



The future of employment services in 2012-15

A new deal for job seekers

**Submission to the Minister for Employment
Participation**

from the

National Welfare Rights Network

(NWRN)

January 2011

About the National Welfare Rights Network

Our work

The National Welfare Rights Network (herein NWRN or Welfare Rights) is a network of community legal centres throughout Australia which specialise in Social Security law and its administration by Centrelink. Based on the experience of clients of NWRN members, the Network also develops policy and advocates for reform based on the principles and rights set out below.

NWRN member organisations (see Contact us) provide casework assistance to their clients, generally by phone, at least in the first instance. NWRN members also conduct training and education for community workers and produce publications to help Social Security recipients and community organisations understand the system. The NWRN also engages in policy analysis and lobbying to improve the current Social Security system and its administration.

Our aim

NWRN member organisations, individual Welfare Rights centres and services throughout Australia, aim to reduce poverty, hardship and inequality in Australia by:

- providing casework advice and assistance to individuals to ensure they can exercise their rights, fulfil their obligations, meet their responsibilities and maximise their entitlements under the Australian Social Security system; and
- advocating for the maintenance of a Social Security system that has rights and entitlements, obligations and responsibilities, detailed under and protected by law.

Our principles

The NWRN advocates that the Social Security system in Australia should be characterised by an uncompromising recognition of the following rights:

- the right of all people in need to an adequate level of income support which is protected by law;
- the right of people to be treated with respect and dignity by Centrelink and those administering the Social Security system;
- the right to accessible information about Social Security rights and entitlements, obligations and responsibilities;
- the right to receive prompt and appropriate service and Social Security payments without delay;
- the right to a free, independent, informal, efficient and fair appeal system;
- the right to an independent complaints system; and
- the right to independent advice and representation.

1. Executive Summary

Future directions for reform of employment services

In the following section NWRN outlines some ideas for the reform of the system of employment services in Australia that arise from the previous discussion and that stem from our discussions with job seekers about how they experience the system.

We have sought to group the areas for reforms into a number of broad categories.

1.1 Improving initial engagement with job seekers

- Improve job seekers' understanding of the range of initial assistance, to ensure that service expectations are clearly understood and that job seekers recognise the purpose and importance of, the Job Seeker Classification Instrument interviews.
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- Where possible, Job Seeker Classification Instrument interviews to be done in person.
- Refine early screening tools to better identify vulnerable new job seekers and those at risk of becoming long term unemployed, so that scarce resources can be targeted to those most likely to benefit from extra assistance.
- Conduct group introductory and information sessions for new job seekers, with a focus on negotiating Employment Pathway Plans, activity requirements, choice of provider, services available, etc. Local Centrelink officers, job service providers and community support agencies should be invited to take part.

1.2 Assisting genuine engagement with job seekers

- DEEWR and Job Services Australia providers to develop "best practice" guidelines for use by job seekers to improving "ownership" and genuine negotiation of Employment Pathway Plans with job seekers.
- Develop prototypes of "model" Employment Pathway Plans and initiate discussions with provider peaks and individual providers to address provider reluctance to genuinely engage job seekers with suitable Employment Pathway Plans.

1.3 Improving information about options and choice

- Establish a “user-friendly” website about employment services and assistance available which is easy to navigate. The website should include, helpful information for job seekers on a wide range of topics, such as: requirements, support available, rights, responsibilities, changing providers, finding specialist providers, customer charter (jobs “guarantee”) and complaints.
- Install self-help job kiosks and touch screens for job seekers at Centrelink offices.
- Initiate discussions between the Office of the Privacy Commissioner, Centrelink, the Department of Education, Employment and Workplace Relations and job seekers stakeholders to enhance the strategic exchange of “beneficial” information sharing about job seekers employment and participation barriers, while ensuring that strong privacy protections are maintained.
- Support the publication and distribution of independent information/advice about employment issues for job seekers, such as “*Activity test and participation requirements*” factsheet produced by the National Welfare Rights Network.

1.4 Support for job seekers

- Improve support for long-term unemployed people (particularly Stream 4 job seekers) in line with the recommendations in the submission from the Australian Council of Social Service.
- Ensure that all employment service providers properly engage with the local community that they are located.
- Improve the experience of job seekers and staff by addressing the significant turnover in the number of employment consultants. Career development, caseloads, workforce planning, and an accreditation framework recognising staff qualifications and skills should all be explored.
- Require Centrelink and the Department of Education, Employment and Workplace Relations to develop access and equity policies which do not place job seekers at a financial disadvantage as a result of the high cost of meeting activity and contact requirements. The costs of

contacting Centrelink and other government and non-government agencies can be prohibitive because calls from 18 and 13 numbers are billed at higher mobile costs.

- Increase the threshold skills attainment to Certificate 3 level.

1.5 Quality

- Government, industry and stakeholder collaboration and cooperation to focuses on the development of an employment services sector workforce strategy as discussed above.
- Regularly publish data on the Department's website on the numbers and profiles of job seekers, including: the streams of assistance; the use of Employment Pathway Funds; type of employment assistance received; employment and other outcomes.

1.6 Access to independent information, advice and complaints mechanisms

- Introduce an independent job seeker complaints scheme (an Employment Service Ombudsman) and improve awareness of internal complaints resolution schemes.
- Increase job seekers' awareness of their rights to services and supports, and obligations.
- Support and resource job seeker access to independent, third party assistance to assist job seekers who have limited capacity to advocate resolution to difficulties with providers.
- Undertake an audit into the accessibility of complaints information available from Job Services Australia members and provide advice about employment providers about promoting access and awareness to complaints and feedback mechanisms.

