

12 August 2019

Committee Secretary
Victorian Legislative Assembly Economy and Infrastructure Committee
Parliament of Victoria
Spring Street
East Melbourne VIC 3002

By email: jobseekersinquiry@parliament.vic.gov.au

Dear Committee Secretary,

Submission to inquiry into sustainable employment for disadvantaged jobseekers

1. The National Social Security Rights Network (NSSRN) is a peak community organisation in the area of income support law, policy and administration. Our members are community legal centres across the country that provide free and independent legal assistance to people experiencing issues with social security and family assistance payments. The NSSRN draws on this front line experience in developing its submissions and policy positions.
2. Our members include Social Security Rights Victoria (SSRV), which provides specialist social security legal assistance across Victoria, and Barwon Community Legal Service (BCLS), which provides legal assistance including specialist social security advice to people who live in the Geelong, Bellarine Peninsula, Surfcoast and Colac Otway regions.
3. The NSSRN, SSRV and BCLS welcome the opportunity to make this submission to the *Inquiry into sustainable employment for disadvantaged jobseekers*. Our members assist many people who may be considered as being 'disadvantaged' in the labour market and are well placed to identify the barriers they face and how well current programs are working to meet their needs.

Jobseekers who may be considered as being 'disadvantaged' in the labour market and the types of barriers to employment they face

4. Some of the most disadvantaged cohorts of jobseekers our member centres often see through their casework include:
 - a. *People with disabilities who do not meet the criteria to successfully claim the Disability Support Pension (DSP)* – Many in this cohort have multiple serious conditions but do not reach the 20 points required under the impairment tables, and yet are too impaired to meet the job seeking requirements for Newstart Allowance (NSA). This cohort is therefore left in limbo, not able to meet requirements for either payments as their disabilities clearly render them unable to work, however, there is no allowance for this in the income support payment scheme.
 - b. *Older people (especially close to pension age, over 60 years)* – Age discrimination and health concerns mean there are limited job opportunities for this cohort but they are still required to undertake what many older jobseekers find to be an excessive amount of job seeking activity and/or volunteer work. Our members see people in this cohort who are extremely stressed when they find it difficult to comply due to capacity, illness or impairment, as they are completely reliant on NSA to live on and cannot afford to have the payment suspended.

- c. *Older people with disabilities* – The combination of the barriers faced by the two cohorts described above make older people with disabilities one of the most disadvantaged cohorts of jobseekers. They are too impaired to comply with their obligations, but their conditions are not severe enough to successfully claim DSP.
 - d. *People with mental health conditions* – The difficulties with accessing mental health assessments, particularly in regional and remote areas, mean that people with sometimes severe mental health conditions are not able to access DSP and are subject to mutual obligation activity requirements which they struggle to comply with and find it difficult to obtain exemptions from. This is exacerbated by lack of job service provider expertise in mental illness, and the process of dealing with the system can in turn exacerbate a person’s mental health problems in a way that creates further barriers to employment. (For more information see our [submission to the Productivity Commission’s Inquiry into mental health](#) and SSRV’s submission to the Royal Commission into Victoria’s Mental Health System)
 - e. *People seeking asylum in Australia, people assessed as being refugees and other newly arrived migrants* – Many people who have relocated to Australia struggle to find employment, with employers often holding preconceptions about their unsuitability due to lack of experience in the Australian market. Some of the most disadvantaged of this group are people who are going through the process of seeking asylum in Australia, who are not eligible for income support payments. Due to narrowing of the eligibility criteria for the Status Resolution Support Service (SRSS) payment, which was intended to provide support during this process, this cohort may now be in a position of looking for work while destitute and having no financial resources whatsoever. For those whose asylum claims have been successful and are now on a visa subclass which enables them to receive income support payments, it is still difficult to gain employment while satisfying NSA mutual obligation requirements, even though they are engaged with an employment service provider. Most other newly arrived migrants have faced a two year (now increasing to four year) waiting period before they are eligible for an income support payment of any kind. Unless they are able to obtain employment during this period, they are left without any financial support.
 - f. *Parents re-entering the labour market* – Parents face fundamental structural barriers preventing them from re-entering the labour market when they choose to do so, such as the lack of affordable and high-quality child, nursery or after school care, family-friendly work environments, flexible work arrangements and affordable transport. However, in order to receive Parenting Payment many parents are also subject to mutual obligation requirements, which our members report are creating additional burdens rather than assisting them to prepare for or find paid work. (For more information see our [submission on Parents Next](#))
 - g. *Indigenous/Regional, Rural and Remote (RRR)* – Lack of employment opportunities in RRR areas make it difficult for jobseekers living in these areas to enter and retain employment. This can be further exacerbated in RRR Indigenous communities due to factors such as lack of access to education and training to develop skill levels, health issues, discrimination and low job retention. For example, in remote areas of Victoria such as Colac, despite being a large community, Colac is in the bottom 10% for the Index of Education and Occupation (SEIFA data from the 2016 Census). The announcement of the Geelong Ford Factory closure in 2013 resulted in 1200 redundancies. Many of these people have tried to find alternative employment through jobseeker organisations, but have needed to rely on NSA due to the many barriers they face, such as needing to obtain an apprenticeship in a different trade at aged 50.
5. All the jobseekers our members assist who are receiving working age social security payments are disadvantaged given the impossibly low rate of NSA and Youth Allowance. Less than \$40 a day does

