

## CHAPTER 3

### THE INDEPENDENT REVIEW OF BREACHES AND PENALTIES IN THE SOCIAL SECURITY SYSTEM

#### The Independent Review and its recommendations

3.1 The Independent Review of Breaches and Penalties in the Social Security System (the Pearce Review) was established in 2001 by nine leading charities and other organisations. The organisations were concerned that the compliance system for those receiving Newstart or Youth Allowances was not operating equitably or effectively. Organisations indicated that increases in the number of breaches were having an adverse impact at all levels: on unemployed people and their families; and on welfare agencies which experienced ‘marked’ increases in requests for assistance. At the same time, concern over the increasing number of breaches was being expressed in the community.

3.2 The purpose of the Review was to identify factors affecting, and the consequences of, recent changes in the incidence of breaches and penalties relating to unemployed people receiving income support payments; and to recommend improvements in the effectiveness and fairness of the system.

3.3 In reaching its conclusions, the Review indicated that nine basic principles had guided its assessment of strengths and weakness of the current system of breaches and penalties and the development of its recommendations.<sup>1</sup> The basic principles included that those receiving government allowances can reasonably be required to make efforts to obtain suitable employment and the requirements placed on jobseekers should be designed, and applied, to encourage them to engage positively in the labour market. With regard to the imposition of breaches, the Review stated that the breach system should be designed and administered principally to assist and reinforce compliance rather than focusing mainly on identifying and punishing non-compliance. Penalties, when imposed, should be appropriate and not so severe as to be likely to cause greater hardship to people who are already in straitened circumstances and to further reduce their ability to engage in employment.

3.4 The Review found that while the system often functions in an appropriate manner, there are instances when the outcomes are ‘arbitrary, unfair or excessively harsh’. Further, that it ‘was acting counterproductively and was not adopting measures that would get these people back into the workforce or assist them in seeking work’.<sup>2</sup>

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1 Pearce, D, Disney, J & Ridout, H, *The Report of the Independent Review of Breaches and Penalties in the Social Security System*, March 2002, pp. 10-12.

2 Pearce Review, p.12; *Committee Hansard* 5.8.02, p.50 (Professor Pearce).

3.5 The Review identified ways in which the current system could be improved and made 36 recommendations. In relation to imposing breaches and penalties the Review argued that:

- greater efforts should be made to ensure that investigations and assessments of the circumstances behind non-compliance are thorough and objective;
- closer attention should be paid to the legal requirements of procedural fairness;
- more rigorous action should be taken to ensure that Centrelink staff apply the relevant statutory requirements, and appropriate policy criteria, when deciding whether a breach has occurred;
- the penalty system should be made fairer and more effective, including refunding penalties in the event of prompt compliance; and
- greater efforts should be made to avoid the harsher consequences of penalties.<sup>3</sup>

3.6 In relation to activity tests, the Review recommended that:

- the guidelines concerning ‘special circumstances’ in which activity test exemptions can be granted should be broadened;
- greater efforts should be made by Centrelink and providers to ensure that requirements in activity agreements are appropriate and reasonable for jobseekers;
- Centrelink should simplify its rules and practices about jobseekers notifying income, especially in relation to income that may have been ‘earned’ but not yet ‘received’; and
- Centrelink should extend the range of jobseekers who can choose to report income on a quarterly, rather than fortnightly, basis.<sup>4</sup>

3.7 In relation to breaches, the Review’s recommendations included that:

- there should be greater efforts by providers to encourage jobseekers to achieve compliance;
- compliance reports to Centrelink should only be submitted after 14 days;
- prior to imposing a breach Centrelink should be required to make additional contacts with the jobseeker;
- when investigating a potential breach Centrelink should consider referring jobseekers to specialist officers, such as social workers, for interview;
- Centrelink should place greater emphasis on its onus of establishing a breach and the need for close attention to relevant statutory criteria and departmental policy criteria; and

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3 Pearce Review, p.15.

