

Submission to the Independent Review of Breaches and Penalties in the Social Security System

Background

The Brotherhood of St Laurence is providing this response on the basis of our experience in delivering Job Network employment services such as Intensive Assistance Job Matching and Job Search Training, being a provider of Jobs, Placement, Education and Training (JPET), and the Community Support Program (CSP), and our research with people on low incomes.

We are concerned about the dramatic increase in the number of breaches in recent years; 189 per cent over the three years to 2000-2001. We accept that sanctions for non-compliance with legal requirements are a necessary part of the social security system, but this dramatic rise suggests that something has gone very wrong.

The severity of punishment for incurring a breach is also of great concern. The magnitude of the fines place an increased burden on material relief agencies, and may even be forcing some people into crime to survive (Jones 2001).

Why are breaches increasing?

Increased requirements

There appear to be several factors contributing to the increase in breaches. The first, and probably most important, lies in the introduction of new or expanded requirements over the last few years for people to continue to receive payments. These include:

- mutual obligation,
- Work for the Dole,
- an increase in the number of jobs to be sought each fortnight,
- job seeker diaries to record details of job applications,
- employer contact certificates to be signed by employers contacted,
- Preparing for Work Agreement.

The latter records the activities which an applicant for Newstart or Youth Allowance must undertake. Anecdotal evidence from welfare rights centres suggest that very few people receive a copy of this agreement. It is apparently obligatory to provide a copy to those people who ask for it, but a copy is not provided as a matter of course. A further problem with the PFWA is that there is some evidence, again from welfare rights centres, that administrative requirements are being written into some agreements, and then if this requirement is not met, the person receives an activity test breach rather than an administrative breach.

Moses and Sharples (2000) showed that the rise in breaching occurred at the same time as the introduction of new requirements. This suggests that the increase in breaches is at least partly a result of the increased range and number of obligations imposed on job seekers.

Introduction of the Job Network

The introduction of the Job Network in April 1998 added an extra layer of complexity for unemployed people. Job Network providers are required to report clients to Centrelink if they fail to respond to a referral, or reply to correspondence, in effect becoming part of the regulation of the social security system. This places providers in a difficult position: if they report someone to Centrelink they risk jeopardising the relationship they have with that person that facilitates employability and motivation, but if they fail to report someone, they may be in breach of their contracts.

One way in which services overcome this dilemma is to tell job seekers that they simply pass information to Centrelink but that Centrelink makes the decision about whether a breach should be imposed. This is technically true, but it may be done in such a way as to downplay the importance of the monitoring role of the Job Network provider. It may also reinforce negative attitudes towards Centrelink and make Centrelink clients less willing to engage with it or pass on information directly.

Breaching is currently used by some providers to re-engage people who fail to attend a provider interview or when the provider has not seen the person for some time, and attempts to contact them by phone or letter fail. It would be preferable to have Centrelink staff and Job Network providers work collaboratively to gain a shared understanding of clients needs so that people receive the most help possible.

The funding mechanism for Job Network includes an indirect incentive structure which appears to promote breaching. Job Network providers (such as Intensive Assistance programs) receive the bulk of payment only after a client is placed into employment or an educational program or a non-payable outcome. They cannot place new clients onto their caseloads until existing clients are taken off – either by gaining a job, by the person leaving following a ‘irretrievable breakdown of the relationship’ or by the client being breached.

This incentive is heightened by the considerable cost pressures on Job Network services. For example, administrative work is not adequately funded (e.g. data entry) and advocacy and liaison with Centrelink is not funded at all.

There is little real choice available to people in selecting their Job Network provider. Although Centrelink has a statutory obligation to provide job seekers with a choice of providers with a given region, this appears to happen infrequently. The information which is available is not very helpful in making decisions about which service to go to. Many clients appear to be referred automatically without being able to choose. In these circumstances, clients may feel little choice in the service they are referred to, and given the difficulty in changing, if they feel the service is unhelpful, they respond by withdrawing from contact. In many cases, this response represents lack of satisfaction with the Job Network provider or the process rather than a reluctance to seek or accept assistance.

