

# Submission

to

Senate Community Affairs Legislation Committee

## **Inquiry into the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005 and Family and Community Services Legislation Amendment (Welfare to Work) Bill 2005**

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# SENATE ENQUIRY INTO THE WELFARE TO WORK BILLS 2005

## SUBMISSION BY JOB FUTURES

### Summary and Recommendations

Job Futures supports the policy of encouraging work-force participation and lessening long-term welfare dependence. However there are some issues where we believe changes to the proposed legislation could better achieve these goals. Such changes relate to providing additional encouragement and support for job seekers and lessening measures which will have a punitive effect. The Welfare to Work reforms should be broadened to encourage more groups to participate in the workforce and policies should encourage Job Network Members to provide employment services in this area. Job Futures is opposed to any compliance regime that would require us to breach job seekers for refusing a job that we believe is unsustainable and not in the job seeker's best interests.

#### Job Futures recommends that:

1. The proposed level of payment to people with a disability who can work 15 hours per week and sole parents required to look for work be carefully reconsidered in the light of the modelling contained in the various submissions before the Inquiry and that changes to address the concerns be made.
2. There be regular independent reviews of both the social impact of the legislation generally and whether it is achieving its aim of getting people with a disability who can work more than 15 hours a week to participate in the workforce.
3. Job Network include measures to strongly encourage and reward Job Network Members to work with those who are not currently in the workforce to give them the skills to participate and to assist them to find employment.
4. The Job Network be changed to reward JNMs not just for achieving an outcome but for achieving a "quality" outcome, for which a surrogate measure could be the level of payment received by the job seeker.
5. The Welfare to Work reforms include provisions that recognise a series of engagements in a continuing relationship with one employer as periodic, rather than casual, work.
6. In relation to such employment, 13 week outcome payments be made if the job seeker achieves 13 weeks employment with the one employer over a 6 month period and 26 week outcome payments be made if the job seeker achieves 26 weeks employment with the one employer over a one year period.
7. The legislation include provisions which ensure that if minimum wages fall below the level required for an individual to properly provide for their dependents, the welfare support system will step in to fill the gap.
8. The current moves to more closely link welfare and work with WorkChoices be continued and that education, training and skills development be more closely integrated with these components.

9. Job seekers not be required to accept remuneration and conditions that are less than those provided for in any relevant award.
10. Job Network Members (JNM) have the discretion not to submit a Participation Report where both the job seeker and the JNM believe that job does not constitute suitable employment because the conditions required by the employer are incompatible with the circumstances of the job seeker and are such that, had they been known, the JNM would not have referred the job seeker to that job and it is considered highly unlikely that the job seeker would remain in the placement if it were accepted.
11. Where a Participation Report is submitted, benefits are not removed or suspended unless a Centrelink Officer, with the discretion to make such a decision, has interviewed the job seeker and determined whether or not the employment offered was considered to be suitable.

## **Body of Submission**

### **Job Futures**

Job Futures is Australia's only national network of not-for-profit community-based employment and training providers, with a particular focus on assisting those most disadvantaged in the community. It is one of the largest providers of the Australian Government's principal workforce participation program – Job Network – and currently delivers one third of the specialist contracts and 80% of the indigenous contracts under this program. In 2004/05 Job Futures, through its member organisations, assisted disadvantaged people through providing services at over 160 locations nationwide, from inner city Sydney and Melbourne to remote communities such as Mutitjulu in the Northern Territory and Halls Creek in Western Australia.

### **Term of Reference (a): The Provision of Employment Services and Other Assistance**

#### **Impacts on the provision of employment services to sole parents and people with a disability**

Job Futures supports the policy of encouraging work-force participation and lessening long-term welfare dependence. We believe it is reasonable that people with a disability and sole parents whose youngest child is at school should be encouraged to return to the workforce where their personal circumstances permit.

However there are some issues which are of concern where we believe changes to the proposed legislation could better achieve these goals.