4 Pearce Review, pp.59-64.

- Centrelink should not impose a breach unless the contact attempts have been complied with; the recommendation to impose a breach has been endorsed by a high level officer; and at least 14 days have elapsed since the investigation commenced.<sup>5</sup>

3.8 In relation to penalties for breaches, the Review's recommendations included that:

- the structure of the penalty system should match more accurately the seriousness of the relevant breach;
- there should be greater encouragement for jobseekers to rectify their breaches as soon as possible;
- the duration and rate of penalties should be reduced;
- all penalties should be recoverable if the jobseeker takes reasonable steps to comply not later than 4 weeks after the imposition of the breach;
- improved procedures for notifying jobseekers about penalties; and
- Centrelink be empowered to reduce, delay or forgo a penalty in cases of hardship.<sup>6</sup>

3.9 The Review members agreed to a request to publish an assessment six months after the release of the Review's report on the extent to which they considered that the recommendations had been addressed by that time. Professor Disney informed the Committee that as that period had not yet expired, the views they may express in evidence were tentative and would be looked at in more detail in a few months time.<sup>7</sup>

## **Implementation of the Review's recommendations**

3.10 The Department of Family and Community Services (FaCS) stated that the Pearce Review 'provided a valuable perspective on many detailed aspects of breaching policy and practice'. FaCS added that the Review 'broadly confirmed the importance of many of the measures that have already been implemented by Centrelink, particularly in the area of identifying vulnerable customers and taking pre-emptive action to ensure that they are not adversely affected by the activity test'.<sup>8</sup>

3.11 The Department indicated that breaching policy and administration are 'continually monitored and refined to reflect the Government's stated intentions in relation to job seekers'. Over the last two years Centrelink has implemented initiatives designed to improve targeting of breaching and to identify and advise customers who may be at risk of incurring a breach. The initiatives include the Under 18 Youth at Risk Strategy, Third Breach Alert, Second Breach Intervention and 'At Risk

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5 Pearce Review, pp.69-76.

6 Pearce Review, pp.77-86.

7 *Committee Hansard* 5.8.02, p.51 (Professor Disney).

8 *Submission* 24, p.28 (FaCS).

Profiling'.<sup>9</sup> Centrelink also conducted an internal review of breaching practices and guidelines from August 2001. The report was completed in November 2001 and a copy was provided to the Committee by the Department at the public hearing held on 6 August 2002. The internal review focussed on guidelines and administrative practices to 'ensure that customers who find it difficult to comply with their obligations are not disadvantaged'.<sup>10</sup>

3.12 Further changes to breaching policy took effect from 1 July 2002 including:

- the introduction of temporary suspensions, rather than immediate breaches, for jobseekers who miss appointments and cannot be contacted. If a reasonable excuse for failing to attend is provided, the jobseeker's payment will be restored from the date of their suspension;
- breach waiver provisions were also extended so that a person on Newstart with an activity test breach penalty can have that breach waived if they start a rehabilitation program through the Commonwealth Rehabilitation Service or formal vocational training as part of a specified labour market program; and
- failure by jobseekers to attend an interview without a reasonable excuse is now treated as an administrative breach rather than an activity test breach. Consequently, the penalty incurred is reduced: a 16 per cent reduction in payments for 13 weeks is incurred rather than an 18 per cent reduction for 26 weeks.

3.13 The Department contends that when the Pearce Review was released many of the recommendations had already been implemented as a result of the Centrelink internal review or other ongoing processes. The Department provided the Committee with a response to the recommendations of the Pearce Review that are the responsibility of the FaCS portfolio. The Department indicated those recommendations that have been, or are being implemented, and those that are not. In regard to those not implemented, FaCS stated that 'some parts of the Pearce Review do not reflect what the wider community expects. That is, that the expectations of taxpayers is for those reliant on an unemployment payment to be looking for work.' As a consequence, some recommendations were either 'not necessary or are unsound'.<sup>11</sup>

3.14 The effectiveness of the initiatives designed to improve the targeting of breaching was questioned. ACOSS, using a combination of data provided by FaCS under FOI and in response to estimates questions, argued that while the number of activity breaches had declined in the last six months of 2001 they had increased in the

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9 *Submission 24*, p.29 (FaCS).