not provide sufficient financial support to enable people to cover the basic essentials of food and accommodation, let alone the additional costs associated with job seeking activities, such as suitable clothing, transportation and communications.

How well current efforts, programs or activities meet the needs of disadvantaged jobseekers

6. The stated intention of government employment programs of helping people receiving social security payments to transition into paid work is undermined by its punitive nature and the lack of quality and individually targeted employment services. We are concerned this may become even more problematic with the planned increase in digital servicing and automation of employment services.

Targeted Compliance Framework

7. The Targeted Compliance Framework, which applies to jobseekers, including the ParentsNext pre-employment program, is based on a system of demerit points. Payment suspensions can be applied by employment service providers for mutual obligation activity failures. The payment suspension is lifted once the person reengages with their employment service provider (provider). A person accrues a demerit point for each failure unless they have a reasonable excuse.
8. A person will enter the Penalty Zone if they have accrued five demerit points within a six-month period and their employment pathway plan is not adjusted following their interview with the Department of Human Services. During this stage, any further non-compliance will result in a non-waivable financial penalty. These range from 50% of their income support payment to 100%, and then upon the eighth demerit point, the person will be subject to a four-week payment preclusion period and their payment will be cancelled. The four-week payment cancellation is also applied if a person refuses paid work, voluntarily leaves a job, or is dismissed for misconduct from a job.
9. Our member centres receive many calls from distressed people who have had their payment suspended. While it is true that a person will be back paid once they reengage, suspensions are still extremely stressful and the threat of suspensions increases anxiety among a group of jobseekers who are already disadvantaged. The experience of people who seek help from our members indicate that providers are not being flexible enough with exemptions, for example failing to accept medical certificates, and pressuring people to attend appointments, do volunteer work, Work for the Dole, or other activities when they do not have a capacity to undertake them. Further, unsuitable and inappropriate job plans fail to provide for the barriers mentioned above and can often put further pressure on a person's circumstances.

Providers conflict of interest

10. Providers play a significant role in shaping the experience of jobseekers receiving social security payments. Many member centres' clients express frustration at the employment options made available to them and inaccurate streaming of services, which indicates a lack of understanding from providers about the person's circumstances, disabilities or health conditions, as well as the challenges of complying with often onerous and inappropriate mutual obligation activities imposed on them. The providers are mostly for-profit organisations and therefore many clients report that their motivation is not client-focused and that they demonstrate a lack of commitment to the client and the improvement of their circumstances.

11. The fact that the Department of Human Services has been removed from the decision-making during the first few breaches, potentially leading to payment suspensions and penalties, places providers in a position of great power. The NSSRN has argued for greater regulation of the employment services industry on the basis that many people in the system do not adequately benefit from the services offered, and in some instances are adversely affected by their contact with providers. In our view, privatisation of the industry has been a driving precursor for increasing problems and complaints within the system. As stated in our submission to the Future of Employment Services consultation:

“there are inherent problems and contradictions in an employment services system where some providers operate for-profit. We urge the government to move away from profit-driven providers towards a system of secular not-for-profit agencies. Privatisation of the employment services system has led to a number of complaints. We consider that these issues are intrinsically linked to cost-cutting measures by providers..... We do not support a system that results in financial incentives for providers when they record demerit points or non-compliance.”

Digital servicing

12. Planned automation of employment services is currently being trialled with a new system for providers underway in Adelaide South and the NSW mid-north coast. It involves moving some people onto an online platform, which will no longer require them to attend appointments with providers. They will be required to manage their mutual obligation activities with an app.
13. While digital servicing may potentially be more convenient for some people with access via internet and phone, we are concerned that particularly vulnerable people who need face-to-face services in the ‘intensive stream’ of the new system will miss out if they are not appropriately assessed.
14. Many people struggle to understand the basic concepts associated with the mutual obligations component of receiving income support benefits, let alone a new automated system. This is particularly problematic for many in the cohorts described in the previous section, including culturally and linguistically diverse communities, people with disabilities and others who are unable to effectively access or use the required technology. For example, our members assist people in RRR areas who have no access to a computer or phone, who are told to attend a Centrelink office to make use of their computers. However, if there is no Centrelink service centre in their area, they have no options. This is of course assuming that if they can access a Centrelink computer that they will know how to use it, which is not the always the case.
15. With the potentially catastrophic consequences for people of failing to comply with mutual obligation requirements, we are concerned that there may be even less human intervention in decisions on whether to apply demerits leading to suspensions and penalties.

