

Employment services reform and the Hill ReportMarch 2024

Executive summary

Four months ago, the House of Representatives Select Committee on Employment Services released its Report. It recommended root and branch reform of the 'Workforce Australia' employment services and unemployment payment activity requirements and penalties. The report also has implications for other employment programs including Parents Next (which will be replaced), Disability Employment Services, and the Community Development Program in remote communities.

ACOSS warmly welcomed the report, which responds comprehensively to the two main problems with the current system we have been raising for years now:

- It is not helping people unemployed long-term into sustained employment.
- It is harming people with unrealistic activity requirements and large-scale automated income support payment suspensions.

This brief summarises those two problems and the Report's recommendations and proposes a way forward for root and branch reform of the system.

A contracting system of this scale and complexity cannot be reformed overnight, but if the government delays action until *all* of the necessary changes can be made at once, momentum for change will be lost, prolonged unemployment will be entrenched and people will continue to be harmed. Major reforms of this kind are rarely undertaken in a single step.

We propose that the government take **five key steps as soon as possible** to ease the worst harms and lay the foundations for more fundamental change. Where these have fiscal implications, they should be funded in the May 2024 Budget:

- 1. Publicly commit to the major directions for reform outlined in the Report and set clear goals and principles for reform.
- 2. Urgently remove automation of payment suspensions and alleviate other harms caused by the unemployment payment compliance system.
- 3. Lift direct investment in national employment capacity-building programs such as wage subsidies and vocational education and training that underpin Workforce Australia services and make a difference for people unemployed long-term.
- 4. Establish an independent quality assurance body for employment services along with advisory bodies to help drive reform, in which people directly affected are properly represented.
- 5. Establish trials for local partnerships between government, employment service providers, employers, training organisations and local community services to assist people and communities facing labour market disadvantage.

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1. Two key problems with the employment services system

(1) It isn't working to assist people disadvantaged in the labour market into employment

Of the 872,000 people on unemployment payments, two-thirds have had to rely on income support for over a year

In January 2024 there were 872,000 people on unemployment payments of whom 563,000 (66%) have received income support continuously for at least a year. Of these people, 217,000 (25%) have received income support for at least five years.

Over the past year, the number of people on payments declined by just 59,000 or 6%, despite historically low unemployment (3.4% of the labour force in December 2022) and a relatively high number of job vacancies (2.9% of the labour force).

Many people on unemployment payments face major barriers to employment

One reason for this lack of progress is that the profile of people on unemployment payments is disadvantaged in the labour market:

- 46% have a disability;
- 48% are aged 45 years or more;
- 12% are First Nations people;
- Almost half have Year 12 qualifications or less.¹

To assist people with these and other barriers to employment, employment services need skilled employment consultants with modest caseloads, access to the training, properly paid work experience placements and community services that many in these cohorts will need, and to build enduring relationships with local employers willing to recruit a diverse workforce.

The Workforce Australia program is not shifting the dial for people disadvantaged in the labour market

The Workforce Australia program has been in place since July 2022. It was intended to focus more attention and support on people unemployed long-term, by restricting access to face-to-face services to this group (while most others rely on a 'digital service'). Savings from the digital service were supposed to be reallocated to more intensive provider services, though this was not fully implemented.

While no evaluation data are publicly available at this stage, the lack of progress in reducing prolonged unemployment suggests that it is not providing this kind of intensive, tailored service for people with barriers to employment:

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¹ DSS Demographic data and DEWR TCF data. A major reason for the high incidence of people with disability on unemployment payments is the tightening of eligibility for Disability Support Pension over the last decade. More older people receive unemployment payments now due to increases in the age of eligibility for Age Pension, especially among women.



• Of the 568,000 people in employment services for more than 12 months who joined Workforce Australia when it commenced in July 2022, 323,000 (57%) were still in the program 12 months later.²

Reasons for poor performance outlined by the Select Committee Report include:

- An over-emphasis on compliance with activity requirements instead of practical help for people, who are deprived of agency in their job search;
- An over-emphasis on quick transitions to employment and reducing reliance on income support;
- Limited qualifications and high turnover among consultants and the lack of an independent quality assurance system;
- Under-investment in programs that improve employment prospects such as wage subsidies and vocational training and over-investment in ineffective programs such as Employability Skills Training;
- A competitive arms-length commissioning model that discourages local cooperation and deprives the Employment Department of the local knowledge it needs to promote service improvement.