10 *Submission 24*, Supplementary Information, *Centrelink Review of Breaching Practices and Guidelines*, p.4 (FaCS).

11 *Submission 24*, Attachment F, p.55 (FaCS).

first quarter of 2002. ACOSS concluded 'it would appear that the financial year numbers will be pretty similar to those of the previous financial year'.<sup>12</sup>

3.15 The Department responded that when the FOI data used by ACOSS had been released to the National Welfare Rights Network in March 2002, the method of data collection was under counting some breach reasons. FaCS believed that the under counting had been corrected when further data was provided to a Question on Notice in June 2002, indicating that the changes to breaching policy had led to a decrease in imposed breaches from the December quarter 2001 to the March quarter 2002.

3.16 The Department has since discovered that this further data was also based on incomplete data. FaCS explained that:

Breach data extraction is a complex process. Extracting breach data requires interrogating the Breach Details Summary screen in the Centrelink mainframe which records both the date of the breach event, and the date the decision is made to impose the penalty. Most breach types are counted by using the date of the breach event. However, for some breach types, particularly those related to earnings, the decision date is often some months after the event date and in consequence the breach is recorded on the system outside of the data 'capture' window/timeframe for recording monthly breach data.<sup>13</sup>

3.17 Centrelink is developing an alternative method of data extraction involving running a separate program to source the data for the three breach reasons: non-declaration/under declaration of earnings; voluntary unemployment; and unemployment due to misconduct. The resulting blend of data would then be considered to be a reliable picture of breaching activity. FaCS and Centrelink are jointly working on an ongoing basis to ensure that accurate breach decision figures are compiled in this complex area.

3.18 The Department commented, however, that 'the indicative data we do have supports the basic point previously made, in response to ACOSS' claims, that there were significantly fewer breach penalties imposed during 2001-02 than during the previous year and that throughout 2001-02 the general trend in breach numbers was downward'.<sup>14</sup>

3.19 ACOSS revised its information to the Committee on the number of breaches in the previous financial year in view of the Department's comments. However, ACOSS maintained that harsh penalties were still being imposed for infringement of social security rules such as being late for an interview or failing to respond to a letter. Over 200 000 penalties were imposed in 2001-02. ACOSS argued that the

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12 *Committee Hansard* 5.8.02, p.43 (ACOSS).

13 *Submission 24*, Additional Information 12.9.02, p.2 (FaCS).

14 *Committee Hansard* 6.8.02, pp.149-53 and *Submission 24*, Additional Information 23.8.02 and 12.9.02 (FaCS).

Government's changes to the penalty system 'do not go far enough and the harshness of the current penalties system needs to be urgently addressed'.<sup>15</sup>

## **Response from Members of the Review**

3.20 Professor Pearce and Professor Disney commented in evidence on the Government's response to the Review.<sup>16</sup> Professor Pearce stated that the Review members were 'disappointed' with the response: 'It is pitched at a level of generality that we think is not particularly helpful to either an understanding of what we proposed or an understanding of the government's view on what we proposed'. The response also contained a number assertions, referring to which Professor Pearce stated 'if there is evidence to support the view that is being put, that is fine. But we tended to find for ourselves that very often an assertion was made and it was difficult to be sure that the facts that were being asserted were indeed true.'<sup>17</sup>

3.21 By way of example, Professor Pearce pointed to the Review's recommendation for funding for Centrelink so that sufficient time was allocated to properly carry out the initial Centrelink interview (Recommendation 1(2)). The Review considered this was a key recommendation as it had found that when insufficient time and effort were put into the first interview, particularly for especially vulnerable claimants, the system failed. For example, a jobseeker may be referred to an inappropriate assistance agency or have to comply with requirements which they are unlikely to meet. The Department's response stated that this was the current procedure for new claim interviews and 'where necessary vulnerable claimants are referred to specialist officers'. However, Professor Pearce questioned the Department's response and stated that:

All I say is that when looking at those responses, one needs to be very clear that they tend to put a gloss on or generalise the position without really getting to the nitty-gritty of what we have recommended. There have been some occasions when we think that the way in which the response represents the intention of the recommendation is not entirely accurate.<sup>18</sup>

3.22 Professor Disney provided comments on the changes which had occurred to the system since the Review had reported. In doing so, Professor Disney stated that 'as far as we can tell', there had not been significant changes in most areas. A difficulty which had arisen during the Review, and which continued, was the lack of accurate information:

...it is very hard to find out with accuracy what is really happening and to find out whether changes that are promised have actually been introduced,

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15 *Submission 11, Additional Information 30.8.02 (ACOSS).*

16 *Committee Hansard 5.8.02, pp.49-69 (Professor Pearce & Professor Disney).*

17 *Committee Hansard 5.8.02, p.50 (Professor Pearce).*

18 *Committee Hansard 5.8.02, p.51 (Professor Pearce).*

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whether if introduced they have been kept because quite often they are pilots which are then discontinued, and if introduced to find out the detail.<sup>19</sup>

3.23 Of those changes made to the system, the Minister's announcement that jobseekers who miss an appointment will have payments suspended was seen as having some benefits but 'it does not address what we were on about'. Professor Disney commented that it was unclear to what extent and in what circumstances back payments would be paid. The Review favoured partial suspension as the suspension of all payment was viewed as being too severe.

3.24 The extension of the breach waiver provisions to include undertaking a rehabilitation program through the Commonwealth Rehabilitation Service was seen as useful. Although this was regarded as a movement in the right direction, it did not go as far as suggested by the Review. The Review recommended a broader range of exemptions including a course of study as 'this extension would not only provide additional scope for relief from hardship but also increase incentives for active job search'.<sup>20</sup>

3.25 Professor Disney noted that the introduction of the Third Breach Alert system was intended to identify customers at risk of being breached and to allow a more detailed examination of a person's circumstances. Professor Disney suggested that if the increase in breaching identified by ACOSS was correct, doubts could be raised about the effectiveness of the Third Breach Alert system.

3.26 The introduction of a supplementary assessment system was seen as beneficial and has some similarities to the Review's recommendations for especially vulnerable jobseekers. Professor Disney suggested that the Review's proposals could easily be implemented as an 'add-on' to the process already established.

3.27 Professor Pearce identified five areas which the Review regarded as being essential for implementation in order to achieve a balance between alerting people to their obligations but not being so onerous as to drive them away from becoming useful members of the workforce. They were 'far from radical and they are far from expensive' but 'we have not been persuaded by the departmental response are being given the attention they deserve'.<sup>21</sup>

### **'Especially vulnerable persons regime'**

3.28 The Review paid particular attention to the impact of the system on those income support recipients whom it described as 'especially vulnerable'. These recipients include those who are homeless or have transitory or uncertain accommodation, have literacy or language difficulties, have a physical or intellectual disability, who suffer from a substance dependency or who have other relevant

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19 *Committee Hansard* 5.8.02, p.51 (Professor Disney). See also *Committee Hansard* p.58.

20 *Committee Hansard* 5.8.02, p.52 (Professor Disney); Pearce Review p.86.

21 *Committee Hansard* 5.8.02, pp.53-55 (Professor Pearce).

problems. Many of the Review's recommendations addressed the particular problems of the especially vulnerable in understanding and complying with the obligations imposed on them.

3.29 However, while Centrelink's internal review also recognised the special needs of this group, Professor Pearce commented that the Review has 'seen no sign that the changes that we recommended and that we think the internal review recommended are being implemented'. There has been a general response to the Review, but there has been no major change directed specifically at the especially vulnerable.

### **Choice of provider**

3.30 The Review found that failure to attend an appointment with a provider is one of the most frequent reasons for breaching and recommended changes to improve the selection of the provider and referral processes.