Lack of access to providers

16. Despite the substantial number of providers in Victoria, the combination of the unemployment rate and large number of people on income support payments trying to access providers, means that these organisations are at capacity or have long wait times.
17. Particularly for jobseekers who are assessed as being suited to the ‘intensive stream’, we are concerned that the move to digital servicing will mean that there will be even less face-to-face service

options available to this highly disadvantaged cohort. This is even more of an issue in rural areas where there are already not enough providers to meet the need.

18. For the cohort described above who do not meet the criteria to receive DSP and struggle to comply with mutual obligations under the NSA system, a combination of medical exemptions and unsuitable employment pathway plans mean many of them will attend few appointments with a provider and never actively participate in any programs that help them find suitable employment.

Potential improvements

19. In the design of any new employment programs, we encourage the Victorian Government to learn from the lessons of the issues identified above with the current jobactive system. Any successful system will need to increase agency to participants, introduce greater flexibility to employment pathway plans, provide flexible and holistic assessments models, recognise the complex and varied barriers to employment, and introduce regulation and evaluation of employment services providers. The principles we suggest below are aligned with the Australian Council of Social Services (ACOSS) “Path to Employment” model.
 - a. Any future employment services program should afford participants greater control and flexibility in choosing their provider and designing their employment pathway plan;
 - b. Compulsory mutual obligation activities, such as Work for the Dole, should be abandoned;
 - c. Digital services should not replace more traditional methods of communication with providers, and paper-based job search activity records should remain available to all engaged in employment services;
 - d. Flexible and holistic assessment models should be introduced to ensure appropriate services are provided to participants with complex barriers to employment and requiring intensive support;
 - e. Greater investment in support services is required to assist long-term unemployed, or those with additional barriers to employment. Additionally, any future employment services program must recognise the various obstacles to full-time employment that are outside of the control of the individual;
 - f. The employment services industry should be subject to regulation and regular evaluations;
 - g. This consultation process must seek out and prioritise the views and experiences of those people who have engaged with employment service providers.
20. In the meantime, we continue to advocate for greater flexibility in the existing system to enable delegate discretion to accept medical certificates and grant more exemptions from activity tests, and require providers to tailor activities to a person’s circumstances.
21. For more information, see our [submission to the inquiry on 'The appropriateness and effectiveness of the objectives, design, implementation and evaluation of jobactive'](#) and [submission to the Department of Jobs and Small Business' consultation on the Future of Employment Services](#).

Case studies from Barwon Community Legal Service

Client with schizophrenia moved from DSP to NSA after 15 years

Mick lives with schizophrenia and has been in receipt of Disability Support Pension (DSP) since 2004. Centrelink recently reviewed Mick’s file and determined that he does not meet the required 20 point impairment under the new tables.

Mick has now been put on Newstart Allowance as he is no longer eligible for DSP. After he pays rent, utilities and food, Mick now has under \$10 per fortnight for all other expenses.

Unfortunately, Mick also has out-of-pocket medication costs of \$60 per fortnight and can no longer afford his schizophrenia medication.

Mick also has participation requirements to attend Centrelink and Job Services Australia appointments, look for work and/ or study to increase his skills. Mick cannot afford the public transport and is struggling to cope with day-to day tasks and activities without his medications and he starts to miss appointments.

Centrelink stops paying Mick as he missed the appointments. Mick also has no money for his prepaid phone to contact Centrelink.

Mick's New Start Allowance is cancelled and he is not receiving any money at all. He has not been able to pay his rent and as a result he has been evicted.

Mick becomes homeless, enters short term crisis housing, has no income and has increased medical needs. Due to lack of medication and the increased stress, Mick's mental health has deteriorated.

Mick's case worker contacts the Barwon Community Legal Service (BCLS) for assistance for Mick.

BCLS meet with Mick and find out as much information as he knows. As Mick is homeless he has no Centrelink decision or paperwork for BCLS to advise on.

BCLS advise Mick to lodge appeals with Centrelink for the decision to cancel DSP and the decisions resulting in cancellation of Newstart Allowance.