2. Setting the scene

The National Welfare Rights Network welcomes this opportunity to provide feedback on future arrangements for Job Services Australia from 2012-15.

Access to high quality, effective and responsive employment assistance is critical for individual well-being and the overall prosperity of the nation. Sound investments which engage and motivate job seekers to take opportunities for education or training, to build skills and overcome barriers and disadvantage can help improve people's life experiences and opportunities. This can negate the harmful impacts often associated with prolonged unemployment.

The National Welfare Rights Network urges Government, employment services, community organisations and unemployed people providers to collaborate in the development of a new deal for job seekers. Future arrangements should have a sharp focus on those who are most vulnerable and in need of assistance and support in moving to sustainable and successful employment.

One major problem with the design of Australia's complex arrangements to assist job seekers is frequency with which the structure of the underlying system is changed. The constant changes and re-tendering processes often leaves little time to truly explore what is working well, or not so well.

A lack of data can make it difficult to design improvements that are informed by evidence of what works, what is counterproductive, and what might actually be harmful.

The regularity of change has a significant impact on the capacity of employment providers to effectively manage work and on staff satisfaction and retention, and this has a flow-on effect on how job seekers experience the system, in terms of disruption, loss of familiarity with staff, and other negative impacts.

The pace of overall change, across many areas, also leaves insufficient time and opportunity for stakeholders to adequately engage over the current strengths and weaknesses in the current system, or to properly consider potential improvements.

Therefore, NWRN believes that there are grounds for delaying or modifying the scope the next tender round.

3. Funding for employment assistance in Australia

In the call for comments from the Minister for Employment Participation to this review into the future of employment assistance, attention was drawn to the need to take into consideration the Government's commitment to achieving a budget surplus by 2012-13.

NWRN responds with the following observations:

by international standards Australia is a low spending nation on employment assistance, with \$300 million cut from programs under the 2009 reforms;

- NWRN, along with many community sector organisations, has provided a Federal Budget submission which highlights savings from broader tax measures;
- there are significant savings to be achieved by greater efficiencies in the current system. Research presented at the 2010 Jobs Australia Conference from NOUS into red-tape and inefficiencies in the current employment services arrangements and estimated (conservatively) that savings worth \$130 million could be achieved;
- improvements in efficiencies and savings can be generated from a greater reliance on technology to deliver support and services to job seekers; and,
- any new targeted assistance should be provided to vulnerable and long-term jobseekers.

4. Disadvantage among current job seekers

Since the financial crisis hit in 2008, Australia has weathered the storm relatively well, having one of the smallest rises in unemployment of all 30 OECD countries. However, one should not overlook the fact that unemployment has still risen significantly. In June 2008 the number of people receiving Newstart Allowance was just under 430,000, its lowest level since the 1980s; this rose to 602,000 in February 2010 and has come down to 563,027 in December 2010. The numbers on Newstart for twelve months or more rose from 250,000 in late 2008 to 344,362. There were also 91,000 young unemployed people in December 2010 receiving Youth Allowance.¹

¹ Department of Education Employment and Workplace Relations, *Labor Market and Related Payments – a monthly profile*, January 2011.

The increasing proportion of long-term unemployed job seekers should, and must, have major implications for the type of services provided by to job seekers.

Over the last few years there has also been a significant increase in the number of job seekers who in the past would not have been required to look for and accept employment. These include many with significant employment barriers as a result of the Welfare to Work changes that commenced on 1 July 2006.

In August 2010 there were 112,030 income support recipient with a “partial capacity to work”. A breakdown by payment type shows that 92,317 received Newstart Allowance; 3,357 Parenting Payment Partnered; 12,269 Parenting Payment Single; and 4,087 received Youth Allowance (other).² These job seekers are assessed as being able to work for more than 15 hours a week, but are not capable of full-time work. They do not qualify for the Disability Support Pension.

The 2006 changes also resulted in job seekers who are single parents and partnered parents who are now required to look for and accept part-time work (up to 15 hours a week).

There are also significant numbers of parents who now have requirements to look for work, as table 1 indicates.³

Payment	NSA	PPP	PPS	YA(o)
With youngest child 6+ years	37,763	16,471	130,610	48
Total recipients	38,332	121,556	330,358	68

Table 1: Number of Principal Carer Parent Recipients

The greater numbers of job seekers with disabilities and caring responsibilities in Australia’s employment service market highlights the need for increased levels of responsiveness and flexibility in relation to job search, activity requirements and other supports for carers and people with disabilities.

The age profile of the workforce points to a quarter of the population reaching 65 years of age by 2050, with a shrinking number of people of workforce age.

² Senate Standing Committee on Education Employment and Workplace Relations, *Questions on Notice, Supplementary Budget Estimates 2010-2011* Outcome 4 - Employment & Participation Policy, DEEWR Question No. EW0534

³ Ibid.

This highlights the challenges of maintaining older people in paid employment, where older people indicate significant difficulties securing employment, despite the existence of national age discrimination legislation.

The following information highlights the job search experience of Australians looking for work in July 2010

Difficulties in finding work: recent ABS findings

The ABS analysis of the job search experience of Australians reported that in July 2010 the main difficulty in finding work was:

- *“too many applicants for available jobs” (14%) and*
- *“insufficient work experience” (11%).*

For long term unemployed people, the main difficulties were:

- *“too many applicants for available jobs”*
- *“too far to travel/transport problems” (13%), and*
- *“own ill-health or disability” (13%).*

The main difficulty in finding work for people aged 45 years and over was “considered too old by employers” (17%).⁴

There were 88,155 people aged 55-64 on Newstart Allowance in December 2010 in addition to 315,528 aged 55-64 on the Disability Support Pension (DSP), with a further 207,000 aged between 45-54 years of age on the DSP.