### **Income reporting**

3.31 In its response to the Review, FaCS stated that 'taking income into account when it is earned or derived is the best way to ensure equity and that people do not manipulate the system'. Professor Pearce commented that the response by the Department did not recognise the problems associated with income reporting. The Review recommended that Centrelink should simplify its rules and practices about jobseekers notifying income. The Review paid particular attention to those jobseekers undertaking only sporadic employment. It recommended that, in the view of the difficulties of determining the level of payment, jobseekers who indicate that they have earned income should be able to delay reporting the precise amount until they have actually received it. The Review considered that the difficulties that jobseekers have with the present system create a substantial disincentive for many to seek casual or commission work. Professor Pearce concluded that 'we think the right way to go about it is to encourage them to continue working, and the way to do that is to not constitute it a breach if they have not made an accurate estimation'.<sup>22</sup>

### **Investigations**

3.32 The Review found substantial problems in Centrelink's response to apparent non-compliance and concluded that 'as a consequence of which incorrect decisions to impose a breach are made'.<sup>23</sup> The Review's recommendations covered investigations, referral to a specialist officer, imposition of breaches and guidelines, training and monitoring of Centrelink staff.

3.33 Professor Pearce stated that while there is some indication the guidelines are to be reviewed, he questioned the time being taken to do so and noted that 'this is something that has been before the department since last November'. He concluded by stating that 'one would have thought that, if there was a seriousness about looking at

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22 *Committee Hansard* 5.8.02, pp.54, 55-75 (Professor Pearce & Professor Disney).

23 Pearce Review p.71.

the way in which investigations are carried out, some action might have happened by now rather than being told that the guidelines will be reviewed.’<sup>24</sup>

## Penalties

3.34 The Review found the current penalty regime excessively harsh and unfair, and that it unduly and counterproductively diminishes many jobseekers’ prospects of finding employment.<sup>25</sup> The Review preferred a ‘short, sharp shock’ for those being penalised for non compliance, but that the penalties imposed should take into account the nature of the persons concerned and of the amount of resources available to them. The Review recommended that all penalties should be fully recoverable and that the duration and rates of penalties should be reduced. The penalty regime should aim at reminding recipients of their obligations and to obtain compliance. Professor Pearce concluded ‘it is not unreasonable to see that, if the shock is too great, these people will be driven to supplement their survival by turning to crime. We received ample evidence of that to make us very concerned.’<sup>26</sup>

## Other recommendations

3.35 In evidence, Professor Disney outlined a number of issues which highlighted concerns that the Department’s response did not fully address the recommendations or provide an accurate view of the present situation. A number of these issues are referred to in chapter 2 as they apply to both parenting payment and mature aged Newstart recipients.

*Recommendation 1 - Initial Interviews:* The Review found that the initial interview required improvement to ensure that all important information is disclosed and appropriate decisions are made. One improvement recommended was the provision of better interview facilities to ensure reasonable privacy. The Department responded that private interview rooms are used where appropriate. Professor Disney noted that this did not indicate an improvement.<sup>27</sup>

The Review also recommended a 14 day cooling off period in which to sign or propose amendment to an activity agreement. In responding to this recommendation the Department noted that jobseekers are currently given 7 days (21 days in remote areas). However, there appears to be some confusion about what that period relates to. Professor Disney stated that it appeared the Department was referring to the departmental policy that when notified at the initial interview about the activity agreement, jobseekers will not be required to see a Job Network provider in less than seven days, or 21 days in remote areas, from when the letter is sent to the jobseeker.

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24 *Committee Hansard* 5.8.02, p.54 (Professor Pearce).

25 Pearce Review, p.79.

26 *Committee Hansard* 5.8.02, p.54 (Professor Pearce).

27 *Committee Hansard* 5.8.02, p.58 (Professor Disney).