It is not clear to us why those with a disability who are assessed as being able to work for more than 15 hours per week and sole parents required to look for work under the new legislation will be paid at a lesser rate than at present. We understand that the intention is to align these benefits with the New Start Allowance, so that all people who are required to actively look for work should be treated equally. While the logic is clear, our view is that that outcome may cause additional unnecessary harm.

It has been assumed that the expenses of these groups are the same as those on New Start. However our view is that in many instances this is not the case. Parenting involves numerous additional costs, not only to support the child but to ensure that experiences of childhood that many of us take for granted (such as a visit to the beach or a trip to see the grandparents) can be part of the their lives.

Living with a disability also often involves hidden costs. Mobility is an obvious one and we support the increased mobility allowance. However there are many other hidden costs such as specially designed household implements which are often more expensive but which enable a person to live more independently, clothes with special fastenings and so on. Costs of searching for a job (child care, travel, clothes) also pose an additional financial burden and need to be taken into account.

Particular issues arise for these groups in terms of the additional work-related costs of engaging in part-time work. These represent a higher proportion of take home pay than for those who engage in full time work. For example, transport costs are often higher as those in part-time work cannot take advantage of the benefits of weekly tickets.

It seems counterproductive to require these people to look for work but at same time not take account of the additional costs they face. There is a very real concern, which is set out in the NATSEM modelling, that for some groups participation in the workforce will actually lead to lower net income and that child and individual poverty will result. It is unreasonable to expect people with dependents to make decisions that will actually reduce their income when that income is already at a low level.

We are also concerned by the effect that this disincentive may have for job seekers with a disability who may, with support, encouragement and intensive and innovative case management by their JNM, be able to work 15 hours per week without support after two years. We are of the view that it is possible for many job seekers (even those who had such a disability that they were unable to work at all) to find meaningful employment (see *Paul's Story*, attached).

However we are concerned that the added stresses caused by lower rates of allowance for those who are not yet able to work 15 hours, but who are assessed as being able to do so, may well mean that they will never attain the confidence and belief in themselves that is the key to enabling this to happen. This will be of additional concern for those who suffer from a mental illness.

Job Futures **recommends** that this issue be carefully reconsidered in the light of the modelling contained in the various submissions before the Inquiry and that changes to address the concerns be made. We further **recommend** that there be regular independent reviews of both the social impact of the legislation generally and whether it is achieving its aim of getting people with a disability who can work more than 15 hours a week to participate in the workforce.

## **Encouraging greater participation**

Job Futures believes that the current policy settings for Job Network are running behind the policy levers being applied through the WorkChoices and the Welfare to Work Legislation and that the reforms do not go far enough in increasing the participation rate generally.

Research undertaken for Job Futures by MacroPlan Australia concludes that in the medium term a stage will be reached where there are not enough people in Australia willing or able to do the jobs that need doing, from agricultural work to personal care. At that time, there will be an unavoidable need for Australia to compete internationally for guest workers, regardless of the current political position on this issue.

The welfare to work reforms begin to address one possible source of labour within Australia: unemployed people with increasingly high levels of disadvantage and the pool of sole parents and those with a disability who have the ability to do at least some work.

However there are three other main sources from which our future workforce needs can be met.

The first source is the pool of under-employed. There are a large number of workers in Australia who want more hours than they have and we often overlook this pool of labour in our statistics. It is masked by the fact that in Australia, being unemployed is defined as not having worked at least one hour in the previous week. It is our view that most people, including the disadvantaged job seekers with whom we work, do not think having a job for one hour in a week counts as being “employed” in any commonly understood sense of the word. The general view of “unemployment” might be more in line with that used in Germany, where you are counted as unemployed if you work less than 15 hours in a week and would like to work more.

If we used this definition of unemployment in Australia our unemployment rate would be over 10%. But it also might lead the Government to encourage and support agencies such as Job Futures to work with this group in addressing the impending skills and labour shortages. A reassessment of how “unemployment” is defined might give a more realistic picture of the availability of labour and lead to desirable changes in Job Network to focus more on this group.

The second source of labour will be through increasing participation rates, which are lower in Australia than in comparable OECD countries. However this is not as simple as it sounds. The research recently carried out for Job Futures by MacroPlan makes it clear that the only group where there is a predicted increase in the participation rate is for women over 45 years.