Looking at Indigenous status, there were 47,296 Indigenous job seekers on Newstart Allowance, with 13,135 young Indigenous people on Youth Allowance looking for work.

The key message stemming from this information is that many of Australia’s job seekers face major challenges in finding suitable employment and securing the necessary skills for meeting their requirements and overcoming barriers caused by disability, caring responsibilities or another problems such as lack of skills, transport difficulties, unstable accommodation or drug and alcohol use.

⁴ Australian Bureau of Statistics, *Job Search Experience*, July 2010, Cat. No. 6222.0, 18 January 2011.

Many of the job seekers who contact Welfare Rights regarding employment issues are from these groups who face major barriers to finding work.

The current cohort of job seekers is acknowledged to be among the most disadvantaged group in the community, as reported by the Department of Education, Employment and Workplace Relations (DEEWR).

“Various Centrelink and DEEWR data sources indicate that 32 per cent of job seekers on Newstart and Youth Allowance have a reported mental illness. Other barriers to participation include drug and alcohol problems (18 per cent) and unstable accommodation (five per cent). Almost 13 per cent of job seekers are ex-offenders.”⁵

Research conducted over the last decade in Australia has indicated that there are elevated levels of mental illness amongst all income support recipients. There is a complex relationship between being on an income support payment and the pre-existence of a mental health condition. According to knowledgeable experts in the field:

“...poverty or lack of financial resources is a risk factor for poor mental health. (Feather 1997; Fryer 1999; Hope, Power & Rodgers 2001). Further, many welfare recipients have experienced traumatic or adverse life circumstances, and often these factors are directly associated with their eligibility or need for income support (for example, unemployment and redundancy, divorce and separation, death of spouse, disability). These adverse life events are also proven risk factors for poor mental health (for example, Turner, Wheaton & Lloyd 1995).”⁶

Other research conducted by Butterworth in 2003 suggests that:

“... around 34% of those on income support had experienced an anxiety, depressive or substance-use disorder in the previous 12 months, compared to 19 per cent of non-recipients ... and (t)he prevalence of mental disorders was elevated in all client segments, and particularly pronounced in the lone mother group where around 45 per cent were identified with a mental disorder.”⁷

⁵ Department of Employment, Education and Workplace Relations, *Submission to Employment Services Reform Bill, 2008*, p. 1.

⁶ Berry, H.L, Butterworth, P., Caldwell, T., and Rodgers, B., *Social Policy Research Paper No. 32 - Contemporary Australian Archetypes: different people different needs*, 2008, Family and Community Health Research Unit, Australian National University, Department of Families, Housing, Community Services and Indigenous Affairs.

⁷ Ibid.

Some young job seekers, though not all, are among the most vulnerable. Almost one in four (24 per cent) of Australians aged 18-24 experience a mental health disorder in any one year. Three quarters of mental health conditions emerges before the age of 25.

Sixty per cent have not finished year 12 or equivalent, 15 per cent experience accommodation difficulties (including homelessness); 4 per cent have drug or alcohol problems, and 40 per cent don't have a drivers' license.

5. Strengths in the current system

Welfare Rights acknowledges that the current service model has resulted in improved outcomes for many job seekers, but we remain concerned that the most vulnerable job seekers who need the greatest level of assistance experience challenges understanding and negotiating the employment services landscape.

Some of the positive aspects from new Job Services Australia model include:

- the merging of seven programs into one, putting an end to the rigid, silo approach inherent in the old system;
- improved incentives to offer training and education outcomes;
- greater capacity for inclusion of study in activity plans;
- increased provider flexibility with new "contact", arrangements to alternatives to imposing "participation failures" and a significant reduction in the number of immediate eight week no payment penalties;
- greater responsiveness to non-vocational barriers,
- an expansion of specialist employment assistance, (for example, Indigenous specific-providers), with services targeted to groups of vulnerable job seekers e.g. those experiencing homelessness or mental health conditions, and
- the promise of tailored, flexible and individualised assistance for job seekers.

6. A key issue - improving job seekers understanding of the system

The employment services system is pretty impenetrable and very confusing. This has serious implications for job seeker engagement and undermines the operation of the system. It also leads to waste and inefficiencies.

A key priority requiring attention in the new iteration of the employment services system is to improve job seekers' understanding of the employment services system works and how it can better assist unemployed people. Job seekers often tell us that they are confused about the range of services available and are frequently unclear about why they are required to undertake activities or uncertain about why they need to provide information to either Centrelink or employment service provider. There is also confusion about the roles and responsibilities, of both of these key partners in the system.

One area of confusion we frequently hear from our clients is that many job seekers (falsely) believe that Centrelink and employment services habitually swap job critical information about the job seekers' barriers to work or study. Another area of significant confusion relates to the need for, and purpose of the Job Seeker Classification Instrument or a Job Capacity Assessment.

Because job seekers do not know the purpose of an activity or interview, and the reasons as to why they should disclose sensitive and very personal information (such as alcohol, gambling, mental health issues or homelessness status), they often fail to disclose. This can then result in an individual being placed in inappropriate service streams, being required to undertake inappropriate activities, and being subject to compliance action. In turn this will lead to difficulties with providers and disengagement from services and supports aimed at getting people into study or employment.

At the end of this submission NWRN proposes a range of practical measures that could lead to significant improvements to job seekers understanding of the system of employment services.

7. Improving job seekers initial experience with the system

The Government needs to consider whether the current model of initial engagement with job seekers is as effective as it could be. Our experience is that the primary concern of the overwhelming majority of people is related to securing their immediate financial future. Given that many are dealing with shock and anxiety, scant attention is given to other matters such as skills development needs, employment pathway plans, updating of resumes or job search requirements and the like.

