



# Lessons not learned; needs not met

Antipoverty Centre submission to the Education and Employment Legislation Committee inquiry into the *Social Security Legislation Amendment (Streamlined Participation Requirements and Other Measures) Bill 2021 [Provisions]*

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### Acknowledgement of Country

The Antipoverty Centre acknowledges the original peoples of this unceded continent, who have been custodians of Country for thousands of generations. First Peoples have connections to place, land, water and community that have been unbroken for 120,000 years.<sup>1</sup> We recognise Indigenous sovereignty and the cultural significance inherent in these connections, historical and contemporary.

We pay respect to Elders past and present and stand with all First Peoples in the quest for self-determination, justice and truth-telling in the face of ongoing colonial violence, including that inflicted through racism in the social security system.

### Preamble

The Antipoverty Centre is a new organisation established to counter problems with academics, think tanks and others in the political class making harmful decisions on behalf of people they purport to represent.

We are activists, advocates and researchers with lived experience of poverty and disadvantage. We defend and fight for the rights of people like ourselves who experience violence at the hands of an economic system designed to oppress us. It is our mission to shift how people speak about and respond to poverty in this country.

We work closely with peer support groups, activists and grassroots civil society organisations to complement their work. Our goal is to help ensure the voices and rights of people living in poverty are at the centre of social policy development and discourse. We believe there should be no decision made about us without us.

The Antipoverty Centre is not politically aligned and does not accept funding that places political constraints on our work.

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<sup>1</sup> (Bowler, Price, Sherwood, & Carey, 2018)

# 1 Executive summary

The parliament should reject this bill and immediately begin to overhaul social security law to genuinely benefit those of us affected by it. We condemn the plan to create two classes of unemployed people, and to expedite forced labour requirements like Work for the Dole.

## Don't hurt unemployed workers to satisfy broken ideology

The government's policy choices amount to an economic shock doctrine. This bill again exposes that our political masters care not for the people they're supposed to protect, but for their ideological impulse to commit social murder through our so-called safety net. We should not be mistreated simply because those in power do not understand our lives.

For decades governments have failed to support people seeking paid work, instead imposing punitive regimes that only benefit poverty profiteers. The *Social Security Legislation Amendment (Streamlined Participation Requirements and Other Measures) Bill 2021* is another missed opportunity to ensure meaningful help is available to those of us who want it, and to stop punishing those who don't. The parliament should legislate to remove penalties for participation requirements, as was the case in 2020, and develop a new system that is supportive rather than cruel.

## More of the same is no solution

This bill recognises the need to make social security law fit-for-purpose in the 21<sup>st</sup> Century but seeks to replace a bad system that ignores the voices and needs of unemployed people with a new one that does the same. This process should be about admitting that economic levers force unemployment upon hundreds of thousands of us and acknowledging that we shouldn't be punished for it. It shouldn't be rushed and should not result in new ways to further divide and punish people who only want care and support. The bill before parliament does nothing to provide that.

We know the government will push ahead. We have recommended specific changes to improve this bill, and also outlined substantive changes needed to improve outcomes for unemployed workers and the wider community. Ultimately the only solution that will provide us dignity and agency is to replace paternalistic "poverty performance indicators" with voluntary access to services that genuinely assist with securing sustainable employment.

## Failing to adequately consult is bad process that invites bad policy

There has been no time to provide a detailed response to this bill that we would consider adequate. We emphasise our overwhelming concern with the provisions proposed, which dramatically change the rules governing income support recipients' access to payments. We are disturbed by yet another failure to meet bare minimum scrutiny standards by rushing through dramatic changes to laws that dictate the lives of millions.

The Antipoverty Centre urges the committee to provide more time to engage in meaningful and in-depth consultation to gain support for, and ensure public confidence in, any substantial changes to social security law. The voices most prominent must be those of people in our harmful (un)employment services system.

## 2 Recommendations

1. Provide more time for in-depth consultation that centres the views and needs of people in employment services. Substantive changes to social security law must not be made hastily, nor waved through by the parliament.

