

# **Impacts of the new Job Seeker Compliance Framework**

Report of the Independent Review

September 2010

**Independent Review  
of the  
Job Seeker Compliance Framework**

**A Report to the  
Parliament of Australia**

**September 2010**

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# Chapter 1

## THE SCOPE OF THE REVIEW

### INTRODUCTION

1. This Independent Review was established by the then Minister for Employment Participation, Senator the Hon. Mark Arbib, in compliance with the requirements of the Social Security Legislation Amendment (Employment Services Reform) Act 2009. That Act established a new system for achieving compliance with key requirements applying to people wishing to receive Newstart Allowance and some types of Youth Allowance, Parenting Payment and Special Benefit. The new system applies to requirements in relation to seeking work and improving prospects of finding work. It does not include the separate requirements to report changes in income, assets, marital status and other matters affecting ongoing eligibility.

2. Section 42ZA of the Act required the Minister to establish an “independent review of the impact of the amendments” made by the relevant Division of the Act (ie, the new compliance system). It required that the review be conducted by “an independent panel, chaired by a person with expertise in social security and employment matters” and be provided with adequate resources for the task. The Act also specified an extensive list of matters to be considered by the Review (see Appendix 1).

3. The Act provided that the new compliance system was to take effect from 1 July 2009. It required the Review to be undertaken “as soon as possible after 30 June 2010” (ie, after the first twelve months of the new system) and to provide a written report to the Minister which must be made public and tabled in each House of Parliament by 30 September 2010.

4. Professor Julian Disney was appointed to chair the Review and the other members appointed by the Minister were Ms Anna Buduls and Mr Peter Grant. Further details about the members of the Review are in Appendix 2.

### CONDUCT OF THE REVIEW

5. The Review was established in April 2010 and during the following five months conducted a program of research, calls for submissions, public consultations and informal consultations with experts from the government and non-government sectors. The Review was especially

fortunate to have the invaluable assistance of Jenni Downes as part-time Research Officer. Although appointed by the Review and responsible to it, she was remunerated by the Department of Education, Employment and Workplace Relations (DEEWR). That Department, and Centrelink, also provided extensive data and other information at the request of the Review.

6. The Review conducted public consultations in Brisbane, Dubbo, Geelong, Melbourne, Perth, Sydney and Townsville. These consultations were attended by a total of about 150 participants, the great majority of whom were employees of employment service providers. The remainder consisted mainly of welfare rights workers, together with a small number of job seekers. Employer groups were invited to attend but did not do so. Further details of these consultations are in Appendix 3.

7. The Review held consultations with senior representatives of Centrelink and DEEWR, being the two government agencies centrally involved in the new compliance system, and of the Social Security Appeals Tribunal. It also met twice each with senior representatives of Jobs Australia and National Employment Services Association, being the major national organisations of employment service providers, and with the Australian Council of Social Service and National Welfare Rights Network as the major national organisations for welfare workers in this field. It had individual discussions with leaders from a number of employment service providers and also visited offices of Centrelink and DEEWR in several States, meeting with a range of their staff.

8. The Review placed public advertisements to explain its role and invite submissions to it. It also made direct invitations to a number of groups representing employment service providers, welfare organisations, employers and unions, as well as to individual employment service providers and welfare organisations. A total of twenty three submissions were received and made publicly available on the Review's own section of the DEEWR website. In order to help people make submissions, the Review sought early public release of DEEWR data on the operation of the new system. Some data were released eventually but rather too late for many people to take them into account in their submissions.

## **DEVELOPMENTS DURING THE REVIEW**

### **Evolution of the New System**

9. The new compliance system involved a number of changes which required lengthy transitional periods after its introduction on 1 July 2009. This meant that many data and comments relating to the first six months of its operation were of very limited validity for assessing its operation when fully operative. Indeed, some were likely to be highly misleading. Moreover, as experience of the new system developed, the government agencies and many providers adjusted their guidelines and

practices to address teething problems which became apparent. Some of the most important adjustments of this kind were made late in the third quarter of the new system and their effects were still working their way through during the final quarter.