Professor Disney concluded that this was not really a cooling off period in respect of the proposed agreement and ‘I think that might give a misleading impression’.<sup>28</sup>

*Recommendation 2(2) - Especially Vulnerable Jobseekers:* The Department’s response to the Review’s recommendations on especially vulnerable jobseekers stated that Centrelink already focusses on identifying vulnerable customers and that the Centrelink internal review addresses this issue. While noting that the Centrelink internal review goes ‘quite a long way in the direction we mentioned’, Professor Disney commented on the lack of detail in the Department’s response. He also stated that he did not know how quickly the internal review was being implemented.<sup>29</sup>

*Recommendation 3 - Centrelink Information Seminars:* Improvements to the information seminars were recommended including more focussed information provision and provision of material in languages other than English. While the Department indicated that further work on the seminar is being developed, Professor Disney noted that progress has been very slow.

*Recommendation 8 - Effective Communication:* The Review emphasised the need to ensure that communications with clients were simple and clear as many problems stem from poor communications. While acknowledging the need to comply with the requirements of appeals tribunals, Professor Disney contended that the Department had not addressed the specific and constructive recommendations made by the Review to improve its communications with jobseekers.

*Recommendation 9 (2) - Communication with Especially Vulnerable Jobseekers:* The Department indicated that following a recent initiative, Centrelink will always contact a customer before applying a breach penalty for failure to attend an interview. Professor Disney responded ‘they are placing a lot of emphasis there on the breach penalty, but it does not mean that you will not be suspended. In fact, that is the whole point: you will be suspended without breach if they cannot contact you. So it is technically accurate in that they will not apply a breach penalty unless they can contact you, but they will suspend you if they cannot contact you. One needs to be cautious in reading that.’<sup>30</sup>

*Recommendation 15 - Activity Test Exemptions:* The Review noted that the legislation allows for an exemption for up to 13 weeks in the case of major personal crisis. Professor Disney indicated that the guidelines at the time of the Review specified a two week standard exemption period for major personal crises which may be extended to four weeks in extremely traumatic circumstances. Professor Disney stated that this was a ‘very tight constraint’ on a discretion of up to 13 weeks granted by Parliament.

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28 *Committee Hansard* 5.8.02, p.64 (Professor Disney).

29 *Committee Hansard* 5.8.02, p.59 (Professor Disney).

30 *Committee Hansard* 5.8.02, p.63 (Professor Disney).

He concluded ‘I think their statement is not entirely accurate as to the extent of the discretion here’.<sup>31</sup>

*Recommendation 26 - Notification of Penalties:* The Review recommended that the notification of penalties include information on sources on emergency relief. In response, the Department stated that it was not currently feasible to add this information to notifications. Professor Disney countered that there were ways of providing this information, ‘it is really just of matter of putting energy into it. It is not really all that difficult.’<sup>32</sup>

*Recommendation 28 - Post Breach Referrals:* After a second activity breach, the Review recommended a mandatory referral to a specialist officer unless it had already occurred or would clearly be ineffective. The Department responded that doing so in all breach cases ‘would be a waste of resources’ as most breaches were not for customers who were vulnerable but mainly for deliberate mis/non declaration of earnings.<sup>33</sup> Professor Disney noted that the Review did not recommend the referral in all cases and stated ‘I think there are a number of areas where we really have been more specific and more reasonable than perhaps the response suggests’.<sup>34</sup>

*Recommendation 29 - Move to Low Employment Areas:* The Review recommended that there should be a discretion that the normal preclusion period should be 12 weeks, but it could be extended to up to 26 weeks in special cases. The Department’s response stated that it was not clear on what grounds a longer preclusion period would be approved. Professor Disney argued that in other areas the Department did not appear to be concerned about the degree of discretion and noted ‘indeed, they were touting the degree of discretion to apply an exemption period on pretty vaguely stated criteria, so it is a rather inconsistent approach’.<sup>35</sup>

## **Extension of proposed measures to all income support recipients**

3.36 Professor Disney also indicated that some of the measures proposed in the legislation should be applied more broadly to existing Newstart and Youth Allowance recipients and to mature age recipients:

- *repayment of penalty:* the legislation proposes that if a sole parent complies within 13 weeks the penalty should be fully recovered. This provision does not apply to mature age income support recipients who will only have their payment restored from the time of compliance. For younger unemployed people and those on Youth Allowance the penalty remains in force, notwithstanding any subsequent compliance. As a result there will be three different penalty systems.