### Specific recommendations regarding the changes detailed in this bill

2. All payments should be backdated to the date of application. The date a person is eligible for a payment must not be contingent on them having completed a process that may be unfamiliar, confusing or inaccessible in some other way.
3. Implement a process that ensures everyone forced into employment programs has tailored labour market and socioeconomic factors incorporated into their application and employment pathway plan. These factors should not require an individual to be confident bargaining with the department or an employment services provider.
4. The right for decisions relating to people in digital employment services to be reviewed by the Administrative Appeals Tribunal or a court must be made available to all people in employment services, including those in “enhanced services”.
5. In the absence of an independent body responsible for investigation and assistance the department should provide this for all people in employment services, not just those in online services. At no stage should private employment services providers be involved in addressing concerns with their own performance, as is the case under current rules.
6. Information about the right to support from a “human delegate” within the department must be provided at multiple points throughout the process, both before the person enters online services, during preparation of their job plan and both before and after they have signed it. The option to discuss a job plan with a person or to have it reviewed is insufficient on its own – people must be regularly informed of their rights.
7. Ensure all workers in online services and the Digital Services Contact Centre are public servants employed directly by the department. Protections and accountability measures must not be undermined by the use of labour hire or outsourced contracts. It is consistently reported by people in the income support system that outsourced call centres provide wrong information at a much higher rate than public servants.
8. Do not allow for participation in any forced labour or other coercive programs to be required earlier than they currently are. For example, Work for the Dole and other “intensive” measures must not be brought forward to six months.

## Meaningful solutions

9. Immediately raise all social security payments above the Henderson poverty line and end income management programs. There is no moral excuse for forcing people to live in poverty, and the government proved last year that we can be lifted out of poverty overnight.
10. Immediately end all forced and coercive labour programs.
11. Immediately make all engagement with employment services voluntary. Deliver useful and supportive advice and programs through the public sector. Coercive participation does not incentivise quality services.
12. Undertake in-depth research to understand the nature of poverty and inequality today and develop a new measure of poverty. The government must not further kick the can down the road by continually making incremental changes to existing programs that are proven failures.
13. Design a sophisticated social security system that supports and cares for everyone who needs it. Payments must be accessible to all, set above the poverty line and social security law should allow for a wide range of employment services programs, in addition to community-designed and -led projects that respond to local needs and labour markets.

### 3 Comments

The explanatory memorandum to this bill reveals that the government knows what they've been told countless times by civil society: "job seekers are willing and able to self-manage their search for employment". It is obvious that employment services should be voluntary.

#### These policy choices are social murder

Unemployment is by design. It is time to reverse the product of decades of conditioning by the political class, who have made shifting responsibility for unemployment to the individual their mantra.

This bill further burdens longer term unemployed people and holds individuals personally accountable, punishing us for the structural unemployment that requires hundreds of thousands of people in the labour force to go without paid work. It creates two classes of income support recipient to cushion shorter term unemployed people from the brutality experienced by those forced to engage with private employment services providers.

Poverty is a policy choice, and an unnecessary one. Despite the global health and economic crisis, this government is conducting a war against poor and unemployed people by cutting our payments and ratcheting up requirements. This has been shown by the recent introduction of more draconian "mutual" obligations and the implementation of the "DobSeeker line", for which the minister is already spinning figures to justify the extraordinary cost of providing a new way to bully vulnerable people.

The government pays lip service to mental health but ignores the growing suicide rate for the poorest people in society. Countless stories of physical and psychosocial injuries caused by exposure to the social "safety" net lead only to more of the policies that caused the problem. Last year more than 100 people died before their Disability Support Pension claim was processed.<sup>2</sup> Even the death of Josh Park-Fing has not brought on a reckoning.

It is clear the policies being implemented through this bill will perpetuate the severe harm caused by the current employment services model and are not designed to help us.

#### Denying input from the people who matter most

There has been no substantive consultation with the community directly affected by these changes, which *prima facie* are merely cost saving measures.

There have been numerous related legislative amendments subjected to inquiries, which, just like this, have been undertaken in such a short time that it exposes nothing but contempt for people who rely on social security to exist. But this is a new low. It is unacceptable to use these tactics at any time, let alone with such substantial changes to a complicated piece of fundamental legislation that underpins the welfare state – legislation

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<sup>2</sup> See: [https://www.theguardian.com/australia-news/2021/may/20/some-130-people-died-of-a-terminal-illness-before-centrelink-granted-disability-support-pension?CMP=Share\\_iOSApp\\_Other](https://www.theguardian.com/australia-news/2021/may/20/some-130-people-died-of-a-terminal-illness-before-centrelink-granted-disability-support-pension?CMP=Share_iOSApp_Other)

that is supposed to support the most vulnerable people in society, not be used for political point-scoring.

The New Employment Services Model “consultation” process run by the department was superficial, excluded grassroots groups and failed to seek meaningful input from the most important voices – those of people in employment services.

## Employment services must serve those who use them, not our masters

### Repackaging is not reform

There has been no substantive improvement in employment services in this country for decades. This bill recognises the need for an overhaul of social security law to make it fit-for-purpose in the 21st century but fails to meaningfully address problems with existing participation requirements or respond to the needs and requests of unemployed people.

The changes proposed under the New Employment Services Model do nothing to respond to the dramatically changed nature of employment in this country. The NESM is no more than a digital adaptation of the current jobactive program.