10. The evolution of the new compliance system was also affected by the fact that two new systems for provision of employment services were being introduced at the same time. Job Services Australia commenced on 1 July 2009, replacing the old Job Network system. Disability Employment Services commenced on 1 March 2010, replacing the old Disability Employment Network and Vocational Rehabilitation Services. These changes make it difficult to assess in some instances whether a perceived impact of the new compliance system is actually due, at least in part, to the new systems for service provision. Moreover, the latter systems themselves were evolving during the period under review.

11. The range and depth of these changes have made it very difficult in many instances to draw comparisons between the new compliance system and its predecessor. Much of the data are not closely comparable because of changes in relevant laws and processes or in methods of collating and presenting statistics. When combined with the fact that monthly data on many key aspects were still changing significantly at the end of the first year of the new system, these problems have required the Review to be cautious in many of its assessments and to warn of the risk of drawing misleading conclusions unless statistics, other information and comments are examined very closely.

### **Attending Centrelink offices**

12. After the commencement of the Review, Senator Arbib wrote to the Review on 31 May 2010 advising it of significant changes in the procedures and requirements for contact between job seekers and Centrelink which would take effect from 1 July 2010. He asked the Review to take them into consideration in its work. The Review agreed to the Minister's request as the changes were clearly relevant to the matters which it had been asked to examine. A copy of the Minister's letter is in Appendix 4.

13. The changes involved two key elements. First, most job seekers became able to submit on-line or by telephone the fortnightly reports which are required for them to continue receiving participation payments. Previously, it was usually necessary to submit the reports in person at a Centrelink office. Second, job seekers became required to attend their local Centrelink office at specified intervals for a Personal Contact Interview which is to be more thorough than the very brief fortnightly contacts under the previous system.

14. The Review was advised subsequently that most job seekers will be required to attend for these Personal Contact Interviews every four, six or twelve weeks but some will be required to do so more frequently.

A “poor compliance history” will be one criterion for requiring attendance to be more frequent than would have otherwise applied. The Review was also advised that failure to attend a Personal Contact Interview would result in job seekers’ payments being suspended until they did attend, whereupon they would be back-paid in full.

### **Appointments with providers**

15. Senator Arbib wrote again to the Review on 2 July 2010 advising that the Government had “given consideration to” a change in the sanctions for failure by job seekers to attend an appointment with their employment service provider. The change would involve suspending the job seeker’s payment until he or she agrees to attend a rescheduled appointment. No further detail was provided of the proposed change. A copy of the Minister’s letter is in Appendix 4.

16. The Review agreed to the Minister’s invitation to “give consideration to this possible measure” because, although the proposal was described as being complementary to the new compliance system, it would significantly affect that system and, if adopted, could possibly be integrated into the system.

17. During the ensuing Federal election campaign, both major parties announced policies which were germane to this proposal and to other aspects of the compliance system. The policies were not described in detail by the parties and are not considered explicitly in this report. They appeared to be broadly similar, however, to proposals which were already under consideration by the Review as a result of its research and consultations.

### **Re-arrangement of government departments**

18. At the time of completion of this report, the newly-elected government had announced its Ministerial portfolios but had not announced details of the consequential re-arrangement or re-naming of departments. Accordingly, the report is based on the previous arrangements, especially in relation to the name and responsibilities of the Department for Education, Employment and Workplace Relations.

## **STRUCTURE OF THIS REPORT**

19. The terms of reference of the Review were extraordinarily broad, often overlapping, and sometimes extending far beyond the main and direct impacts of the new compliance system. It would have been both inappropriate and unfeasible to divide the report into the separate terms of reference and to report separately on each of them. Indeed, as noted in chapter 6, some terms of reference were not capable of being investigated and reported upon in significant detail and with any reasonable degree of certainty. In some cases, this was inherent in their nature; in others, it was due to a deadline which effectively required the

report to be completed only two months after the period to which it related and while the system was still evolving considerably from month to month.