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31 *Committee Hansard* 5.8.02, p.64 (Professor Disney).

32 *Committee Hansard* 5.8.02, p.65 (Professor Disney).

33 *Submission* 24, Attachment F, p.59 (FaCS).

34 *Committee Hansard* 5.8.02, p.66 (Professor Disney).

35 *Committee Hansard* 5.8.02, p.66 (Professor Disney).

Professor Disney commented ‘at a time when the government and others appear to be arguing for a common work force payment, this is one of the many areas where one has to query whether that is a realistic goal or largely illusory’. The Review recommended full repayment be made if a person complies within eight weeks to provide greater encouragement for jobseekers to rectify their breaches as soon as possible.<sup>36</sup>

- *contacting recipients*: there is now a legislative requirement that reasonable attempts be made to contact a person on parenting payment if that person has not complied with the terms of agreement. The Review emphasised the need to improve communications with recipients as breakdowns in contact and communication account for a very large proportion of breaches and made detailed practical proposals. While the proposed change was welcomed, Professor Disney stated that ‘we are pretty sceptical of how much impact broadbrush requirements of that kind have’.
- *administrative breaches*: there will be no administrative breaches for parenting payment recipients.
- *appropriateness of agreements*: the legislation proposes that before the application of a penalty for sole parents, the appropriateness of the participation agreement must be considered. In its response to the Review, the Department indicated that Centrelink would undertake review of agreements, partly to make sure that the agreement is matched to the circumstances of the jobseeker. Professor Disney noted that this is an administrative requirement while for sole parents this will be a statutory requirement.
- *temporary exemptions*: although there are some exemptions proposed for sole parents and mature age recipients, the range of temporary exemptions that currently exist for young unemployed and those on Youth Allowance will not be available to this group of recipients (see chapter 2 for a further discussion of temporary exemptions).

## Conclusion

3.37 The report of the Independent Review provides a focus on the types of failures or other conduct by jobseekers that have been identified as likely to lead to breaches. The Review paid particular attention to the impact of the system on those ‘especially vulnerable’ recipients. The recommendations aim to overcome the weaknesses in the current system to ensure a greater degree of effectiveness and fairness and to increase the overall level of compliance and successful job search.

3.38 The Committee acknowledges that the penalties system has been the subject of a number of changes over the past two years, including those announced by the Minister in March 2002. The changes include improving the targeting of breaching; identifying and advising customers ‘at risk’; and the introduction of suspensions and breach waivers. The Department also stated many of the Review’s recommendations

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36 *Committee Hansard* 5.8.02, p.53 (Professor Disney).

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had already been put in place as a result of the Centrelink Review of Breaching Practice and Guidelines or other ongoing processes.

3.39 However, the evidence provided by Professor Pearce and Professor Disney indicates that the Department's response to the Review's recommendations is relatively superficial and fails to address some of the more fundamental problems of the system. By not doing so, there is a risk that the Government's objectives of supporting jobseekers to move back into the workforce may be curtailed. The Committee considers that many of the recommendations, particularly those aimed at especially vulnerable jobseekers, contained in the Review would further enhance the system and make it both more equitable and efficient. The Committee has already made reference to the application of the Review's recommendations to parenting payment and mature aged recipients and considers that they be applied to all existing income support recipients.

**Recommendation 13: That the Department of Family and Community Services implement in full the recommendations of the Independent Review of Breaches and Penalties in the Social Security System to the wider group of existing income support recipients currently subject to breaching provisions.**

3.40 The Committee notes the Review's final recommendation that an appropriate parliamentary standing committee should request the Commonwealth Ombudsman to report to it annually, at least for the next five years, on the operation of the breaches and penalties system. The Committee considers that such a review will add significantly to the accountability of the system and it will seek the Senate's approval to undertake the review as recommended.

Senator Steve Hutchins  
Chairman