"I receive little to no support from my job provider. I haven't received any job links, or other info to assist me. I have had them suggest jobs that I am not physically able to do and then been told I am negative when I say I cannot do them. We don't expect them to be doctors, but when a report says I cannot drive, don't tell me I'm negative when I say I won't apply for delivery driver jobs! When my report says I cannot stand, don't tell me I'm negative when I say I won't apply for retail jobs. I left their office after appointments and sat in my car and cried." Michelle.

(2) The system is harming people

The system of <u>activity requirements</u>, <u>compliance and penalties</u> is harming people on unemployment payments. Penalties and the threat of loss of payments are imposed without procedural fairness or proper consideration of people's circumstances, on a group who are struggling to live on \$54 a day income support payments. Many have health problems including mental health issues which are exacerbated by the penalty regime.

Despite recent exposure of the dire impacts of the Robodebt system (which automated debt collection from people who received income support), *income support payments* were suspended automatically for 193,000 people over the three months to December 2023, for alleged breaches of activity requirements.

Activity requirements are unrealistic and often punitive

Activity requirements are unrealistic and often punitive, and they do not materially improve people's prospects of sustained employment:

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² Not all of those who left the program obtained employment. Many would have moved to a different program or income support payment. Some people left the program and subsequently returned with the 12 month period.



- People (including those unemployed for over a year) are expected to apply for up to 20 jobs a month. This sets people with barriers to employment up to fail and burdens employers with unsuitable applications.³
- People are required to participate in Work for the Dole (a punitive scheme in which they must undertake work without proper payment).
- People must attend regular (often monthly) appointments with their provider which often consist of short interviews enforcing activity requirements rather than positive help or engagement.
- There is little flexibility over the timing of appointments often people simply receive a text telling them they must attend at a certain time or their payments are at risk. They may have to drive long distances to attend a short face-to-face appointment which could have been conducted by video link.

"I will have to attend job search appointments soon. It's a 60km round trip. I cannot afford to renew my licence and car registration. If I get a bus there, I will have to stay overnight at a cost of around \$130 and catch a bus back next day." ACOSS 2023, Cost of Living Report.]

People on unemployment payments live in fear that their next payment may be suspended

People who do not meet these requirements face almost immediate suspension of their next income support payment. As with the Robodebt debacle, this process is automated:

- As soon as a person misses a provider appointment or the monthly requirement
 to report on job search and other activities, they receive a warning (e.g. by text)
 that if they don't connect with their provider (or the Department of Employment's
 Digital Contact Centre) within two working days, their next payment will be
 suspended.
- These payment suspensions are automated. Where a person misses a provider appointment, the provider is supposed to attempt to contact them within the two-day period, but these attempts are often perfunctory. There is no requirement to

³ To comply with their activity requirements, people must report monthly on the number of jobs they have applied for and training and other activities they have engaged in. Each activity or application attracts 'points' and people have to secure up to 100 points a month to comply. In theory providers can reduce people's points requirements where they have barriers to employment but regrettably, the maximum number (100) has become the default setting.



contact people who haven't recorded their monthly 'points target' for job searches and other activities.

- No human decision-maker is required to review the person's circumstances before a payment suspension is put in place.
- In many cases, people were unaware of an employment service provider appointment or had good reason to miss it (for example a health issue or poor communication about the appointment in the first place).
- Thus, payment suspensions are often imposed when there was no actual breach of a requirement. This is contrary to natural justice.
- Payment suspensions are being used as a first resort to force immediate compliance with activity requirements. These and other penalties are well out of proportion to the seriousness of the breach.⁴

Over the last 3 months, half of those with activity requirements were threatened with a payment suspension and a quarter of those suspended were First Nations people

Through the December quarter of 2023, 259,000 people were *threatened with* payment suspensions (an average of 86,000 per month).

• Over half (54%) of all people with activity requirements in Workforce Australia received such threats over the three-month period.