Job seekers may agree to almost anything, so long as they are able to secure financial assistance. Like it or not – this is the most rational, common sense response from job seekers in this situation. The employment services model needs to respond to this reality.

Every job seeker finds the experience of unemployment differently, and, depending on their life histories and experiences, have extremely varied reactions to unemployment. However, in our experience the system of support for job seekers is rigid and at times is not able to adequately respond to the needs of all job seekers.

Some people who become unemployed cope reasonably well, and are quickly motivated and activated to find employment with limited need for external assistance. The current system is often sufficient for these people, which is just as well, because minimal assistance and support is provided in the first three months of unemployment.

However, this lack of support and assistance during the early stages of unemployment can undermine job seeker engagement and confidence. This can lead to serious problems later when more intensive levels of engagement is needed and required, and job seekers have no trust or confidence in the provider.

This is part of a more general problem of an extraordinary low level of awareness from job seekers about what they can expect in terms of employment assistance when they lose their job.

Below Welfare Rights briefly examines aspects about jobs seekers' engagement with Centrelink and employment service providers arising from our client contact which require attention. If these issues are taken into account, the quality of the engagement with job seekers may improve, with consequent benefits for job seekers in the process.

- Welfare Rights deals with a large number of deeply disadvantaged people who require and would benefit from extra, immediate, more intensive support, but who find themselves frustrated and disillusioned by the lack of practical assistance and support.
- Centrelink is required to provide a considerable amount of general information to job seekers during an initial interview. In reality, however, much of the vital details about activities, choice of provider, available supports and the all important compliance arrangements is actually retained.
- Welfare Rights recalls that under previous arrangements Centrelink ran group information sessions for new job seekers. These, and the

information kiosks for job seekers, were highly regarded by job seekers who had used them, according to feedback that we have received. We urge Centrelink and the Department to consider restoring this type of assistance, which could be of significant assistance for job seekers who feel they obtain little assistance during their early period of unemployment.

- Job seekers need to be genuinely listened to ensure that their work barriers to work are effectively assessed. As discussed in earlier, a rushed, initial cursory assessment over the telephone to apply Job Seeker Classification Instrument can be counterproductive to building long term, trustworthy relationships.
- For Centrelink and employment service providers to work effectively with job seekers it is essential to focus on their strengths not just barriers or compliance problems.
- Job seekers often get incensed if the activity or engagement is not meaningful or purposeful. If it's more "hassle than help", the relationship can quickly sour.
- If the message or attitude to the job seeker from the provider is that their future employment and their current skills development are not important , then job seekers may disengage.
- Those with the most barriers need to be linked in with existing community supports and or services, but not all communities have the capacity to deliver such support.
- Those with the most barriers often need advocacy and not just services and compliance requirements, such as advocacy to negotiate debts, housing and Centrelink entitlements.
- Intensive post-employment support, particularly for long-term and other vulnerable job seekers, is also worth greater levels of investment, as it is likely to pay dividends b keeping people in work by identifying problems early before they become intractable. This strategy often works in the area of employment for people with a disability.
- More precise measurement and tools are needed to enable the assessment and streaming processes to better identify individuals who would benefit from more immediate and intensive employment support and jobs assistance during the early periods of unemployment. The Job Seeker Classification Instrument (JSCI)

could be re-calibrated to enable job seekers who would benefit from more immediate and intensive support, in the early periods of unemployment

- The JSCI is problematic for a number of reasons. Generally it is done over the phone rather than in person, which doesn't induce disclosure of sensitive information relevant to a person's barriers. Additionally, there is insufficient awareness among job seekers as to its importance. Job seekers naturally, want to present themselves in their best light and would generally be most reluctant to disclose barriers or personal limitations early in an interview with a relative stranger who they see as holding significant power and influence in a new and unfamiliar environment.

8. The right track for Employment Pathway Plans

Discussions between welfare rights workers and jobseekers since the 2009 employment service reforms were introduced often centre on a person's experience with their employment services consultant, appropriate activity requirements, Employment Pathway Plans and the Employment Pathway Fund.

Our experience is that there is little awareness of the Employment Pathway Fund (EPF) and for many it is largely hidden from view. Job seekers receive access to the benefits of the system and the EPP should be used as a positive resource to engage job seekers and get the license or the boots or the specific training that would help them into employment.

A key element of the Government's employment reforms was the introduction of an Employment Pathway Plan (EPP). In theory, these plans are to be individually tailored to the needs and requirements of job seekers. The problem, from our experiences in talking to job seekers, is that too often EPPs are neither tailored, nor flexible. Job seekers appear to be hardly ever invited to take their time to consider the plan. Indeed, the haste with which such plans are established runs counter to the notion of active engagement and ownership of the plan by job seekers. Our experience is that too often EPPs are not individualised. Standardised, "off the plan" agreements are non-specific to the individual's requirements and circumstances and are therefore of little real assistance to job seekers. They actually seem to be more about the providers complying with DEEWR "red tape".

This is unfortunate. If the job seeker and the employment consultant are properly engaged in the process of developing and implementing the EPP, it could be the "circuit breaker" which can give individual job seekers the right assistance and supports to gain and keep a job.

Similar tools to an EPP are used in the Netherlands where a very different approach is taken. There, job seekers are encouraged to “shop around” and to take their time in developing and finalise an EPP.

DEEWR should investigate this approach and determine whether similar arrangements would be beneficial in the Australian context.

