

4 May 2021

Committee Secretary
Parliamentary Joint Committee on Human Rights
PO Box 6100,
Parliament House
Canberra ACT 2600

By email only: human.rights@aph.gov.au

Dear Committee Secretary,

Economic Justice Australia (EJA) submission to inquiry into the Social Security (Parenting payment participation requirements – class of persons) Instrument 2021

1. Economic Justice Australia (EJA) is the peak organisation for community legal centres providing specialist advice regarding social security issues and rights. Our members across Australia have provided free and independent information, advice, education and representation in the area of social security for over 30 years.
2. EJA draws on its members' casework experience to identify systemic policy issues and provide expert advice to government on reforms needed to make the social security system more effective and accessible. Our law and policy reform work:
 - Strengthens the effectiveness and integrity of our social security system;
 - Educates the community; and
 - Improves people's lives by reducing poverty and inequality.
3. EJA welcomes the opportunity to make this submission in response to questions the committee has posed in seeking evidence on the human rights implications of ParentsNext.

The punitive nature of the ParentsNext program undermines its aims

4. EJA supports the provision of genuinely useful, personalised assistance to parents and carers with young children to help in identifying education and employment goals, improve work readiness, and facilitate engagement in activities and services in the local community. Unfortunately, however, the current legislative framework of the ParentsNext program is punitive and discriminatory in approach, and fundamentally contrary to its stated aims – especially for vulnerable cohorts whose efforts to provide for young children in their care can be undermined by the punitive regime.
5. EJA maintains the view that participation in the ParentsNext program should be fully voluntary; participation should not be a condition for maintaining social security income support and other payments.

6. Cohorts most likely to face suspension of payment, non-payment penalties and cancellations due to failure to meet ParentsNext obligations include: people with intellectual disability, mental health issues or cognitive impairment; parents of children with high care needs; parents experiencing family and domestic violence; and parents who are homeless or at risk of homelessness. EJA contends that compulsorily requiring ParentsNext participation as a condition for receipt of income support is in contravention of multiple UN conventions, particularly given the impacts for Aboriginal and Torres Strait Islander people.

New two-day contact period before payment suspension

7. We note that since 7 December 2020, ParentsNext and other employment program participants who miss a mutual obligation requirement have had two business days to contact their provider before their payment is suspended. If a participant misses a requirement they receive a text message, an email or an inbox message to advise them they must contact their provider immediately to prevent payment suspension.
8. This policy change, the result of representations to DESE by EJA and others, including ACOSS, will significantly reduce the number of ParentsNext suspensions and the reform is very welcome. However, as is shown in the case studies below, the mere threat of suspension can be overwhelming for a vulnerable parent, and the two-day grace period may make little difference for parents and carers struggling to provide a stable and safe environment for children while dealing with domestic violence, or mental health issues. Disturbingly, as outlined in the ACOSS submission to this Inquiry, recent ParentsNext data continues to show that cancellations as a result of non-compliance with obligations are concentrated among Aboriginal and Torres Strait Islander participants.

Suspension of mutual obligations during COVID

9. The welcome suspension of mutual obligations from April 2020 as a special COVID measure, means that EJA members have had few cases highlighting issues associated with the ParentsNext program since April 2020. EJA case studies included in this submission therefore generally pre-date the pandemic.

The changes effected by the new Instrument

10. The *Social Security (Parenting payment participation requirements – class of persons) Instrument 2021* (the Instrument) integrates the two streams of the ParentsNext program. As explained in the explanatory memorandum, under the new Instrument there will no longer be a separate Intensive Stream targeting locations with a higher proportion of Parenting Payment recipients identifying as Aboriginal or Torres Strait Islander; and changes to the ‘special classes of person’ provisions and the removal of the two streams, will enable the extension of the Participation Fund to all program participants. This will result in extending ParentsNext to all jobactive employment regions, for parents whose youngest child is 9 months of age.