20. The following chapters of the report begin with an overview in chapter 2 of the new compliance system. The report then examines in chapter 3 some key aspects of the context in which the compliance system operates, especially the new systems for provision of employment services to job seekers. Chapter 4 focuses on Participation Reports, which existed prior to the new system but now operate in a somewhat different manner and are of central significance to the new system. Chapter 5 examines the structure of failures and sanctions which form the core of the new system. Chapter 6 considers some other aspects of the terms of reference which have not been covered in earlier chapters. The Report concludes with a Summary of Recommendations, comprising a summary of key principles on which the recommendations are based, then a number of Principal Recommendations and finally a list of other recommended actions.

21. A Statistical Annex contains a number of key statistical tables which have been developed by the Review from data provided by DEEWR.



## Chapter 2

# AN INTRODUCTORY OVERVIEW

### INTRODUCTION

1. As mentioned in chapter 1, the purpose of this Review is to examine the nature and operation of the system introduced in July 2009 for ensuring that people who are receiving participation payments comply with the participation requirements for doing so. This chapter provides an introductory overview of the new system and of the context in which it operates, especially the new Job Services Australia system for provision of employment services which was introduced at the same time.

2. The term “participation payments” includes four types of income support from the Australian Government, namely

- *Newstart Allowance*;
- *Youth Allowance* (if the recipient is under 21 and not in full-time study);
- *Parenting Payment* (if the recipient has no children under six years old);
- *Special Benefit* (if the recipient holds a specified type of visa).

People who receive participation payments are referred to in this report as “job seekers”. At the end of the first year of the new compliance system there were about 780,000 job seekers, of whom about 73% were on Newstart, about 10% on Youth Allowance, about 17% on Parenting Payment and a small number on Special Benefit.

3. Participation payments are made by Centrelink, which is a statutory agency under the responsibility of the Minister for Human Services and is also responsible for deciding whether participation requirements have been complied with by job seekers. The development of government policy in relation to participation requirements, however, is principally the responsibility of the Minister for Employment Participation and the Department of Education, Employment and Workplace Relations (DEEWR). This includes, subject to relevant legislation, determining the ways in which participation requirements will be applied and regulating the systems of employment service providers which help job seekers to improve their prospects of finding work.

## **Receiving participation payments**

4. In order to begin receiving a participation payment, a person must make a claim to Centrelink and answer a number of questions to establish their eligibility. They may do so by telephone or in person. Most job seekers become eligible for payment seven days after their claim is received. There are some cases, however, in which shorter or longer waiting periods apply. Most payments are made fortnightly in arrears, meaning that a job seeker's first pay usually will not be received until at least two weeks after the initial claim was made.

5. When processing initial claims for participation payments, Centrelink asks claimants a number of questions to determine the types of participation requirements which should be applied. The questions also help Centrelink to decide whether the job seeker has substantial barriers to finding work and should be referred for more detailed assessment or, on the other hand, has no such barriers and should be referred immediately to an employment service provider (referred to in this report as a "provider") for help to find work. This process of questions and classification is conducted by administering the Job Seeker Classification Instrument (JSCI). Where the job seeker is referred for further assessment, this usually involves a Job Capacity Assessment (JCA).

6. Where job seekers are referred directly to an employment service provider (known as the Rapid Connect process), they will not become eligible to start receiving their payments until they have met with that provider. But if they meet with their provider within 14 days of referral their payments will then include back pay from the end of their seven day waiting period. On the other hand, job seekers who have not been referred directly to a provider will become eligible to receive payments as soon as the seven day waiting period finishes. In other words, the payment for each type of job seeker is calculated from the end of the waiting period but job seekers in the Rapid Connect process are not eligible to start receiving it until they have met their provider.

## **Vulnerability Indicators**

7. Centrelink officers are also required to consider at their initial engagement with a job seeker, and at subsequent engagements, whether to insert a Vulnerability Indicator (VI) in the records relating to the job seeker which are accessible by Centrelink, DEEWR and the job seeker's employment service provider. The approved reasons for inserting a VI include a recent psychiatric problem or mental illness (about 45% of current VIs) and illness or injury requiring frequent treatment (about 18%). The next most common categories are drug or alcohol dependence (about 15%); significant language or literacy problems (about 8%); and homelessness (about 5%).