9. High employment consultant turnover and low qualifications – implications for job seekers

Difficulties retaining staff and a very high staff turnover amongst employment consultants are serious concerns which have a major impact on the quality of engagement with job seekers. Attracting and retaining qualified staff is also a key challenge for the industry. Over many years, staff turnover has been consistently high, with a recent survey of employment service consultants reporting that 30 per cent were thinking of leaving the industry.⁸

The level of skills and qualifications of employment consultants are also key considerations– for staff and for job seekers seeking a quality service. The Jobs Australia 2010 survey found that almost one in every two employment services consultants (49 %) had a level of qualifications of Certificate 1V or less, down from 65 per cent in a 2005 survey.⁹

While many employment consultants are highly value driven, motivated and committed, many struggle with large caseloads and don't see the job of an “employment consultant” as a long term option.

Additionally, if clients are angry or have what is euphemistically labelled “challenging behaviours”, the job of an employment consultant can take its toll, even on the most committed staff.

From the point of view of job seekers, this high turnover affects morale of job seekers and the constant turnover is especially difficult where people have to disclose extremely sensitive personal information, such as the existence mental health conditions, or drug and alcohol use, homelessness or domestic violence.

NWRN supports Government, industry and stakeholder collaboration and cooperation to focuses on the development of a employment services sector

⁸ Giuliani, G. *Getting Engaged and case management: the difference it makes!* Jobs Australia Conference, Melbourne 2010.

⁹ Ibid.

workforce strategy – that addresses skills, qualifications, training, salaries, workload issues, and career development, etc.

10. Disability Employment Services

One of the most positive measures undertaken recently by Government has been the uncapping of access to Disability Employment Services (DES) in early 2010. From our engagement with job seekers we consider that one significant barrier to people with disabilities taking up the opportunities is a fundamental lack of awareness of the safeguard and protections and incentives in the system to try out their hand in the labour market; for example, the two year rule that allows Disability Support Pension recipients re-claim payments in certain circumstances.

Much more needs to be done to alert individuals – but also their families and carers – to the safeguards in the offered in the current arrangements.

One area of complaint from DSP recipients with the new DES is that they perceive they are discriminated against and placed at a disadvantage when compared to their peers accessing assistance through Jobs Services Australia networks who have access to a notional Employment Pathway Fund.

11. Complaints, job seekers' access to independent advice

This final section of this submission focuses in some detail on the issue of “complaints” and the absence of avenues for independent information, advice and advocacy for individual job seekers. From a job seekers’ perspective, we see this as an area where there is considerable room for improvement. NWRN supports the funding of an independent complaints authority – such as an Employment Services Ombudsman. There is also a need for a concerted effort to promote the availability of the existing DEEWR Hotline, and for individual providers to improve awareness of their own internal feedback and complaints systems.

Our exploration of the issue also highlights the need for improved efforts to increase awareness of the existing avenues for complaints offered through the Commonwealth Ombudsman. Another area of room for improvement is an improved availability of information about the nature of complaints, the outcomes of complaints and the impact of this information on efforts to improve the overall quality of the employment services system.

The areas of job seeker complaint fall into a number of areas, such as difficulties changing providers; unreasonable or unsuitable activity requirements; apparently unhelpful staff; concerns that they are not suited to the job because of inadequate skills; inappropriate referrals; access to Employment Pathway funds; perceived lack of assistance; and lack of recognition of caring responsibilities in EPPs.

Complaints about employment services come from a range of sources: these are the DEEWR Hotline line, Centrelink, local providers or the Commonwealth Ombudsman.

In 2009-10 there were 12,164 complaints related to employment and employment-related services, out of a total of 1,139,698 job seekers who flowed through the system.

Unlike jobseekers that access Job Services Australia assistance, users of disability employment services are legally required to have access to an independent complaints mechanism internally administered.

In 2009-10 the Commonwealth Ombudsman received only 479 complaints or contacts about employment services – down from 571 – a decrease of 16% on 2008-09.¹⁰ DEEWR's own complaints form provides scant information about what a job seeker can expect if they lodge a complaint.

Although the standard form available from the DEEWR website does inform job seekers that they can take their complaint to the Commonwealth Ombudsman if they are not happy with the way their problem was handled, it fails to include Ombudsman's 1800 number, mailing address or email address or link (which allows complaints to easily lodge complaints to the Commonwealth Ombudsman online).

The Disability Services Standards requires that Disability Employment Services have an internal complaints handling mechanism that is both accessible and effective. The users of Disability Employment Service must also have access to an external independent complaints mechanism. Called the Disability Employment Service Complaints Referral and Resolution Line, in 2009-10 this independent complaints body received 3,790 calls, of which 1,177 were complaints.

There is no publicly, centralised source of information which provides a detailed breakdown and analysis how the nature of the complaint and how it is

¹⁰ Commonwealth Ombudsman, *Annual Report, 2009-10*. The decline in complaint numbers is evident in both Centrelink and Social Security Appeals and is due to the fall in the number of "participation failures".

handled. The Annual Report contains scant information about the nature of complaints, and how these could be used to improve the quality of services provided, unlike the much more extensive information on complaints and feedback in Centrelink's annual Reports. In DEEWR's 2008-09 *Annual Report* the Complaints hotline was assessed to be working "well below the Department's benchmark".

Welfare Rights members across Australia deal with many community agencies and our experience indicates that many do not know that complaints mechanisms exist for employment services. The mechanisms are poorly promoted. Information provided at an initial interview may not be absorbed or even understood because of the multitude of other issues with which the job seeker has to contend. Information about employment complaint options is rather hard to find – whereas as on the Centrelink website, it is on the front of the webpage.

It is not an exaggeration to say that in Welfare Rights' experience, the Government complaints line is a well-kept secret. As part of our preparation of this submission Welfare Rights looked for "employment complaints" and the "DEEWR information line" or "DEEWR complaints" information on the web pages of various agencies that offer employment services in Australia. Our search included a number of the major for profit and not for profit employment service providers whose market share is considerable. We also looked at Government websites and the sites of peak employment bodies.