11. Cessation of the Intensive Stream means that all Compulsory Participants will be subject to the Targeted Compliance Framework (TCF) in Division 3AA of Part 3 of the *Social Security (Administration) Act 1999*, in the same way that existing Intensive and Targeted Stream participants are currently subject to the TCF. Compulsory ParentsNext participants must engage in agreed education, training or employment to receive their Parenting Payments. Participants must attend appointments with their provider, sign a participation plan and undertake compulsory activities set out in the plan. If a compulsory participant fails to meet any of these requirements, application of the Targeted Compliance Framework can result in application of demerit points and suspension, reduction or cancellation of payments.

Issues raised by the Committee

1. **Whether and how it has been demonstrated that participants in the ParentsNext program who have had their Parenting Payment reduced, suspended or cancelled for non-compliance are able to meet their basic needs (and those of their children) in practice, such that they have an adequate standard of living, and whether and how this is assessed before payments may be affected**
2. **The extent to which the ParentsNext program operates flexibly in practice, such that it treats different cases differently (including for parents in regional areas and Indigenous parents)**

12. In the experience of our members, the nature of the Targeted Compliance Framework (TCF) and its administration across program providers, DESE and Centrelink, means that the financial circumstances of participants, and vulnerabilities associated with disability or chronic ill-health, are not adequately assessed before payments are suspended or cancelled – especially where the person has limited English, cognitive impairment or feels disempowered. While a parent or carer may feel comfortable with their agreed ParentsNext activities when they enter into their agreement, it can be impossible for a person with young children in their care to predict actual capacity to meet agreement requirements. Circumstances can rapidly change and parents with children with health issues or disability, may underestimate care needs to be met. Some parents are realistic, but do not appreciate the risk of payment suspension where meetings are missed or activities not undertaken.
13. In theory an exemption from compliance activity requirements may be granted by Centrelink or the ParentsNext provider for one or more of a range of reasons, including domestic violence, caring responsibilities, sickness, or injury. However, difficulties securing exemptions, especially for the most vulnerable cohorts, mean that many people with prima facie grounds for exemption end up facing suspension. Once suspended, establishing a reasonable excuse for non-compliance can be challenging, with participants needing to appeal to challenge payment suspensions and cancellation.
14. Although providers are required to follow TCF guidelines in administering suspensions and

penalties, EJA members observe that providers have difficulty applying the complex TCF guidelines in making decisions. As a result, some providers fail to properly take into account participants' circumstances and inappropriately apply demerit points, suspensions or cancellations, even where the participant's vulnerability is well documented by Centrelink.

15. Eligibility for ParentsNext is determined by applying the Job Seeker Classification Instrument (JSCI), and involves an interview with the parent or carer. The interview is generally conducted over the phone, and the questions are intended to ensure that issues that may preclude or affect participation are identified. Our members advise that some clients, particularly clients in vulnerable situations, find the ParentsNext interview intimidating and an invasion of privacy. This is especially so where the purpose and relevance of the JSCI questions has not been made clear. Clients who have experienced domestic violence, for example, may be unable to disclose or discuss their experience of domestic violence on the phone with a stranger or cannot broach the issue as the perpetrator is with them.
16. Given the barriers to disclosure of issues such as domestic violence as part of the JSCI interview, it is not surprising that circumstances which should be grounds for exemption from the ParentsNext program are overlooked, and that clients feel pressured into signing agreements with requirements that they know they are unlikely to be able to meet.
17. Our members also advise that some clients have been referred to the ParentsNext program despite not satisfying the participation criteria. For example, a Western Australia member advises that among their clients:
 - Parents have been referred to ParentsNext despite having completed year 12 and being engaged in part-time TAFE or University courses. One client was in the final year of a degree.
 - Grandparents caring for young grandchildren have been referred, despite being single and under 55 years.
 - A grandmother caring for three young children referred to the ParentsNext program had given up work and claimed Parenting Payment (single) and Family Tax Benefit as she could not cope with working and caring for the children. The children were traumatised by the family violence they experienced before being taken into care by their grandmother.
18. The design and effectiveness of participation plans is highly dependent upon the resources, skill and capacity of the ParentsNext provider, and whether they have been adequately trained. In our members' experience, rather than being customised to meet parents' education and employment-related goals, opportunities offered can be limited by the provider's existing links with particular employers and industries. Our member centre in Queensland has reported instances where providers have told compulsory participants who had previously worked in senior positions or had tertiary education that they did not know how to assist them.
19. In the experience of our members, clients who have had their Parenting Payment reduced, suspended or cancelled for non-compliance with ParentsNext requirements have been unable to meet their basic needs, having lost the vital income support on which they rely to feed, clothe and care for their children, and provide a stable, nurturing home environment.