Cultural and language differences among some client groups exacerbate these difficulties. BSL Job Network providers in Fitzroy work with a high proportion of Asian clients who don't speak English (mainly Vietnamese, but also from a range of other Asian countries). Many of these clients have great fear of Centrelink and government generally and are reluctant to provide information. In order to improve its service to this group, the BSL employed a worker who speaks Vietnamese, Cantonese and Mandarin. This has made a large difference – people trust this worker, and turn to him for information about Centrelink as well as employment services. LIAISON WITH Centrelink

Centrelink assessment procedures

The reduction in the number of unemployed people (from almost one million to around 680,000) over the last decade means that a greater proportion of those currently seeking work are likely to face substantial barriers to labour market entry. These barriers may be due to homelessness, low levels of literacy, physical or psychiatric disabilities, or substance abuse.

Assessment procedures at Centrelink - completion of the Job Seeker Classification Instrument (JSCI) - depend on people disclosing such personal details in order to trigger amended activity test arrangements, and in the case of homeless people, to document alternative contact methods (such as a homeless agency). Many young people feel distrustful of Centrelink and are concerned that any personal information they provide could be used against them in some way. The procedures for completing the JSCI lack privacy, often being completed within earshot of other clients, and interviews are often very short. In these circumstances, many people do not provide information requested, especially in one interview with a stranger.

It is unclear whether Centrelink Customer Services Officers are skilled or experienced enough to deal flexibly with individual circumstances in this assessment process. Staff may need more training in basic interviewing and assessment skills, and there is probably a need for more social workers and occupational psychologists who have greater capacity for this approach.

There are presently long waits on the phone or in Centrelink offices for people wishing to contact Centrelink to pass on information. Many clients also feel that their contact with Centrelink is impersonal, especially through national phone system where the operator sits in a call centre rather than being a worker in the local office and there is no continuity of contact with staff who the client knows. This does not promote ease of communication, and means that passing on relevant information is far more difficult than necessary.

Relationship between Centrelink and Employment services

As a result of the flawed assessment processes described above, Centrelink data can be out of date or inaccurate. An inaccurate score means that a persons' activity test requirements do not take proper account of their circumstances so they are more likely to default on some obligations and incur a breach. Referrals to Job Network providers are made automatically based on the JSCI score, but many of these referrals are to an inappropriate service type.

For example, young people receiving help through the Jobs, Placement, Education and Training (JPET) program run by the Brotherhood of St Laurence have encountered problems in the relationship with Centrelink. JPET has capacity to exempt someone from activity testing for 13 weeks, but this person may still be referred automatically to Intensive Assistance (IA), because there is no JPET code to go on the screen at Centrelink. If they do not attend the IA service, they are breached, requiring substantial effort on the part of JPET staff to negotiate with Centrelink to have the breach withdrawn. The problem of Centrelink information about non-DEWRSB programs also applies to State government funded programs, because Centrelink does not have any computer code to indicate attendance at these programs.

BSL employment services experience significant variation between Centrelink offices in terms of information and the relationship. With some Centrelink offices (notably Fitzroy), there is a very good relationship. Workers at BSL services have personal phone numbers of key Centrelink staff and are able to ring them directly when necessary. Although Centrelink staff are constantly changing, the BSL manages to establish good relationships with key staff. The most important are the social workers and staff in the youth unit. With some other offices, staff are less willing to bring direct contact numbers and appear to be less open to communicating with outside agencies.

What needs to change?