Of these people, 193,000 were then subjected to payment suspensions.⁵ They included:

- 46,000 First Nations people (almost a quarter 24% of all people with payment suspensions);
- 52,000 people with disability (27% of people affected);
- 82,000 people with Year 12 qualifications or less (42% of people affected).

Once a payment is suspended, the recipient and/or their employment service provider has less than 10 working days (depending on the timing of the next payment) to resolve the alleged breach of requirements so that they receive their next payment.⁶ In the

"Their website glitched and entered one of my job searches 8 times so they suspended me for not having unique job applications, even though I did indeed submit the required amount of unique ones. Even though I explained it at great lengths...they still gave me a demerit point' ACOSS 2023, Sarah Voices 2 survey.

⁴ In the December quarter of 2023, while 193,000 people had their payments suspended for alleged minor breaches such as missing a provider appointment or not applying for the required number of jobs, only 80 people were penalised for refusing an offer of employment.

⁵ Not all people threatened with a payment suspension have their payments suspended, but the repeated threat of a suspensions severely impacts people's mental health. In the December quarter, 259,000 people received a warning of whom 193,000 were subject to a payment suspension. Many experienced these threats more than once during the three-month period. Suspended payments are generally refunded on compliance, but by this time the person may have missed payments on their rental and be at risk of homelessness. The penalty regime takes no account of the financial circumstances of people who have to live on payments of \$54 a day.

⁶ If they have missed a provider appointment, they need to reschedule one. If they haven't met a requirement to report monthly job search or other activities, they must generally meet those



worst case, the two-day 'warning' or 'resolution' period could finish the day before the next payment is due, giving people little time to comply.

Only one third of payment suspensions resulted in a finding that the person had breached requirements without a 'reasonable excuse'.

Where a person has allegedly breached an activity requirement, they may receive a 'demerit point' as well as a payment suspension. If they accumulate too many demerits, they face the higher penalties discussed below.

Demerit points are recorded automatically but may be lifted by the person's provider or the Employment Department's Digital Services Contact Centre. Before deciding whether to lift the demerit, the provider must attempt to interview the person and assess whether they breached a requirement and if so, whether they had a 'reasonable excuse' (for example, illness).

The lack of procedural fairness in payment suspensions is revealed when we compare the number of suspensions with the number of demerit points imposed after the above assessment is made. From July 2022 to September 2023, there were 1,831,000 suspensions, of which just over a third (35%) led to a demerit point:

- Of 1,100,000 suspensions for non-attendance at a provider appointment, just one in five (21%) were later assessed (mainly by the provider themselves) as having not attended without 'reasonable excuse'.
- Less than 0.1% of payment suspensions (1,323) led to demerit points for breaches relating to job referrals or job interviews.

Harsher penalties apply for multiple breaches of activity requirements

Where a person accumulates at least five demerit points in a six-month period, they face more severe penalties:

- These range from one to four week's loss of income support, without reinstatement of lost income on compliance.
- There is no appeal right against the recording of a demerit point.
- There is no formal requirement to take account of the financial hardship that may result from loss of payments.
- Before penalties are imposed, Centrelink must interview the person to establish whether they had 'capability' to meet the requirements imposed, or their activity requirements should be changed.
- Fewer of these larger penalties are imposed, but their number is still significant 1,955 in the December quarter of 2023.

requirements before the payment is restored. This is obviously difficult for people to do without income support. Payments are restored (with back-payment) on compliance with the requirement.

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2. Hill Report recommendations on the redesign of employment services

The following table lists key recommendations and ACOSS responses regarding employment services (proposed changes to *compliance systems* are outlined later in part 3 below)