Case study – Elina

Our member centre in Queensland provided assistance to Elina, a single mother caring for her son who has severe disabilities. Elina's Parenting Payment had been suspended due to non-compliance with a ParentsNext requirement. Elina's payments were reinstated but Elina advised that the experience made her feel that her Parenting Payment was insecure. This insecurity caused her to feel significant stress; she feared that she would not be able to meet the cost of her son's medical treatment if her payments ceased again, so she turned to a community financing organisation to obtain a \$4000 loan to ensure she had funds on hand. Elina said that once she realised that her Parenting Payment could stop at any time, she felt "beyond desperate and in survival mode."

Case study – Kylie

Kylie provided medical evidence to her ParentsNext provider to support her application to be exempted from activities on the grounds that her son had severe disabilities and was undergoing medical treatment. Kylie referred the provider to the relevant exemption guidelines in the Social Security Guide (Social Services' online publication) but the provider advised Kylie that it was not governed by Social Security law and that she still had to participate. Kylie did not attend the next ParentsNext activity as her son was in hospital, and her Parenting Payment, Carer Allowance and Child Care subsidy payments were cancelled. Following the intervention of our member centre, Services Australia exempted Kylie from activities on its system and she was exempted for 13 weeks. Although Kylie was eventually granted an exemption following intervention by EJA's member centre, the payment cancellation caused her significant stress and harm. She was left without any means of support for herself and her child, unable to buy food, medicine or other essentials.

Case study – Jordana

Jordana has a mental health condition and receives NDIS support for both her children. She approached a local community support service because she was having difficulty juggling ParentsNext activities with caring for her children. Jordana had no idea that she had strong grounds to seek an exemption until this was explained to her by the community agency.

Case study – Hua

Hua only speaks Mandarin and is experiencing domestic violence. Her domestic violence community support worker was asked by Centrelink to seek an exemption from ParentsNext on Hua's behalf, in writing, despite the fact that Centrelink was fully aware of Hua's ongoing experience of domestic violence. The support worker's letter prompted a three-month exemption from ParentsNext appointments and activities.

Case study: Tina

Our member centre in Queensland assisted Tina, a single mother on Parenting Payment who was also in receipt of Mobility Allowance (due to her own physical disability) and Carer Allowance (in recognition of the care she provided for her son,

who has a severe disability). Tina was advised that she would need to compulsorily participate in ParentsNext. She refused to sign a participation plan, explaining that the proposed plan did not take into account her own and her child's disabilities. Tina contacted our member centre when her payments were cancelled on the grounds that she had refused to sign a participation plan.

Case study – Jess

Ineffective communication between DESE, Centrelink and ParentsNext providers can result in suspension of payment for people who have been granted an exemption. Our member centre in Queensland assisted a mother, Jess, who said she called ParentsNext to ask if they had been notified of her exemption granted by Centrelink (the exemption was formally granted on the basis of a Job Capacity Assessment). Jess said that the ParentsNext provider could see that an exemption was granted but was unsure what to do. DESE also told Jess that they were unsure what the exemption meant. Jess, who is articulate and forthright, spent hours on the phone trying to ensure that her exemption would be recognised by the provider; however, it was not until our member centre in Queensland contacted Centrelink on Jess's behalf that the database was updated and she was exempted from participating.

3. The extent to which participation in the ParentsNext program meets its stated objectives of effectively addressing barriers to education and employment for young parents in practice, and whether making participation compulsory is effective to achieve those objectives

20. The 4,500 parents who have exited the ParentsNext program as a result of finding stable work between its national rollout on 1 July 2018 and 31 December 2020, only constitutes 3% or less of the over 150,000 parents who have participated in the program.
21. The COVID-19 pandemic and resulting economic downturn, which has disproportionately impacted women, has further highlighted how the approach of conditionality regimes like ParentsNext fail to address the fundamental structural barriers preventing parents from re-entering the labour market.
22. Our member centres have assisted parents who have explained that the low availability of part-time work has forced them to engage in casual work to accommodate their caring obligations. Those undertaking shift or casual work who can afford child care, are still unable to utilise child care due to irregular hours of work, often finding that child care centres are closed during the times they are scheduled to work, leaving them with no viable care options. Well documented barriers to education and employment for parents in practice include factors like: lack of affordable and high-quality child, nursery or after school care, family-friendly work environments, flexible work arrangements and affordable transport,¹ rather than lack of willingness to work.