The findings of our quick, informal search was disappointing, to say the least. It took some effort to find the complaints information on the web, and when at the DEEWR site itself. This contrasts to the ease with which information about Centrelink complaints is found. When visiting the Centrelink site, "complaints" is listed on the Homepage.

JobSearch is Australia's largest free online jobs website. It is funded and operated by the Australian Government as a free service to assist job seekers into employment and connect employers with quality staff. On its website, the 4th listing is about a privacy complaint and there is no listing for the DEEWR hotline.

Of the main employment service providers, a quick search found a "feedback" link on just one site, which also informed job seekers that they could contact the Commonwealth Ombudsman for assistance.

12. Why have an independent complaints body?

Ombudsmen, complaints mechanisms and independent organisations that offer individual advice about a person's legal rights exist in most areas of Australian life from health, aged care, to Social Security, public transport, telecommunications, banking, utilities, superannuation and financial services.

The notion of a "fair go" or independent oversight and review processes are widely accepted, and often funded by Government as a way of ensuring quality, transparent, responsive and accessible services.

One major justification for having an employment Ombudsman is that an independent complaints mechanism would help to drive improve provider quality of the services that they provide. To address these issues NWRN proposes that Government undertake an audit into the accessibility of complaints information available from Job Services Australia members and provide advice about employment providers about promoting access and awareness to complaints and feedback mechanisms.

13. Independent information, advice and advocacy for job seekers

In Australia there is a gap in the provision of independent support, advocacy and information services to assist job seekers in their dealings with employment service providers.

Such assistance would ensure a fair and appropriate balance between job seekers' obligations and responsibilities and their rights to receive fair treatment and to obtain high quality assistance from the \$4 billion of public money spent annually on the provision of employment assistance.

An Employment Services Ombudsman and a Job Seeker Advocacy Program would bolster accountability and transparency. It would also better recognise the value of complaints to inform continuous performance improvement across Government and Job Services Australia as a whole. It seems inconsistent that users of employment services in the Disability Employment Network have access to independent advocacy services, but users of mainstream employment services do not. The Welfare Rights Centre located in Brisbane has a Job Seeker Advocacy Project which was highly successful but was not built on recurrent funds.

As part of our work in assisting job seekers to understand their rights and obligations, Welfare Rights produced a wide range of information which aims to support people in their dealings with employment services.

Welfare Rights is well known for its high quality, independent resources for individuals dealing with Centrelink and employment services. This information

is widely available, and widely used by job seekers, community and welfare organisations, and employment service providers. In 2009 the Welfare Rights Centre located in Sydney received a grant from the Department of Employment, Education and Workplace Relations to publish an independent guide to the new compliance system. The booklet, *Get paid, not penalised*, was well received and highly popular among job seekers, employment service providers, community organisations, government agencies and Centrelink social workers.

A job seeker information and advocacy program would seek to address a wide range of problems that are currently experienced by many jobseekers that are highlighted in this submission. On a broader level, such a program would provide an alternative source of intelligence and information which can assist in the continuous improvement of quality employment assistance.

14. Future directions for reform of employment services

In the following section NWRN outlines some ideas for the reform of the system of employment services in Australia that arise from the previous discussion and that stem from our discussions with job seekers about how they experience the system.

We have sought to group the areas for reforms into a number of broad categories.

14.1 Improving initial engagement with job seekers

- Improve job seekers' understanding of the range of initial assistance, to ensure that service expectations are clearly understood and that job seekers recognise the purpose and importance of, the Job Seeker Classification Instrument interviews.
- Where possible, Job Seeker Classification Instrument interviews to be done in person.
- Refine early screening tools to better identify vulnerable new job seekers and those at risk of becoming long term unemployed, so that scarce resources can be targeted to those most likely to benefit from extra assistance.
- Conduct group introductory and information sessions for new job seekers, with a focus on negotiating Employment Pathway Plans, activity requirements, choice of provider, services available, etc. Local Centrelink officers, job service providers and community support agencies should be invited to take part.

14.2 Assisting genuine engagement with job seekers

- DEEWR and Job Services Australia providers to develop "best practice" guidelines for use by job seekers to improving "ownership" and genuine negotiation of Employment Pathway Plans with job seekers.
- Develop prototypes of "model" Employment Pathway Plans and initiate discussions with provider peaks and individual providers to address provider reluctance to genuinely engage job seekers with suitable Employment Pathway Plans.

14.3 Improving information about options and choice

- Establish a “user-friendly” website about employment services and assistance available which is easy to navigate. The website should include, helpful information for job seekers on a wide range of topics, such as: requirements, support available, rights, responsibilities, changing providers, finding specialist providers, customer charter (jobs “guarantee”) and complaints.
- Install self-help job kiosks and touch screens for job seekers at Centrelink offices.
- Initiate discussions between the Office of the Privacy Commissioner, Centrelink, the Department of Education, Employment and Workplace Relations and job seekers stakeholders to enhance the strategic exchange of “beneficial” information sharing about job seekers employment and participation barriers, while ensuring that strong privacy protections are maintained.
- Support the publication and distribution of independent information/advice about employment issues for job seekers, such as “*Activity test and participation requirements*” factsheet produced by the National Welfare Rights Network.

14.4 Support for job seekers

- Improve support for long-term unemployed people (particularly Stream 4 job seekers) in line with the recommendations in the submission from the Australian Council of Social Service.
- Ensure that all employment service providers properly engage with the local community that they are located.
- Improve the experience of job seekers and staff by addressing the significant turnover in the number of employment consultants. Career development, caseloads, workforce planning, and an accreditation framework recognising staff qualifications and skills should all be explored.
- Require Centrelink and the Department of Education, Employment and Workplace Relations to develop access and equity policies which do not place job seekers at a financial disadvantage as a result of the high cost of meeting activity and contact requirements. The costs of contacting Centrelink and other government and non-government agencies can be prohibitive because calls from 18 and 13 numbers are billed at higher mobile costs.