Topic	Committee recommendation	Comment
Improving service quality	1. Establish an Employment Services Quality Commission responsible for a quality framework, licensing, workforce standards and sector professional development, advising on pricing for services, complaints management, data analysis, research and evaluation and to promote continuous learning (R22). 2. Re-professionalise the sector's workforce, including clients to staff ratios, a 'professional framework' of skills, capabilities, and qualifications for frontline staff, and an Employment Services Capability Fund (R14-16)	Unlike other community services, employment services lack a quality assurance and licensing body that is independent of the purchasing Department. The proposed Quality Commission could make a real difference by: - setting benchmarks for quality (including qualifications and caseloads for employment consultants) and pricing for services, - responding to complaints and pressing for changes in provider practices to resolve them - sharing best practice and the use of data for that purpose, - backed by its licensing power. This body should be established as soon as possible, with limited functions such as dealing with complaints, an audit of the qualifications and skills of frontline workers in employment services and sharing best practice Its proposed formal role in licensing and setting quality standards would follow later, as part of wider reforms of the commissioning model.
Representation of people using employment services	3. Establish permanent mechanisms for client, stakeholder and expert input: - One or more (possibly State-based) Client Councils tasked with 'inputting client experiences', and - An Employment Services Coordinating Council including the main stakeholders in the system. (R3).	We welcome these proposals to strengthen representation and feedback from stakeholders in the system, especially people directly affected: - These structures should be established as soon as possible following reasonable consultation with stakeholders, to inform the wider reform process. Representation of people directly affected should not be limited to these formal structures, but should include transparent and accessible feedback mechanisms within each employment service and the proposed independent Quality Commission.



Commissioning reforms

- 4. Substantially increase the number of commissioning regions to better reflect natural labour markets and communities of interest:
- Commission one generalist case management service and one youth specialist service per location.
- Commission specialists for people from culturally and linguistically diverse backgrounds, people with disability, exoffenders, and First Nations peoples, some of which may operate across more than one region (R8 & R66).
- 5. Establish government-run regional hubs and service gateways for system coordination, jobseeker assessment and referrals, employer engagement, and to coordinate place-based projects:
- supported by regional advisory bodies. (R4 & 29)
- Introduce a government-run dedicated employer-focused service as part of the regional hubs (R45).

We support the proposed reduction in the size of commissioning regions to better reflect local needs and promote local community-based services, and removal of competition among generalist local providers which fragments services and has failed to give people genuine choice over the services provided.

Proposals to diversify the range of providers in the system, especially to promote services with strong local connections or expertise in assisting First Nations peoples, people with disability, people with Culturally and Linguistically Diverse backgrounds, are welcome:

- Increasing the representation of Aboriginal Community Controlled Organisations in employment services for First Nations communities is an urgent priority.

The proposed regional hubs deserve careful consideration as they could greatly improve local coordination of the services and supports needed by people who are unemployed and local employers:

- Employment services should be built from the 'bottom up' as well as the 'top down'.
- Government should have a line of sight to the provision of services on the ground, rather than commissioning them at 'armslength'.
- The government should trial different approaches to local partnerships between government, providers, employers, and local community services, especially in regions with high unemployment.
- If a government-run employer engagement service is introduced, care should be taken not to displace the role of employment services to connect people with suitable jobs (noting that reducing the number of competing local employment services would simplify access for employers).

Investment in national employment programs to underpin the employment services system

- 6. Wage subsidy programs and other Active Labour Market Programs including paid work experience should be centrally administered by DEWR:
- Subsidise secure employment (more than six to 12 months) rather than shorter-term jobs,
- Provide adequate protections against abuses of wage subsidies (R52-53).

There are over 550,000 people long-term on unemployment payments and their number will grow if unemployment rises over the next few years.

The employment services system is seriously under-powered to reduce prolonged unemployment:

- As the Report notes, Australia spends less than half the OECD average on employment assistance.



- 7. Introduce a program offering paid work experience with regular wages, including structured training (R55).
- 8. Consider crediting the Employment Fund annually for very long- term unemployed clients (R43).
- 9. Subsidise social enterprises which directly support employment outcomes (R51).
- 10. Introduce a Commonwealth Social Procurement Framework preferencing employment of people unemployed long-term (R5).
- 11. Set targets for entry-level jobs, internships and traineeships for people unemployed long-term in Government agencies (R6).
- 12. Trial a career progression assistance program for employees in lower-paid, entry-level, and insecure jobs, funded on a fee-for-service basis (R42).

- One way to ensure people unemployed long-term get the help they need is to guarantee access to help that makes a difference (e.g. paid work experience, education or training, or employers offering secure jobs) at least annually to each person unemployed long-term.