¹ Department of Prime Minister and Cabinet, Government of Australia (2011) *Addressing Barriers for Jobless*

Families <<https://communitydoor.org.au/sites/default/files/Addressing%20barriers%20for%20jobless%20families.pdf>>.

23. If participation in the ParentsNext program is to meet its stated objective of addressing barriers to education and employment for young parents, participation plans should only contain activities related to enhancing employment prospects in the local labour market rather than activities such as parenting classes, which have no connection to preparing participants for employment.
24. Our members have relayed to us examples where providers do not set activities according to the pre-employment needs of the parents.²

Case study – Sofia

Sofia, a mother who was assisted by our member centre in Queensland, told us that she was undertaking studies and interning but this was not recognised by ParentsNext providers. Sofia also told the provider about her disability but was told that the provider did not work with people with disabilities. Sofia advised us that during this time she was so stressed by the ParentsNext program that she stopped interning, and in order to fulfil her study obligations at TAFE she had to seek extensions for her assignments.

25. We are also concerned that activities such as parenting classes lead to unnecessary “busy work”, rather than genuinely working toward participants’ employment goals.³ Time poor parents focusing on the needs of their children, especially those already experiencing disadvantage, should not be made to participate in meaningless activities that cut into the time they have available with the care needs of their children. Our member centre in NSW recently held a webinar for community workers regarding social security payments for people with children, and conducted a poll asking questions about the issues faced by services’ clients in accessing payments. 50% of respondents identified balancing mutual obligations (for Parenting Payment and other payments) with caring for their children as the biggest single issue.
26. Our member centre in Western Australia has reported instances where providers have not recognised participants’ study obligations and have not developed plans to fit the parents’ needs, causing further stress and compromising participants’ mental health. For example, they have assisted several single parents of large families, where mothers are caring for four to six children and also undertaking part-time studies. In one of these cases the failure of the ParentsNext participation plan to take into account the mother’s study obligations resulted in her dropping out of her tertiary studies.
27. The same member centre in Western Australia assisted parents who expressed concern regarding additional costs associated with fulfilling ParentsNext participation plan requirements. In order to attend compulsory provider appointments, parents may be forced

² Norman Hermant, ‘ParentsNext program comes under fire from single mothers who say it ‘makes life harder’ ABC (online) 1 February 2019 <<https://www.abc.net.au/news/2019-02-01/centrelink-payment-parentsnext-under-fire/10763732>>.

³ Juanita McLaren, Susan Maury and Sarah Squire, *Outside Systems Control my life: The experience of single mothers on Welfare to Work*, (Good Shepherd Australia New Zealand, 2018) https://goodshep.org.au/media/2179/outside-systems-control-my-life_experience-of-single-mothers-on-w2w_web.pdf.

to pay for child care, or incur additional transport or parking costs. Clients also advised that reporting on plan activities must be done through a mobile application which excessively uses their mobile data, causing them further financial strain.

4. What consultation has there been with Indigenous groups in relation to the compulsory participation of Indigenous peoples in the ParentsNext program?

28. We are unaware of consultations with community-controlled Indigenous organisations regarding the particular impacts of compulsory participation in ParentsNext for Aboriginal and Torres Strait Islander communities. However, Indigenous groups provided extensive input to the 2018-2019 Senate Community Affairs Committee’s ParentsNext Inquiry⁴ and to various other inquiries, including Senate Community Affairs Committee’s Inquiry into the Adequacy of NewStart⁵. The changes effected by the new Instrument do nothing to address the issues raised in these submissions.
29. The Central Australian Aboriginal submission to the 2020 House of Representatives Standing Committee on Social Policy and Legal Affairs Inquiry into family, domestic and sexual violence noted that:

“ParentsNext is not working for Aboriginal families in Alice Springs. Two clients have recently had their payments stopped. One was because the mother did not go to a playgroup because she was not aware of the group, and was not able to access (i.e. the centre was unattended) when she did try to speak to someone, so had her payments cut off for 5 weeks.”⁶

5. Whether, and based on what evidence, it has been demonstrated that less rights restrictive alternatives to compulsory participation (such as voluntary or incentivised participation) would not be as effective to achieve the stated objectives of this scheme

30. The application of a compulsory and punitive demerit system of sanctions is inconsistent with the achievement of the ParentsNext’s objectives as a supportive pre-employment program. Applying the Targeted Compliance Framework (TCF) to ParentsNext fails to acknowledge the difference between payment conditionality programs. The TCF is incompatible with ParentsNext as it punishes rather than recognises parents for undertaking the unpaid care work involved in raising children.
31. It is important to remember that Parenting Payment is intended to provide “financial assistance to principal carers with parenting responsibilities for a young child.”⁷ The objective to target early intervention assistance to parents at risk of long-term welfare dependency presumes that it is undesirable for parents to choose to spend more time caring for young children, including infants, rather than working. Yet Parenting Payment was originally

⁴ Report at https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/ParentsNext/Report

⁵ Report at https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Newstartrelatedpayments/Report

⁶ Central Australian Aboriginal Congress submission to the . Accessible at https://www.caac.org.au/uploads/pdfs/Congress_Parl-Inquiry-DFS-Violence-FINAL.pdf

⁷ *Guide to Social Security Law*, above n 2.

available without mutual obligation requirements in recognition of caring responsibilities and to allow parents to meet the needs of their children.⁸

32. Prior to 2005, Parenting Payment was paid at a pension rate with no expectation that parents in receipt of the payment would be required to work. Since the Welfare Reform changes of 2005, Parenting Payment has been paid at the lower allowance rate and mandatory activity requirements were introduced.⁹ These changes also transferred partnered parents onto a different payment (often a lower paying payment such as Newstart, now JobSeeker Payment) once their child turned six years; and single parents once their child turned 8 years, a change which continues to disproportionately impact single parents and their children.¹⁰
33. These policy changes undervalue the unpaid work involved in parental care,¹¹ particularly for women who do the lion's share of unpaid domestic work.¹² Women spend 16 hours per week on housework prior to becoming a parent, which jumps to 30 hours per week when their youngest child starts school, while caring duties jump from 2 hours per week to 51 hours when a baby is born. It is unhelpful to view mothers of young children as unemployed workers when they are in fact working longer hours than men in full-time positions, but largely without remuneration.¹³
34. There is a significant social and financial cost to the community of adding a compulsory punitive program to these fundamental policy changes – a program that devalues parenting, and causes additional financial and mental stress on families.

6. The extent to which linking welfare payments to the performance of certain activities by the welfare recipient is consistent with international human rights law, particularly the rights to social security, an adequate standard of living, equality and non-discrimination, a private life, and the rights of the child

35. The imposition of mandatory and punitive welfare conditionality programs is not consistent with Australia's international human rights obligations.
36. EJA does not accept the argument that limitations on the right to social security and the right to an adequate standard of living are reasonable in the context of a punitive TCF applied to compulsory participation in the ParentsNext program. By making the program voluntary and providing the support without the threat of payment suspension or cancellation, the program

⁸ Since the *Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005* (Cth) (Welfare to Work Act) was implemented work for dole started to operate from 2006.

⁹ Evidence to Senate Standing Committees on Education and Employment, Jobs and Small Business, Parliament of Australia, Canberra, 24 October 2018.

¹⁰ Ibid.

¹¹ Beth Goldblatt, "More than unpopular. How ParentsNext intrudes on single parents' human rights", *The Conversation* (online), 16 January 2019 <<https://theconversation.com/more-than-unpopular-how-parentsnext-intrudes-on-single-parents-human-rights-108754>>.

¹² PricewaterhouseCoopers, *Understanding the Unpaid Economy* (29 January 2019) Pricewaterhouse Cooper <<https://www.pwc.com/australia-in-transition/publications/understanding-the-unpaid-economy-mar17.pdf>>.

