



Australian Council of Social Service

5 February 2016
Committee Secretary
Senate Standing Committee on Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee Secretariat,

Re: Inquiry into the Social Services Legislation Amendment (Community Development Program) Bill 2015

Thank you for the opportunity to participate in this inquiry. ACOSS is a national voice for the interests of people affected by poverty, disadvantage and inequality. Our vision is for a fair, inclusive and sustainable Australia where all individuals and communities have the opportunities and resources they need to participate fully in social and economic life.

The Bill being considered by the Committee provides for the Minister for Indigenous Affairs to make significant changes to social security arrangements that apply to people remote areas, through the creation of a new category of 'remote income support payments'. It enables the Minister to make these changes via legislative instrument, removing the need for the process of parliamentary scrutiny that is applied to legislative amendments. These powers would include the ability to:

- Determine the obligations, compliance framework and penalties applied to the receipt of income support by people in remote areas.
- Determine which areas are considered remote for the purposes of these arrangements.

The Bill also provides for:

- social security payments made to people in remote areas to be administered by local Community Development Program (CDP) providers, rather than by the Department of Human Services, with changes to aspects of appeals arrangements; and
- Changes to income test thresholds and taper rates, increasing the amount that is able to be earned before income support is reduced, but only in circumstances where paid work is undertaken in addition to Work for the Dole requirements, and not in place of it.

The Explanatory Memorandum to the Bill also sets out a number of changes that the Minister is expected to make via legislative instrument following passage of the proposed Bill. However, these changes are not incorporated into the Bill itself and no exposure draft of the instruments has been made available. The proposed changes broadly provide for social security payments to be made on a weekly, rather than a fortnightly basis, and for the introduction of a system of immediate 'no show no pay' penalties, in which social security recipients would be sanctioned within a week of any non-



attendance at a prescribed activity. It also proposes the arrangements be phased in, although no schedule is provided.

Decisions that the Minister makes regarding obligations and compliance regimes in remote areas would impact on the operation of the Community Development Program, the labour market program currently operating in these areas. Under the Community Development Program, people aged 18 to 49 and reliant on income support, 80% of whom are Aboriginal or Torres Strait Islander, are required to participate in Work for the Dole for 25 hours over 5 days a week throughout most of the year. This is a far more onerous requirement than the 15 hours of Work for the Dole over 6 months of the year that is required in non-remote areas. It effectively provides for a social security 'wage' of \$12 per hour, or less than 70% of the minimum wage. There is no indication that the Minister is intending to amend these arrangements, but rather to change the system of penalties where requirements are not met.

ACOSS is strongly opposed to the proposed Bill for a number of important reasons. We consider that Bill would effectively allow the Minister to remove areas of remote Australia from those parts of social security legislation that govern the obligations and many of the rights of people receiving activity tested income support payments. It would reduce transparency and independent scrutiny of the effects of income supports arrangements on vulnerable people. We note that the Parliamentary Joint Committee on Human Rights, in its 33rd report to Parliament, questions why it is necessary to leave obligations on people in remote areas to be addressed in legislative instrument with less parliamentary scrutiny, when social security legislation already includes extensive mutual obligation requirements.

In effect, many protections built into the Social Security Act would not longer to apply to people in remote areas. This may include, for example, the ability to take underlying issues into account in determining whether to impose a sanction for non-compliance, for example, domestic violence, as provided by the 'Comprehensive Compliance Assessment' process. The proposed immediate 'No Show No Pay' measures would likely exacerbate these issues, by preventing any opportunity for appeal prior to a sanction being imposed.

The Parliamentary Joint Committee on Human Rights has raised similar concerns:

The imposition of new obligations and immediate penalties may result in some remote job seekers having their payments reduced or losing their payments altogether, and therefore the measures may limit the recipient's right to social security. Further, the imposition of immediate penalties for non-attendance appears to have the effect that any appeal by a social security recipient will occur after the imposition of a penalty, reducing the ability of a social security recipient to avoid a penalty before it is imposed¹.