Reducing requirements leading to breaching

First, the requirements of unemployed people need to be revised. This would seem warranted not only because of the impact of increased obligations on breaching, but also because of the tightening labour market. Additional requirements might be justified when work is plentiful (although that has not been the case over the last decade) but seem unreasonable when the labour market is contracting. The most recent labour force data show that unemployment rate rising to 7.1 per cent, and that Budget figures forecast a further rise. Moreover this is a strong possibility of a global recession which will inevitably affect the Australian economy and force unemployment even higher. There are more than 60 different categories for breaching, many of little or no relevance to the question of whether someone is actively trying to find work. Removal of penalties for many essentially administrative tasks (such as attending information sessions, responding to letters) would have no effect on a person's job search activity, but would lessen the incidence of breaching enormously.

In addition, recent research suggests that some forms of activity testing - job seeker diaries, and employer contact certificates - may be counter-productive. For example, job seekers felt that employer contact certificates would lessen their chances of obtaining work because employers discriminate against people who had to have these completed (Tann & Sawyers 2000).

Improving the information held by Centrelink

Assigning a personal Centrelink contact for every client would enable better communication and provision of information. Some Centrelink offices have introduced a

such a system and clients see this as a significant improvement as they feel that they have a more direct and personal relationship.

Providing greater privacy in interviews, and conducting the assessment process over a period of several interviews would help in making people feel comfortable in confiding very personal information. This may need to be accompanied by an increase in staff numbers to ensure sufficient time for interviews.

Early intervention

Since breaches are meant to be a 'last resort' and the fines for second and third breaches are very high, it would seem sensible to institute a review of the clients circumstances after the first breach, if not earlier. This might include a check of the information held by Centrelink, whether clients know what is required of them and the consequences of failing to comply, and how other agencies, especially Job Network providers, are or may be involved in preventing future breaches.

Breaching is currently used as a tool to re-engage people, for example when they do not attend a service for some time. It would be preferable to have Centrelink and Job Network working more closely together so they both have access to relevant information.

One suggestion is that Centrelink place an officer in Job Network services for a certain period each week. They would be able to provide information about processes to staff and clients, deal with problems on the spot, and accept information about say changes of address, contact details and so on. This would also mitigate against the perception of Centrelink as removed and hostile held by many job seekers and service providers.

Greater flexibility to meet individual needs

There is a need for greater ease of movement of job-seekers between Job Network providers so that people feel they really can exercise choice.

The introduction of a 4-week period after referral to a Job Network provider where a reassessment can be conducted (announced in the 2001 budget) is a positive initiative, since first assessments are often inaccurate. However, 4 weeks may still not be enough time for clients to feel comfortable in disclosing some information.

Literacy and numeracy training

The \$20.80 per fortnight supplement for people attending approved literacy and numeracy training (announced in the 2001 budget) is also a positive initiative, although whether this amount covers the expenses incurred in participating in courses is questionable. This will only be effective if appropriate training courses are available and accessible.

Availability of legal advocacy

Anecdotal evidence suggests that up to a third of breaches are overturned when appealed to the Social Security Appeals Tribunal (SSAT). However many people do not appeal,

either because they do not know how, or because they feel they will not get a fair hearing. Advocacy support (such as welfare rights centres) is a key mechanism for providing information and education and assisting people to appeal. Advocacy is often carried out by employment services or other community agencies, but this work is unfunded, and undertaken by staff without the detailed knowledge of the social security system which can be necessary.

Conclusion

While sanctions are a necessary fallback for the social security system, the need for compulsion to ensure that claimants are 'genuinely' seeking work is grossly overstated. For example, research conducted through the Department of Family and Community Services concluded that:

'In summary, it appears that the basic activity test requirement to look for, and accept, paid work is met by the vast majority of unemployed people... This, combined with the fact that most people would seek work regardless of Centrelink monitoring, indicates that on the whole, unemployed people want to work and are taking steps to find it.' (Tann & Sawyers 2001, p. 13)

The current rates of breaching are excessive and the severity of the penalties places people under great hardship. Ironically, the system as it operates at present may well be multiplying the barriers which unemployed people face in finding work, since they must spend untold hours passing on more and more information, getting Centrelink to fix its mistakes, and finding resources to replace those lost through breaching. Reform of breaching will make the social security and employment assistance systems both fairer and more effective.

References

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