The third source of labour is the retired baby boomers. There seems to be an assumption that the baby boomers will retire early and stay retired. However considering that 45% of people do not have any superannuation and of those that do, about one third do not have sufficient, it is inevitable that many retired baby boomers

will have to work part time in order to live at a reasonable level of comfort in retirement.

The problem will be attracting these people into employment, especially those who do not see themselves as “unemployed”. However in many cases, while they would like to participate, they do not have the skills and abilities required to enter the workforce immediately and need additional help to become “job ready”.

The policy settings in the proposed legislation do not sufficiently recognise this imperative or provide initiatives to address it, which is essential if we are not to simply run out of people to do the jobs in our society that need to be done.

Job Futures **recommends** that the Job Network include measures to strongly encourage and reward Job Network Members to not only work with those who are currently receiving government benefits (as at present) but also to work with those who are not currently in the work force to give them the skills to participate and to assist them to find employment.

The reforms also do not adequately promote or encourage JNMs to focus not just on getting people off welfare and into work, but doing so in a way that addresses the looming issue of skills shortages. Job Futures believes that the Job Network reward system should be structured in such a way as to encourage JNMs not only to place people into employment, but to place them into “quality” employment, ie where they acquire and use skills which are in demand in the labour market. *Paul’s Story* is a good example of how this can occur and where a higher level outcome could be rewarded.

Job Futures therefore **recommends** that the Job Network system be changed to reward JNMs not just for achieving an outcome but for achieving a “quality” outcome, for which a surrogate measure could be the level of payment received by the job seeker.

### **Providing employment services in a more flexible market**

As mentioned earlier, Job Futures believes that that the current policy settings for Job Network are running behind the policy levers being applied through the WorkChoices and the Welfare to Work Legislation. One of the key features of the WorkChoices legislation is the creation of more flexible workplaces and labour markets with the ability for people to work in non-traditional work patterns.

However the reward structure for Job Network is still tied closely to more traditional labour market outcomes with an interim outcome being paid after 13 weeks employment is achieved and a full outcome after 26 weeks.

In the more flexible world of work which the industrial relations reforms are aimed to deliver, and in a world where flexible working options will be required to encourage an increase in participation, Job Network structures need to be realigned to deliver the required policy outcomes.

For example, the current structure of Job Network payments does not adequately recognise the concept of periodic employment in seasonal industries, eg, abattoirs, fishing, pearling, agriculture, where there is a continuing but intermittent relationship with one employer. This is a systemic issue which assumes that these jobs are not “real” either for the job seeker or the JNM: the job seeker is treated as having only a series of casual engagements while the JNM is not able to claim an outcome payment.

A similar situation arises in relation to sole parents who want to work only school hours during term time. For example, one of our member organisations has worked with an employer to enable sole parents to work the 10 week school terms and not work during school holidays. However such an arrangement does not deliver an outcome for the JNM even though the job seeker has been placed in what is essentially ongoing employment.

Job Futures **recommends** that the Welfare to Work reforms include provisions that recognise a series of engagements in a continuing relationship with one employer as periodic, rather than casual, work. We further **recommend** that in relation to such employment, 13 week outcome payments should be made if the job seeker achieves 13 weeks employment with the one employer over a 6 month period and 26 week outcome payments should be made if the job seeker achieves 26 weeks employment with the one employer over a one year period.

The current 13/26 week outcome paradigm also fails to address short gaps in employment due to carer responsibilities or episodic mental illness.

Recently the Minister announced new arrangements for Job Network outcomes and taper rates from 1 July 2006 to complement the Welfare to Work Changes. These are “to allow JNMs to claim intermediate outcomes for the same level of job seeker’s earning as now”. They are also to recognise that “job seekers who are returning to work, including those in the Welfare to Work target groups, may have short term breaks in employment or short term dips in earnings during the first 6 months of their employment”.