Therefore we welcome:

- The reinstatement of a national wage subsidy program,
- The 'paid work experience' program, which appears to combine work experience and structured training and could extend to participants in social enterprises, [The above work placements should be properly paid, designed to transition people into open employment and not open to abuse],
- The paid work experience program could meet social and environmental needs (e.g. remediation after natural disasters) while improving the employment prospects of people disadvantaged in the labour market.
- Preferencing people unemployed long-term in social procurement and government employment,
- Annual top-ups of the Employment Fund.

Career assistance for people in insecure employment would be welcome, but higher priority should be given to professional career guidance and support for people who are unemployed on an 'as needed' basis:

- especially women returning to the paid workforce after caring fulltime, young people who left education early, and older workers who need to renew their careers.

Specialised national programs for people facing entrenched barriers to employment

- 13. Establish a high intensity case management service for people furthest from the labour market, delivered by the public sector or community based not-for-profit services, possibly modelled on the former Personal Support Program (R10).
- 14. Trial embedding pre-employment and vocational supports in human services, e.g. mental health, homelessness, or family violence services (R9).
- 15. Introduce a 'Work in the Community' program in some regional areas with entrenched disadvantage, offering paid work-like experiences and in-work training, without expecting quick entry into open employment (R49).

A separate stream of services is needed to improve the employment prospects of people with entrenched social and health barriers to employment:

- It may be more effective to support partnerships between employment services and other human services (as proposed by ACOSS) rather than stretch the expertise of the latter (e.g. mental health or homelessness services) to provide employment assistance, or that of employment services to offer intensive health and social support.
- Strong connections with (suitable) local employers are vital for the success of programs for this group.
- The former Personal Support Program offered help with social barriers to employment but was not well connected with



16. Establish specialist employment		
services for ex-offenders in partnership		
with State Governments.		

- and introduce default activity requirements for newly released prisoners (R16). the labour market - both are crucial.

- It is not clear whether a government-run service would be more effective than not-forprofit providers to assist this group.

The purpose of the proposed 'Work in the Community' program is unclear:

- If people's employment prospects are very limited they should not face activity requirements and should have better access to alternative payments, and not be required to engage in 'activity for activity's sake'.

The current temporary exemption from activity requirements for newly-released prisoners should be retained and voluntary participation in employment services should be offered (including while people are in prison).



3. Hill report recommendations on activity requirements, compliance and penalties

The following table lists key recommendations and ACOSS responses dealing with activity requirements, compliance and penalties.

Topic	Committee recommendation	Comment
End automated payment suspensions	1. All decisions that affect income support payments must be made by a public servant in Services Australia, and not automatically by the IT system. (R62)	Reducing payment suspensions and related financial penalties is the most urgent priority, given the widespread harms caused.
	2. Restore case manager discretion to counsel people rather than impose suspensions and penalties, for a limited number of compliance breaches each year:	ACOSS calls for a pause to payment suspensions and related penalties until a fair compliance system based on human rights/natural justice principles is in place, including:
	- If non-compliance continues, issue warnings which could result in a partial payment withholding until the person complies,	- replacement of automated decisions impacting income support with human decision-makers within Government,
	- People who consistently breach requirements are referred to a government agency for a capability assessment,	- any compliance action should be a last resort rather than a first resort, proportionate to the seriousness of the breach and take full account of people's circumstances including the risk of financial hardship.
	 If there are barriers to participation or engagement, the client is referred back to their provider or offered a different service, 	While not comprehensive, the Committee's proposals would remove automation and substantially reduce payment suspensions:
	- If there are no barriers, the client may be warned of the risk of more serious compliance measures including payment suspensions, penalties, or cancellations.	- These additional protections should apply to 'demerit points' as well as payment suspensions, so that more people don't face financial penalties later.
	(R62) 3. Adjust the period in which a person must reconnect with the system to avoid a payment suspension from 48 hours to no more than four or five business days. (R57)	Partial withholding' is not a solution since people need every dollar of their inadequate income support payments. Case manager discretion should extend to all breaches, in accord with a transparent set of national guidelines.