¹³ The Power to Persuade, 'Parents vexed? ParentsNext is poorly designed to support mothers into work', 18 October 2018, <http://www.powertopersuade.org.au/blog/parents-vexed-parentsnext-is-poorly-designed-to-support-mothers-into-work/18/10/2017>.

would still be directed at overcoming barriers to employment without breaching the human rights obligations to which Australia is a party.

37. Removing reference to Indigenous people in the new Instrument, and having one set of eligibility requirements covering both the previous Intensive and Targeted Streams, does not stop the program from disproportionately impacting Indigenous women. ParentsNext will continue to contravene Australia's obligations under the Convention on the Elimination of Racial Discrimination to prohibit and eliminate racial discrimination.
38. By potentially denying social security to parents, the Convention on the Rights of the Child (CROC), to which Australia is also a State Party, becomes relevant. Article 3 paragraph 1 of the CROC states that "in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."¹⁴ Every legislative, administrative and judicial body or institution is required to apply the best interests principle by systematically considering how children's rights and interests are or will be affected by their decisions and actions – by, for example, a proposed or existing law or policy, including those which are not directly concerned with children, but indirectly affect children.¹⁵ In compliance with this Convention, Australia must ensure the right to an adequate standard of living for all children without discrimination of any kind.¹⁶
39. Like the recently expanded Cashless Debit Card income management program, the simplification of ParentsNext eligibility requirements via the new Instrument is not driven by human rights concerns, but rather in spite of discriminatory impacts on Aboriginal and Torres Strait Islander Peoples and single mothers; and despite restrictions on individual decision making, and weak evidence of effectiveness.
40. EJA is part of the UN Universal Periodic Review NGO Coalition which recommended in its April 2020 report that Australia must replace involuntary programs with voluntary models which are non-discriminatory in design and implementation.

Recommendations:

- (i) *Reform or replace ParentsNext, amending the Social Security Act such that it becomes a genuine pre-employment program that:*
 - a) effectively assists parents to achieve their education and employment goals while taking into account the unpaid work they undertake to care for their children,
 - b) is completely voluntary,

¹⁴ *International Covenant on the Convention on the Rights of the Child* opened for signature 20 November 1989 (entered into force 2 September 1990) article 3, paragraph 1.

¹⁵ Committee on the Rights of the Child, *General Comment No 14: On the Right of the Child to have his or her best interests taken as primary consideration*, UN DOC CRC/CGC/14 (29 May 2013).

¹⁶ *International Covenant on the Convention on the Rights of the Child* opened for signature 20 November 1989 (entered into force 2 September 1990) article 27.

- c) does not affect the security of a parent's income support or other payments by imposing mutual obligation requirements and applying a punitive system of sanctions,
- d) addresses the structural barriers preventing parents from returning to the labour market,
- e) removes any financial incentives to providers which may motivate them to work against the interests of participants.

(ii) *While the current ParentsNext program operates:*

- a) the TCF should immediately be suspended,
- b) participation plans should be tailored to genuinely take into account parents' needs and goals and should only contain pre-employment related activities unless parents choose to include other activities such as counselling and parenting classes.

(iii) *While the TCF is being applied, establish processes. to ensure:*

- a) ongoing, real-time program evaluation, with particular attention to suspension and cancellation data analysis, to identify and address issues affecting high rates of suspensions and cancellations among Aboriginal and Torres Strait Islander women
- b) issues affecting access to internal review and administrative appeals processes are identified and addressed, including in relation to decisions to impose demerit points which lead to payment suspensions and cancellations
- c) processes support and reflect Services Australia's Family and Domestic Violence Strategy
- d) effective communication is facilitated between DESE, Services Australia/Centrelink and participants, by improving systems to share information so that exemptions are recognised and unnecessary payment suspensions and cancellations are avoided - with a focus on reducing suspension and cancellation rates for Aboriginal and Torres Strait Islander women
- e) analysis of effects of Workfirst incentives
- f) analysis of activities and program outcomes
- g) transparency about the impacts of the program (activities, compliance, employment outcomes)

Further to recommendations (ii) and (iii) above, EJA fully supports recommendations made by ACOSS in its submission to this inquiry.

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