Disability Employment Services, supposedly intended to create tailored, additional support to those with complex barriers to employment, have proven to be a costly failure and there is nothing to suggest “enhanced services” will not be the same.<sup>3</sup> Provider incentives proposed under the NESM do not remove rewards for keeping a person out of employment to maximise outcome payments.

### Dividing people just creates two types of harm

Directing some people to digital services and others to a private employment services agency creates two classes of unemployed people. It leaves one cohort with no support at all, and the other, more vulnerable group exposed to the harsh system that is already failing and brutalising people.

Increasing requirements to engage with digital services disadvantages those with low digital literacy or those in internet poverty, which is imposed on many by the extremely low payments we are forced to try and survive on. Forced engagement with employment services already does and will continue to hurt older and disabled people disproportionately. These cohorts are over-represented in long term unemployment, trapped in a system that perpetuates deep poverty.

### Ignoring context guarantees failure

Under current rules job agencies are required to provide tailored assistance, however in reality this is the exception not the rule. Both the law and processes must be strengthened to ensure employment services providers uphold this right.

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<sup>3</sup> [“Australia’s welfare mutual obligations do not improve likelihood of employment, job agencies say”](#) by Luke Henrique-Gomes, The Guardian, 28 May 2021.

Labour market forces and other circumstances that cannot be changed must be taken into account when developing job plans, and systems should be developed to support this. Providers should not be given the job of determining how to tailor a job plan to appropriately account for local conditions, opportunities and individual circumstances.

The Job Seeker Classification Instrument is inadequate. A thorough process that extensively considers personal, background and community factors should be available to everyone accessing income support to ensure these are taken into account. This should be built into the initial plan development process by default and should not be the responsibility of job agencies.

### Our labour has value

Requiring people who rely on income support to undertake coercive labour in programs like Work for the Dole, PaTH and “volunteering” does not result in participants becoming more employable. It simply provides free labour to exploitative organisations and displaces waged workers. The government must stop violating our rights and end all forms of forced and coercive labour that are implemented through the social security system.

### Paying lip service does not ensure positive changes

There are some minor promising amendments in this bill, but we do not trust that any of these will be implemented in a way that is favourable to, or prioritises the needs of, people who require assistance. We are tired of the charade in which we are expected to engage with proposals in good faith while the government does nothing to hide its disdain for democratic processes. A lack of respect for the dignity and rights of unemployed people is deeply ingrained in the system and those who oversee it. This bill is neither designed nor intended to create positive cultural change.

### Equitable treatment of payment recipients

The stated aim of changes to payment backdating is a sham. Backdating should be genuinely equitable, but this does not mean financially penalising those using digital employment services by forcing them to wait longer for payments.

Backdating payments to when a job plan is signed means people who have limited access to technology, are uncertain about requirements, have questions, or want to adjust their job plan will effectively receive a financial penalty. Contrary to the bill’s stated intentions, this will actively discourage people from taking the time to understand and exercise their rights.

The parliament must ensure that the effect of these rules is not to deter people from accessing social security payments. Equitable treatment means that everyone who needs income support should have it backdated to the day they applied.

### Accessibility of the law

We agree it is crucial that “the social security law be comprehensible to members of the public who rely on it” to make it easier for people on income support to understand and assert their rights as stated in the EM. These change do not achieve that and perpetuate



harms experienced in the current system. Genuine engagement with people who rely on income support is the only way to develop laws and information that can be easily understood.

### Reliance on failed protection mechanisms

The EM states that people in employment services will continue to be protected by existing safeguards. The jobactive inquiry, the thousands of complaints received by the department each year and the reams of evidence received by advocacy organisations like the Australian Unemployed Workers' Union and the Welfare Rights Centre demonstrate that these "protections" do not work. Instead they contribute to the extreme imbalance of power between providers and people in employment services.

We support the change that people in online services will contact the department for assistance – no one should be required to seek assistance from a private provider before the department will give them support. All people in employment services must be provided both phone and email communication options with private providers, which is often denied under current arrangements.

If the government was genuine about providing people with access to justice it would establish an independent employment ombudsman or similar alternative. An external body is required to provide adequate oversight, to investigate both private and government services and to provide transparency about the number, nature and handling of complaints.

### Exemption periods

Current rules regarding exemption periods for "mutual" obligations define a time limit, which is applied by default in many cases. Removing these maximums is good. In theory, providing more discretion regarding exemption periods should allow more reasonable lengths of time for people who have chronic and permanent health conditions to have relief from participation requirements.

Protections should be included to ensure this change does not result in people in employment services being granted shorter exemptions as a matter of course or negotiation. The department must collect data to allow for monitoring of outcomes and proactively ensure that the change benefits JobSeekers, rather than increasing the burden to access exemptions.