More realistic activity requirements:

Changes to the Points Based Activity System

- 4. For more disadvantaged clients in Workforce Australia services, the core requirement is to meaningfully participate by attending appointments and undertaking activities as agreed via the Participation and Jobs Plan, rather than meeting a 'points target' or applying for a fixed number of jobs:
- Retain the Points Based Activity System (PBAS) for clients in online services, and people in Workforce Australia services who 'persistently fail' to meet their Job Plan requirements (R56).
- 5. In the short-term, amend the Points-Based Activity System so that 100 points is seen as the maximum and not the default points target:
- For (more disadvantaged) clients in Workforce Australia Services, set the default points target at 50 points, with discretion for case managers to vary it up or down,
- Adjust points targets for clients in Workforce Australia Online who have repeated suspensions or other penalties,
- Review all existing points targets as soon as possible,
- Case managers and the Digital Contact Centre can allocate additional discretionary points each month to people who fail to meet their points target but are 'showing commitment'. (R57)

These changes would make activity requirements less unrealistic so that more people can comply with them, especially people in Workforce Australia Services (most of whom are unemployed long-term).

The quality of employment services and their responsiveness to individual needs and aspirations must improve markedly for these changes to work in practice:

- For example, providers should contact people in advance of appointments to agree a suitable time and place (virtual or in person), and in advance of Points deadlines to offer help where a person has fallen behind in meeting their target.

More realistic activity requirements:

Changes to Work for the Dole and other mutual obligation requirements

- 6. Ease the 'rapid connect' requirements for people to sign Jobs Plans before receiving their first income support payment (R29).
- 7. Remove Work for the Dole as 'default' activation activity, enabling people to instead select from a range of activities with the provider to nominate an activity if the person doesn't choose one:
- Retain Work for the Dole as a last resort activity for people who 'fail to meaningfully engage or comply with a Job Plan' over the long term.
- Pay a supplement that at least realistically covers their costs of transport and participation.
- Remove specific timing for mutual obligation activities (e.g. a requirement to

We welcome the proposal to give people applying for income support more time to make meaningful choices of provider and Employment Plans and for proper assessment of their needs, before they receive their first income support payment.

Work for the Dole is ineffective and punitive and should be abolished and the savings invested in properly paid work experience programs that make a difference.

We support the removal of inflexible timing for activity requirements (e.g. '4 month' and '12 month' activities).

We welcome the removal of Employability Skills Training as a national labour market program. Employability skills are best learnt on the job (e.g. in paid work experience).

Financial 'incentives' such as the 'Work Commitment Bonus' failed because they



undertake an 'activity' after 6 months'		
unemployment). (R5 & 48)		

- 8. Abolish Employability Skills Training as a directly-funded program (though providers could offer it as part of their core service).
- 9. Trial incentives to enhance engagement with employment services. (R63)

were based on the false assumption that people prefer income support to employment:

- A stronger 'incentive' would be a trustbased service that offers real help to secure employment.

Better access to alternative payments for people with major barriers to employment

- 10. Consider reinstating Sickness Allowance and extending eligibility to people with sustained, medium, or longerterm medical conditions that preclude employment in the foreseeable future; allow medical certificates for longer than three months (R32)
- 11. Consider 'minor adjustments' to identify jobseekers who are extremely-long-term unemployed and should be granted a Disability Support Pension, without revising the impairment tables or creating a 'perverse incentive' to become extremely long-term unemployed (R33).
- 12. Reduce the cost of obtaining medical evidence (via a subsidy) for purposes relating to employment services (R34).
- 13. Set 'social and community participation goals' [as distinct from employment goals] for people who are unlikely to benefit from other assistance and for whom employment is not realistic in the short term:

Many people compelled to participate in employment services have a disability or chronic illness which renders their employment prospects negligible for the foreseeable future:

- Requirements to apply for jobs and participate in activities under these circumstances are counter-productive, wasteful and often harmful.

We would welcome reinstatement of Sickness Allowance and any proposals that improve access to that payment or DSP for people in these circumstances:

- Such reforms should include changes to impairment tables, restoring treating doctor's reports and removing the Program of Support requirement.

Compelling people to meet 'social and community participation goals' where there is a negligible chance of employment is likely to be intrusive and waste time and effort for participants as well as government resources.