Mick authorises BCLS in writing to contact Centrelink on his behalf. BCLS lodge the appeals on Mick's behalf and requests that Mick continue to receive Newstart Allowance until the review is completed. Mick will now receive his Centrelink payment during the appeal.

BCLS also assists Mick to lodge a freedom of information request to get a copy of his Centrelink DSP file. This is free but takes 30 days for Centrelink to process to enable BCLS to have the information to properly advise and assist Mick.

Mick provides authorities for BCLS to request the necessary independent medical evidence from his medical practitioners, support letters from caseworkers as to his circumstances, and a psychiatric report to support his appeals. Without a psychiatric diagnosis by an appropriately qualified medical practitioner, supporting evidence from clinical psychologist, and corroborating evidence of Mick's impairment, Mick will not be successful in achieving 20 points under the new Tables for his condition.

BCLS also links Mick in with a financial counsellor for financial advice.

BCLS will assist with appeals to internal Centrelink Authorised Review Officer and if unsuccessful then to Social Security Appeals Tribunal. This can be a lengthy process.

Possible Outcomes for Mick:

If Mick appeals within 13 weeks of cancellation of DSP and his DSP cancellation appeal is successful, Mick will be put back on DSP under the 2004 rules which were more generous than current rules.

If Mick is unsuccessful in his appeal due to eligibility at the date of cancellation then Mick may make a new application for DSP. Mick may be eligible at date of the new DSP claim. If Mick is successful in the new DSP claim Mick would then be on DSP under the current rules.

If Mick's Newstart appeal is successful then his Newstart would continue. Unfortunately, on the inadequate rate of Newstart, Mick will again be unable to afford his medication and this cycle will eventually repeat itself.

If Mick's Newstart appeal is unsuccessful then Mick would try to survive without any income for 8 weeks.

Asylum seeker looking for work while homeless and without income support

Ibrahim is a 49 year old man from Pakistan. He arrived in Australia as an unauthorised maritime arrival in 2013. He spent 5 months in detention before relocating to the Barwon region.

After he was made redundant from his job at a chicken farm, he re-applied for SRSS payments. The department notified Ibrahim that he had been rejected from receiving SRSS payments as he had sent money overseas to his family. An individual will be ineligible for SRSS payments if, within a 12-month period whilst they are receiving payments, they send more than \$1,000 overseas to their family.

Not only was his application rejected retrospectively given this policy was not in place at the time Ibrahim sent money to his family, but he also sent money from his employment not his SRSS payments. As a result of being cut off, Ibrahim is receiving no financial assistance of any kind because he is not eligible for Centrelink under his current bridging visa. He has had no income for over 18 months now.

Ibrahim has been relying on his few friends in the area for food and housing. Despite community service assistance, two interstate trips, and numerous applications, Ibrahim has been unsuccessful in getting another job. He is in severe financial hardship, is at risk of homelessness, and unsurprisingly is in a constant state of anxiety. A vulnerable man with a traumatic past, so far his life in Australia has only caused him further hardship.

Collapsed at work after unsuccessfully trying to claim DSP

James, a 58 year old man with chronic renal failure, back pain, osteoarthritis and anxiety and depression, first applied for the DSP in March 2017, though it was only 6 months later that he was told he was unsuccessful. He immediately applied for a review of the decision, as he had medical evidence that he was unable to work. While waiting for the review, James was required to participate in the Program of Support with a Job Network provider, which he commenced in October 2017. The Job Network provider placed James in a part time job that required him to undertake manual labour including moving relatively heavy objects and physical exertion. James attempted the job as asked and collapsed while at work and was hospitalised for 2 weeks with chronic renal failure. James then had increased kidney damage and his treating physicians are currently considering his need for dialysis.

In October 2018, more than 18 months since first applying, Centrelink contacted James and told him he was unsuccessful, in part because his medical evidence was no longer current, and that he would need to reapply for DSP. James has been unable to meet the criteria for participating in a Program of Support due to his poor health, yet also unable to get the DSP for this same reason. James is continuing to live on the Newstart Allowance, has difficulty affording medication and has been forced take early release of his superannuation to meet medical expenses. He is also behind on his mortgage payments and has no employment prospects due to his medical conditions. We continue to support James his new application for the DSP.

Conclusion

The social and economic benefits of an employment services program, which provides genuine and sustainable employment opportunities to disadvantaged jobseekers, cannot be underestimated. The costs of not doing so go beyond the amount spent by the Commonwealth on income support and create a heavy burden on the support services provided by the state government, including mental health, emergency housing and homelessness, counselling and other support. Problems arise from not having the financial security, independence and dignity of a job, but also from finding it difficult to navigate a punitive income support system. Many people will disengage from the system altogether when they are not coping, and end up needing the support of state-funded crisis services.

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