- Increase the threshold skills attainment to Certificate 3 level.

14.5 Quality

- Government, industry and stakeholder collaboration and cooperation to focus on the development of an employment services sector workforce strategy as discussed above.
- Regularly publish data on the Department's website on the numbers and profiles of job seekers, including: the streams of assistance; the use of Employment Pathway Funds; type of employment assistance received; employment and other outcomes.

14.6 Access to independent information, advice and complaints mechanisms

- Introduce an independent job seeker complaints scheme (an Employment Service Ombudsman) and improve awareness of internal complaints resolution schemes.
- Increase job seekers' awareness of their rights to services and supports, and obligations.
- Support and resource job seeker access to independent, third party assistance to assist job seekers who have limited capacity to advocate resolution to difficulties with providers.
- Undertake an audit into the accessibility of complaints information available from Job Services Australia members and provide advice about employment providers about promoting access and awareness to complaints and feedback mechanisms.

Attachment 1 over the page see -. National Welfare Rights Network Fact sheet – “*Activity test and participation requirements*” available at www.welfarerights.org.au

Activity test and participation requirements

This factsheet explains the activity test and participation requirements you must meet if you receive Newstart Allowance, Youth Allowance (unemployed), Parenting Payment or Special Benefit (nominated visa holder). It also explains when you may be exempt from the activity test or participation requirements.

15. Newstart Allowance, Youth Allowance and Special Benefit

To get Newstart Allowance, Youth Allowance and Special Benefit you must sign an Employment Pathway Plan and comply with its terms, and meet the activity test.

16. Parenting Payment

If you claimed Parenting Payment after 1 July 2006 you will have to sign an Employment Pathway Plan and meet your participation requirements when your youngest child turns six.

If you claimed Parenting Payment before 1 July 2006 you will have to sign an Employment Pathway Plan and meet your participation requirements when your youngest child turns seven.

17. Employment Pathway Plans

You must enter into an Employment Pathway Plan and comply with its requirements unless you are exempt from the activity test or participation requirements (see below).

Your Employment Pathway Plan will outline what you need to do in order to receive payment. It may include:

- the number of job contacts you must make each fortnight;
- a requirement to attend a Job Services Australia provider; or
- a “Work Experience Activity” (such as Work for the Dole).

Centrelink and your Job Services Australia provider must take into account your capacity to comply with your Employment Pathway Plan. If they have not considered your family and caring responsibilities, or the impact of any disability or illness, then the terms of the Plan should be appealed. If they unreasonably refuse your suggestions for activities to include in your Plan, eg, a short full-time course of study that you think would help you get a job, you should appeal.

18. What if I don't comply with my Employment Pathway Plan?

You must comply with the terms of your Employment Pathway Plan. If you fail to comply without a **reasonable excuse**, you could have a “no show, no pay failure”, a “reconnection

failure” or a “serious failure” penalty. Penalties can range from losing a day of your payment to an 8 week non-payment period. For further information, see the factsheet “Penalties for non-compliance”.

19. What is the activity test / participation requirements?

To receive payments, you have to meet an activity test or participation requirements, unless you are exempt (see below). This may include:

- looking for suitable paid work;
- accepting all suitable job offers;
- attending job interviews;
- attending interviews with Centrelink and your Job Services Australia provider; and
- attending training courses which could improve your chance of getting a job.

Usually you also need to detail your job search efforts in your fortnightly form and/or a jobseeker diary.

Work Experience Activity

If you are between 18 and 49 you will be required to do a “Work Experience Activity” after you have been on payment for 12 months. This can mean doing a course, working part-time or doing another activity that will improve your chance of getting a job.

20. Special rules for people who are over 55

If you are 55 or over you can meet your activity test or participation requirements by undertaking approved voluntary work and / or paid work of 30 hours per fortnight. You will not have any job search requirements although you must continue to be registered with a Job Services Australia provider.

If you do not meet the 30 hour per fortnight requirement, and do not have a reasonable excuse, you will be required to meet the same job search requirements as other people on Newstart Allowance, Youth Allowance, Parenting Payment and Special Benefit.

21. Special rules for principal carers of dependent children under 16

If you are the principal carer of a dependent child under 16 you can meet your activity test or participation requirements by looking for part-time work of at least 15 hours per week (although you can be required to accept a job of up to 25 hours per week if one is offered to you).

If you are offered a “suitable” job you will be required to take the job or risk an eight week non-payment penalty. To work out if a job is “suitable” Centrelink must take into account whether you have child care, the travel time and cost of travel, and whether or not you would be financially worse off if you took the job.

If you are working or are self-employed at least 15 hours per week, and earning at least the equivalent of the Federal Minimum Wage for 15 hours per week, you will not need to do any more activities in order to receive payments.

You can also meet your activity test or participation requirements through any combination of part-time paid work, part-time study and voluntary work with vocational value that totals 15 hours per week. Combinations of study, voluntary work and paid work must be approved by your Job Services Australia provider and included in your Employment Pathway Plan.

If you need to undertake a Work Experience Activity, your activities can be done during school hours (9am – 3pm) unless you can access suitable child care.

22. Special rules for people with a partial capacity to work

If you think that you have a permanent disability or medical condition that limits your ability to work, you can ask Centrelink for an assessment by Centrelink to see if you only have a partial capacity to work. If you only have a partial capacity to work you will have reduced activity test or participation requirements.