Job Futures believes that while the issue of intermediate outcomes in relation to the revised taper rates has been satisfactorily addressed, there is no adjustment for full interim and final outcomes which will now require higher earnings to be achieved and it will be harder for JNMs to achieve full outcomes.

In relation to short term breaks for the Welfare to Work group, the changes may assist, but do not fully address the issue. Measuring hours over a fortnight rather than a week will help, but only allowing two fortnights of reduced earnings over an outcome period might still not be sufficient. For example, the school holiday fortnight is unlikely to align exactly with the person’s allowance period – it is more likely that pension day will be in the middle of the school holiday so that the fortnight before and after would be affected. It is also not clear about the exact way in which the “short gaps” provisions will be interpreted.

## **The relationship between welfare and wages**

The WorkChoices industrial reforms create the Fair Pay Commission with a remit to set minimum wages and minimum award rates “with the primary objective of promoting the economic prosperity of the people of Australia”. This effectively removes the baseline for the minimum wage established almost a century ago in the Harvester Case. This is a fundamental shift of the policy settings, separating welfare payments from wages for the first time.

Job Futures is concerned that without complementary shifts in the policy settings of the Welfare to Work legislation, the minimum wage may fall to a level where an individual is unable to properly provide for his or her dependents. This would make it more difficult for JNMs to place job seekers into suitable employment and an increase in poverty and hardship may also result.

Job Futures **recommends** the Welfare to Work legislation include provisions which ensure that if minimum wages fall below the level required for an individual to properly provide for their dependents, the welfare support system will step in to fill the gap.

A particular issue here is the issue of immediacy of support. It is very difficult for job seekers to make the transition from a stable, predictable income on benefits through the unpredictable and unstable income that occurs as a result of part-time work which is often the first step in the transition to longer term stable employment. Such people, especially those with dependents, are often highly risk averse and would prefer the security of a known, if low, income, to a potentially higher, but less certain income. Job Futures believes that this issue is not fully appreciated by the welfare, tax, or family support systems and that it is a factor that discourages potential job seekers from participating in the labour market.

One way in which in which this could be addressed is to smooth the unpredictability of income during the transition phase through the provision of an allowance or other mechanism and we believe that this issue should be further investigated.

## **Closer system links**

Job Futures supports the process, already begun, to more closely link the government portfolios that impact on our ability to assist job seekers into sustainable employment. However we believe that the policy settings relating to the linkages between education, training and skills development and Job Network are not sufficiently integrated and that this will become a key issue as skills shortages worsen and JNMs work with increasingly disadvantaged job seekers. There needs to be more flexibility to move job seekers and trainees between and among government programs without jeopardising the achievement of program KPIs and outcome payments for the employment service providers.

Job Futures **recommends** that the current process of more closely linking welfare and work with WorkChoices be continued and that education, training and skills development be more closely integrated with these components to ensure overall policy outcomes (rather than simply programme outcomes) are delivered.



### **Term of Reference (b): A Responsive Compliance System that Encourages and Rewards Participation**

Job Futures supports the principle of ensuring job seekers reconnect rapidly with their Job Network Member. However we remain concerned that the compliance regime established by the legislative changes may be unnecessarily punitive in the way in which benefits are withdrawn from job seekers. We are concerned that the new policy moves to a situation where job seekers could lose their benefits for 8 weeks (rather than receive a penalty of a percentage of payment for a specified period). The guidelines announced by Minister Peter Dutton state that this will apply to those who “without good reason...refuse a job offer or leave a job voluntarily, and to very long term unemployed job seekers who fail to participate in full time Work for the Dole.”

There are no details provided as to what constitutes “good reason”, nor is it clear who determines whether or not the reason is sufficient.

Job Futures believes that unless these reasons are carefully specified and applied with compassion and care, there is a very real risk that they will impact on our most disadvantaged job seekers in a way which punishes, rather than rewards, attempts to participate. It must be acknowledged that the suspension of benefits can cause serious problems that may include loss of accommodation, financial crisis and even inability to feed the family. Once in such a crisis situation, it becomes even more difficult for a job seeker to focus on obtaining sustainable employment and the system therefore could therefore lead to the very opposite of what it was trying to achieve.