¹ Commonwealth of Australia (2016) Parliamentary Joint Committee on Human Rights
http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/Completed_inquiries/2016/Thirty-third_Report_of_the_44th_Parliament



We also note the Parliamentary Joint Committee on Human Rights' concerns that the Bill may be discriminatory, noting that while it does not constitute direct discrimination on the basis of race, Aboriginal and Torres Strait Islander people will clearly be disproportionately impacted. It is not clear that the measures in the Bill, including a different system of obligations and penalties for people in remote areas, represent a proportionate limitation on the rights of income support recipients.

The Bill would delegate administration of social security payments and penalties to local employment service providers (CDP providers), in effect privatising decisions about how obligations and penalties for individual people are applied by removing those decisions from the responsibility of the Department of Human Services. There are substantial concerns with this, including that independent local providers embedded in a small community, who often source staff from that community, would be making decisions about application of sanctions to people they are likely to know personally or be related to, which can cause a conflict of interest in the absence of a process to address this.

These arrangements are being applied in a context where recent amendments to the Community Development Program may build in an incentive for providers to apply sanctions rather than use other strategies to engage people in their compulsory Work for the Dole requirements.

Under current guidelines, whilst providers are able to propose penalties (currently administered by Centrelink) if a person fails to comply with requirements, the provider also has access to a range of other strategies to re-engage the person, including allowing them to make up missed time from required activities, or re-scheduling appointments. However, providers only receive relevant payments (which cover the costs of administration of compulsory Work for the Dole requirements), if they are successful in re-engaging the person within a fortnight. If the person is not re-engaged, then the provider is not remunerated, including for time spent attempting to engage that job seeker. This would seem to build in incentives to apply sanctions rather than use other more time-intensive means of engagement. If the Bill is passed, providers will be required to directly apply these sanctions, rather than recommending them to the Department of Human Services. This will mean that removal of an important check and balance in terms of protecting a person from the harshness of penalties in appropriate cases.

People on the CDP program account for 5% of all people relying on income support due to unemployment. Yet, people on the CDP program make up over 60% of those reporting No Show No Pay failures.

The Explanatory Memorandum to the Bill notes that despite this, attendance in CDP activities remains low and suggests that the authority provided to the Minister by the Bill will enable him to address low attendance by making 'No Show No Pay' penalties more immediate. This is based on a fundamental misunderstanding of the problem with the current CDP program, where the primary



employment assistance provided is the Work for the Dole program, a program which has little or no impact on people's employment prospects. Data released in June 2014 shows that only 19% of participants in Work for the Dole were employed three months later.² An evaluation of the United Kingdom's equivalent of Work for the Dole, Mandatory Work Activity, found that participation in that program had no statistically significant effect on employment.³

It is unrealistic to expect a high level of engagement in a program that offers little benefit in obtaining real employment, and where the income a person receives remains at the low level of social security payments. The Newstart allowance currently provides a single person who is out of paid work with just \$37 per day to meet basic living costs, in addition to any housing assistance. Young people looking for work receive even less: \$31 per day. This unemployment payment is the lowest unemployment benefit in the OECD. Particularly worrying is that in the 2014-15 financial year there were 4344 8-week penalties applied across 37,000 people in CDP, exacerbating the income difficulties faced by an already vulnerable group of people.

The CDP program is significantly different to the Community Development Employment Program (CDEP) for Aboriginal and Torres Strait Islander people that previously operated in remote areas. The former CDEP paid wages (and therefore complied with minimum wage requirements), was voluntary, provided people with an income support safety net payment if they did not meet community administered 'no show no pay' requirements to receive a wage payment, and was designed in consultation with local communities, building in flexibility to local needs.

ACOSS considers that the Bill has a high chance of exacerbating the already deep levels of vulnerability and poverty of people living in remote areas, and recommends it not be passed. A better alternative would be to develop a flexible and locally driven Aboriginal and Torres Strait Islander community development employment program which accommodates the diverse training and job search needs of individuals looking for paid work and recognises differences between communities.

Yours sincerely,

Cassandra Goldie
ACOSS CEO

² DEEWR (2014) *Labour market assistance outcomes, June 2014*.

³ Feargal McGuinness, House of Commons Library, *Work Experience Schemes*, 27 June 2014.