategy will not only enable increased economic independence, but also broader independence and socialisation which can be especially important for people with disability who have been required to provide support to a family member with disability or to provide for a family unit. These concerns are important for most Australians who live with disability but can be further exacerbated by culture, language and the nexus with disability for CaLD and people from non English speaking backgrounds. AFDO supports ACOSS' recommendation that the Committee consult with consumers, the community sector (including Disabled Persons Organisations) and employment services to identify alternative measures to strengthen skills and workforce engagement among older people.

## **Our recommendations**

As noted in this response, AFDO does not support the introduction of further compliance measures which penalise income support participants, including people with disability who are often already at the periphery of society and subject to chronic, systemic disadvantage. AFDO recommends that Part 1 and Part 2 (recs 13-19 and 21-32) be rejected.

Where compliance mechanisms are required, AFDO supports ACOSS' recommendation that the present system, which relies on payment suspensions rather than penalties to encourage people to attend appointments with providers, should be the recognised form of compliance without the addition of more compliance and complexity to an already complex system. Further, introducing new levels of compliance does not appear to be consistent with the Australian Government's intention to reduce red tape, particularly as there does not appear to be evidence that this will improve attendance outcomes, let alone increase employment.

If the Bill is to be adopted, AFDO supports the detailed recommendations made by the National Welfare Rights Network and ACOSS which have been submitted to the Committee. In particular, AFDO supports the recommendations that:

- Participants should have the right to appeal to the Secretary and to the Social Security Appeals Tribunal which is currently not permitted within the Bill
- The inclusion of a first warning suspension with full back-pay for all compliance penalties (which includes reconnection, no show, no pay and non attendance)
- That an item be added to the Bill to provide a legislative basis for the government's intention that suspension of payments will not apply where an appointment cannot be made within two days, which should take into account accessibility and disability related considerations for people with disability (outlined above)
- That measures relating to participation requirements for people over the age of 55 be removed.

As has been noted throughout this response, stringent reform to income support payments without a parallel strategy to work with business to create employment opportunities for people with disability and other disadvantaged cohorts will not lessen income support dependency and increase workforce participation. Until such reform occurs, an increase in compliance is not only unfairly targeting disadvantaged jobseekers but increasing compliance for compliance sake. It is for this reason AFDO does not support the introduction of additional compliance regulation.

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