It is also not acceptable for those on benefits to have those benefits suspended by Centrelink if they refuse a job offer because of the inappropriateness of conditions imposed. Any job is *not* automatically better than being on welfare if the conditions cause hardship and dysfunction for the job seeker and/or their family. Job Futures is **opposed** to any blanket requirement that would require us to breach job seekers for refusing a job that we believe is unsustainable and not in the job seeker’s best interests.

Job Futures does not advocate that all job seekers should have the right refuse employment without penalty, but we do believe that the blanket application of such a policy would have unanticipated and undesirable consequences both for job seekers and Job Network Members.

Minister Kevin Andrews has indicated that job seekers would lose their benefits if they refused to accept employment on conditions which are less than the award. Such a position would appear to conflict with s 601 (2A) (e) and (f) of the Social Security Act. This says that work is unsuitable for a person if *inter alia* the remuneration and conditions offered are less than those provided by the award, or, where there is no award, the remuneration is lower than the minimum rate for comparable work that is covered by an award.

Job Futures **recommends** that this legislative protection remains in place and job seekers not be required to accept remuneration and conditions that are less than those provided for in any relevant award.

Even if this is accepted, our concern remains that a position offered by an employer may comply with the requirements of the new WorkChoices system but may not be suitable employment for a particular job seeker. Job Futures believes that circumstances may arise where a job seeker should be able to refuse employment without penalty.

For example, a Job Network Member may refer a job seeker who is a sole parent to an employer for what appears to be a suitable vacancy. On being offered the position, the job seeker is told that she will have to work public holidays and some weekends. The job seeker does not have any way of ensuring her children are cared for during these times. If the JNM had known these conditions would apply they would not have referred the job seeker to the vacancy as it would not have been considered suitable employment taking into account DEWR Guidelines which require JNMs to “carefully consider” the family and caring responsibilities of the job seeker.

In such a situation, it would appear that the policy position is that the job seeker would have to accept the employment or lose their benefits.

It is Job Futures view that enforcing such a policy in such circumstances may lead to the following undesirable and unanticipated outcomes.

Firstly, JNMs will be reluctant to refer job seekers with special requirements relating to hours and conditions to an employer unless they are sure that unacceptable conditions will not be imposed. This means that they will only refer highly disadvantaged job seekers into positions where certainty of appropriate conditions is assured. This runs counter to the policy goal (which we support) of encouraging those who can work to do so, as well as being likely to reduce placements in some instances.

Secondly, it will cause serious ethical concerns for employment consultants to have to submit a Participation Report where a person is offered employment that is not considered “suitable” either by the job seeker or the consultant because the employer requires conditions which would not be sustainable for the job seeker. To avoid this, the consultant would be likely to advise the job seeker to stick the job out for a few weeks and then resign. (Of course, the resignation would then have to be for “good reason” or the person would lose their benefits for 8 weeks). This will result in placements that are unsustainable from the beginning, consequent failure to convert to outcomes, and an experience of failure for both the job seeker and the consultant.

It may also result in a situation where someone stays in a job which is actually detrimental to their mental health as it may be necessary for a person with mental illness to suffer a full relapse before it is deemed to be a “good reason” for leaving the job.

Thirdly, we believe that such a policy position undermines the Government’s policy agenda of achieving long term-employment for job seekers. In line with this policy,

Job Futures has consistently been requiring our members to ensure they do not place job seekers in “any job” for the sake of making a placement. We encourage and support them to place job seekers in “the right job in a sustainable community”, even at the risk of taking a little longer to obtain suitable employment. This has resulted in our members achieving higher levels of conversion to 13 and 26 week outcomes for highly disadvantaged job seekers than had previously been the case.

In particular, the trials of our new Intensive Case Management System with highly disadvantaged job seekers (long term unemployed with a disability) has achieved some spectacular results. The blanket imposition of a policy position such as this would be likely to jeopardise our ability to achieve outcomes with some of these job seekers.