### A haphazard response is not evidence for wholesale change

Claims of success of the impromptu expanded "trial" of Online Employment Services that occurred because of the pandemic are extreme. It's wildly irresponsible to state that 400,000 people who were forced into OES between March 2020 and January 2021 have achieved positive employment outcomes because of this. It is a blatant accounting trick designed to push the digitisation agenda and underpin a marketing campaign. If anything, the outcome shows that compulsory engagement with employment services is irrelevant. In times of economic turmoil, even high quality, voluntary employment services have little bearing on a person's ability to find work.

There has been no transparency about the characteristics of the people who were directed to OES, particularly how many lost enough income to qualify for the JobSeeker payment yet remained connected to employment through JobKeeper or reduced hours, and have subsequently returned to higher income levels. The labour market was in chaos for the entire period cited in the EM, and for the majority of that time people were able to opt-out of activities because penalties for failing to meet participation requirements were suspended.

### Forecast savings are highly optimistic

Based on information released so far about the operation of the New Employment Services Model that this bill is intended to support, if the new rules were in place today the number of people forced to engage with private job agencies through “enhanced services” seems unlikely to change dramatically from the existing jobactive caseload of 1 million.

Nearly 240,000 of people in jobactive are disabled, and 285,000 are over the age of 50.<sup>4</sup> These two cohorts, along with others who are heavily discriminated against, face particular barriers that will not be solved by forced compliance with the existing or proposed participation requirements. In April 2021 there were 893,000 people on unemployment payments long-term who would ostensibly be pushed into “enhanced services” – more than half a million of these have been on an income support payment for longer than two years. Private employment services providers will continue to see huge profits with no evidence that they will provide better results.

There are more than 260,000 people on these payments who already have a paid job but will still be forced to engage with employment services.<sup>5</sup>

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<sup>4</sup> Access May 2021 caseload data via: <https://lmip.gov.au/default.aspx?LMIP/Downloads/EmploymentRegion>

<sup>5</sup> For people who reported earnings in April see: <https://data.gov.au/data/dataset/jobseeker-payment-and-youth-allowance-recipients-monthly-profile>

## 4 Additional material

As noted above, we are frustrated with the lack of time to prepare a detailed response to this bill. In lieu of us being able to provide comprehensive analysis and synthesis of relevant source material, we urge committee members to consider the contents and recommendations of the following in your report:

- The Treating Families Fairly *Social security and time use during COVID-19* report<sup>6</sup>
- The Australian Unemployed Workers' Union submission to the Department of Education, Skills and Employment consultation on the proposed licensing system for the New Employment Services Model<sup>7</sup>
- The AUWU submission to the Senate Community Affairs Legislation Committee inquiry into the *Social Services Legislation Amendment (Strengthening Income Support) Bill 2021*, particularly the section on “mutual” obligations in chapter 4, and chapter 5, which discusses the mental health effects of surviving on unemployment payments<sup>8</sup>
- The AUWU submission to the Senate Community Affairs Legislation Committee inquiry into the *Social Services and Other Legislation Amendment (Extension of Coronavirus Support) Bill 2020* particularly chapter 5, which discusses the need for changes in our social security system to deliver a substantive response to the changing nature of the labour market<sup>9</sup>
- The final report from the Productivity Commission mental health inquiry<sup>10</sup>
- The mid-term review of Disability Employment Services prepared by Boston Consulting Group<sup>11</sup>
- The report from the review of Employment Services Assessment (ESA) processes prepared by Boston Consulting Group<sup>12</sup>
- The Anglicare *Asking Those Who Know* report<sup>13</sup>

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<sup>6</sup> Access via: <https://www.cfecfw.asn.au/wp-content/uploads/2021/03/Social-security-and-time-use-during-COVID-19-Report-Treating-Families-Fairly-2021.pdf>

<sup>7</sup> This document has not been published by DESE and is included as an attachment to this submission

<sup>8</sup> Access via: <https://www.aph.gov.au/DocumentStore.ashx?id=740d2b8d-6895-4a64-9cdb-f4de7a13bcd3&subId=703982>

<sup>9</sup> Access via: <https://www.aph.gov.au/DocumentStore.ashx?id=f7e42072-7707-425a-aece-104c6dae5604&subId=696089>

<sup>10</sup> Access via: <https://www.pc.gov.au/inquiries/completed/mental-health/report>

<sup>11</sup> Access via: <https://www.dss.gov.au/disability-and-carers-programs-services-disability-employment-services/mid-term-review-of-the-disability-employment-services-des-program>

<sup>12</sup> Access via: <https://www.dss.gov.au/employment-services-assessment-esa-review-report>

<sup>13</sup> Included as an attachment to this submission