You will be considered to have a partial capacity to work if you have a physical, intellectual or psychiatric impairment that prevents you from working 30 or more hours per week for at least the next two years. Additionally, because of your impairment, no training activity is likely to enable you to undertake work of 30 or more hours per week within the next two years.

Activity test if you have a partial capacity to work 15–22 hours a week

If you are assessed as having a capacity to work 15–22 hours a week you will have the same activity or participation requirements as principal carers (see above for details).

Activity test if you have a partial capacity to work 0–7 or 8-14 hours a week

If you are assessed as having a capacity to work 0-7 or 8-14 hours a week your Employment Pathway Plan will not require you to actively seek work. You can meet your activity test or participation requirements by attending a quarterly interview with Centrelink.

23. What if I can't meet my activity test or participation requirements?

If you're sick or injured, you can be given a temporary exemption from the activity test or participation requirements if:

- you are unable to work because of sickness or an accident; and
- the sickness or injury is temporary; and
- you can't participate in another suitable activity during the period you are sick or injured; and
- you provide Centrelink with a medical certificate which includes all the necessary information; and
- Centrelink decides that due to your medical condition you are unable to meet your activity test or participation requirements.

An exemption will only be granted for up to 13 weeks. If at the end of 13 weeks you are still unable to work you will need to provide Centrelink another medical certificate.

Other circumstances in which temporary exemptions may be granted include:

- major personal disruption to your home;
- major personal crisis;
- jury duty;
- being a refugee;
- being homeless; or
- living in a remote area.

Principal carer – school holidays and leave periods

If you get Newstart Allowance, Youth Allowance or Special Benefit as a principal carer you will be automatically exempt from activity or participation requirements during the fortnight that includes the Christmas and New Year public holidays.

Special rules apply to breaks in employment over the Christmas long school holiday period. You can be exempted from your activity or participation requirements for up to eight weeks during this time, so long as you have employment to return to. You will need to contact Centrelink within the first fortnight of the closure and may need to provide proof of ongoing employment.

If you are on paid leave (at any time of the year), you will be taken to be meeting your activity or participation requirements so long as your income does not reduce during the leave period and your Centrelink payment does not go up.

If you take a break from employment due to circumstances outside your control (such as a temporary business shut down), and you're not on paid leave during this time, you can still meet your activity or participation requirements as long as you have a job to return to at your usual level of employment and as long as the break is less than 4 weeks.

Principal carer – 12 month exemptions

If you get Newstart Allowance, Youth Allowance or Special Benefit as a principal carer or get Parenting Payment, you will have an automatic exemption from the activity test or participation requirements for up to 12 months if you are:

- an active registered foster carer; or
- home schooling your child or helping with your child's distance education; or
- caring for a large family of four or more children, aged between six and 19; or,
- caring for a child and you are a relative or community member (other than a parent), in accordance with a Family Court Parenting Order or State/Territory Parenting Order.

If at the end of the 12 months your situation has not changed the exemption may be granted again for up to another 12 months.

If you are a single parent and you are granted one of these exemptions, you will be paid at a higher rate of payment, equivalent to the rate paid for Parenting Payment (single).

Principal carer – temporary exemptions

You may be granted a temporary exemption if you:

- are caring for a child with a disability. This exemption can be granted for up to 12 months. There is no limit to the number of times it can be granted;
- have experienced domestic violence or stress due to a relationship breakdown (this exemption can be granted for up to 16 weeks);
- are caring for a frail, aged or disabled adult family member (this exemption can be granted for up to 16 weeks);
- are caring for a child or family member who has a temporary illness or injury (this exemption can be granted for up to 16 weeks); or
- are caring for your youngest child who is six but has not yet started school (this exemption can be granted for up to 16 weeks).

There is no limit to the number of times the above exemptions can be granted.

24. Appeal rights

If you think a Centrelink decision is wrong you have the right to appeal against it. **Appealing is**

easy and free. To appeal simply tell Centrelink that you are not happy with its decision and that you would like to appeal to an Authorised Review Officer (ARO). It is best to lodge an appeal in writing and you should keep a copy of your appeal letter. However, you can lodge an appeal over the telephone.

The ARO is a senior officer in Centrelink who has the power to change the original decision. Many people are successful at this level.

You can appeal to an ARO at any time. However, to receive back pay from the date you were affected by the original decision, you must appeal to an ARO within 13 weeks of receiving written notice of the original decision. If you appeal more than 13 weeks after receiving the notice and you are successful, you will only receive back pay from the date you appealed.

If you think the ARO decision is wrong you can appeal to the Social Security Appeals Tribunal (SSAT). The SSAT is independent of Centrelink.

You have further appeal rights to the Administrative Appeals Tribunal and the Federal Court. Time limits apply.

For more information on appealing see the factsheet “Appeals – how to appeal against a Centrelink decision” and the guide “Appealing to the Social Security Appeals Tribunal”.

25. Interpreters

If you think you need an interpreter, or if you feel more confident with an interpreter, you should use one of the three **free** available interpreter services.

- Most Centrelink offices have interpreters available at regular times each week. Your local Centrelink office can tell you about their available languages and times.
- You can telephone the Centrelink Multilingual Call Centre on 131 202 and speak to a bilingual Centrelink officer.
- You can also call the **free** Telephone Interpreter Service (TIS) on 131 450 and ask for an interpreter.

Please note: This factsheet contains general information only. It does not constitute legal advice. If you need legal advice please contact your local Welfare Rights Centre/Advocate.

Welfare Rights Centres are community legal centres, which specialise in Social Security law, administration and policy. They are independent of Centrelink. All assistance is free.

This factsheet was updated in November 2010.

www.welfarerights.org.au