Finally, while most employers may be honest and behave ethically, we are concerned about those who will be unscrupulous in requiring draconian conditions because they know the job seeker must accept, or risk losing their benefits. A blanket policy gives such employers a licence to behave in a way that both harms the individual job seeker and damages the system as a whole.

While in general we agree that a job is better than welfare, this may not be so in every case and we believe that policies must ensure that consequences which are adverse for the individual and perverse in terms of achieving desired outcomes do not arise.

Job Futures **recommends** that provisions be put in place, similar to those in place for breaches for non-compliance, before benefits can be suspended or removed. In particular, we **recommend** that JNMs have the discretion not to submit a Participation Report where both the job seeker and the JNM believe that job does not constitute suitable employment because the conditions required by the employer are incompatible with the circumstances of the job seeker and are such that, had they been known, the JNM would not have referred the job seeker to that job and it is considered highly unlikely that the job seeker would remain in the placement if it were accepted.

Where a Participation Report is submitted, Job Futures **recommends** that benefits should not be removed or suspended unless a Centrelink Officer with the discretion to make such a decision has interviewed the job seeker and determined whether or not the employment offered was considered to be suitable.

## ATTACHMENT TO JOB FUTURES SUBMISSION

*This Case Study is extracted from the JOB Futures Annual Report 2005 and may not be used without permission of Job Futures.*

### CASE STUDY: PAUL

Paul was a thirty-nine year-old stockman in the Northern Territory before deteriorating eyesight forced him to stop working completely. Unsure of how to manage his visual impairment and suffering from depression, Paul moved to Melbourne where he could get support from the Royal Victorian Institute for the Blind and learn new ways to live with his disability.

But five years later, at forty-four, his love of the tropical climate brought him to Broome, Western Australia, where he was hoping he could find a job. He was enthusiastic and eager to work, but after trying to secure work with some local labour hire companies, he realised his visual disability was making future, meaningful employment virtually impossible.

Unsure of what to do next, Paul contacted Kullarri Employment Services – a five-star Job Futures site. *“He had no idea what work he could do. He had no particular skills,”* his Case Manager, Patrick, says. The Kullarri team believed that a more creative approach to Paul’s predicament was necessary, and were confident they could find work that matched both Paul’s abilities and his interests. They were certainly helped by Paul’s own fortitude. *“The guy has got an incredible amount of determination to succeed and he’s incredibly independent,”* Patrick explains.

Using some local contacts, Paul and Patrick approached companies in the pearling industry. One of these companies, Broome Pearls, understood that there are some important positions where dexterous hands are more valuable than vision. *“The company was particularly helpful. They said they’d give it a go.”* In July 2005, Paul began his first job in five years: twining specialised rope for their pearling vessels.

Because Paul had no prior experience in this type of work, Patrick found a local ex-Green Corps Team Leader who had previously worked in the pearling industry, who could provide Paul with three weeks of training and mentoring. Broome Pearls also set up a special workbench for Paul in their busy, industrial work shed. *“They made lanes in the workshop, made everybody aware he was blind and they all had to work around him. It proved a bit of a challenge for the company but it worked very well.”*

But Paul’s support did not end there. The Kullarri Job Futures team drove Paul to and from work each day during the first month of his placement and organised physiotherapy treatments to help him adapt physically to his new role. They are also helping Paul find a more permanent place to live and make his home. Paul now works about thirty-five hours per week and no longer requires a mentor to work with him. The Kullarri Job Futures team continues to be in regular contact with both Paul and his employer.

Paul loves his job. He has meaningful work in the part of the country he loves, and for the first time in years, he really feels he has found a workplace where he fits in and is accepted. *“He has a sense of being part of something,”* Patrick says. Although this type of work is usually seasonal, Patrick is looking for ways to draw it out over the year. He thinks there are other industries that could use Paul’s rope splicing skills.

The Kullarri Job Futures team is currently liaising with the Association for the Blind and various employment agencies in Perth to determine if similar opportunities can be offered to other visually impaired people in Western Australia.

*“We didn’t have much experience with people with a manifest disability wanting to reenter the workforce, and it’s worked out well for everybody.”*