8. The purpose of the Vulnerability Indicator is to ensure that the vulnerabilities are taken into account by DEEWR, Centrelink and the providers when setting participation requirements for the job seekers in question and when responding to apparent failures to comply with those requirements. Overall, about 20% of job seekers currently have a Vulnerability Indicator.

### **The scope of this chapter**

9. The remainder of this chapter provides a preliminary outline of
- the participation requirements for job seekers;
  - the provision of employment services to job seekers;
  - the new system for achieving compliance with participation requirements;
  - some contrasts with the previous compliance system.

## **PARTICIPATION REQUIREMENTS FOR JOB SEEKERS**

### **Basic requirements**

10. The two types of basic participation requirement which may apply to most job seekers involve

- satisfying the Activity Test;
- signing and complying with an *Employment Pathway Plan* (EPP).

11. The Activity Test requires job seekers to be “actively seeking, and willing to undertake, paid work” of a suitable kind. For many job seekers this includes a specific requirement to demonstrate that they are looking for work (eg, submission of a fortnightly job search report about inquiries with prospective employers). Such requirements are usually also included in the job seeker’s Employment Pathway Plan so that it provides a comprehensive statement of the job seeker’s obligations.

12. The Employment Pathway Plan is drawn up by the provider but is signed by the job seeker and is meant to take reasonable account of his or her individual circumstances and wishes. The actions which the EPP may require of the job seeker include attendance at specified types of assessment and assistance, and at specified training, work experience activities and job interviews. Some items in the EPP may be included as optional if explicitly stated as such, but others must be included and be compulsory for certain types of job seeker. The EPP may also include obligations on the provider.

13. Subject to the exceptions mentioned below, all job seekers are required to comply with both the Activity Test and an Employment Pathway Plan. Some of this group, however, are deemed to be satisfying the Activity Test if they comply with their EPP. This includes, for example, some job seekers who have major barriers to finding work

(and are therefore classified in Stream 4 – see below) or have a very limited capacity to do work due perhaps to a medical problem.

### Some exceptions

14. Job seekers who are receiving Parenting Payments do not have to comply with the Activity Test, although they have to comply with an EPP or other special requirements. Two main groups of job seekers are effectively exempt from both the Activity Test and an EPP requirement. They are:

- Job seekers with a *temporary exemption* from both requirements (eg, some principal carers; recently-arrived refugees; people who are ill, injured, in a crisis or recently subject to domestic violence) – currently comprising about 7% of all job seekers;
- Job seekers who are undertaking an *approved activity* (eg, many principal carers with young children who are undertaking approved work or study for a specified number of hours) – currently comprising about 13% of job seekers.

## PROVISION OF EMPLOYMENT SERVICES

### Introduction

15. By using the Job Seeker Classification Instrument and often also a Job Capacity Assessment, Centrelink allocates most job seekers to one of four “streams” of employment services. This allocation determines the level of assistance which they are entitled to obtain from an employment service provider operating under a Job Services Australia (JSA) contract with DEEWR. Providers can arrange subsequent re-assessments of job seekers (using the JSCI, JCA or other means) which, amongst other things, may lead to the job seekers being re-allocated to a different stream.

16. Although administered principally by Centrelink, the Job Seeker Classification Instrument is designed by DEEWR and aims to allocate a specified proportion of job seekers into each of the four streams. The different streams are as follows:

- Stream 1: job seeker has no major barrier to employment
- Stream 2: job seeker has moderate barriers to employment such as limited English, work history or qualifications, or has been unemployed for twelve months or more
- Stream 3: job seeker has a combination of barriers, including non-vocational barriers, and has generally been unemployed for 12 months or more
- Stream 4: job seeker has more severe barriers to employment, such as drug or alcohol problems, domestic violence, mental ill-health or homelessness.

17. If they have been receiving participation payments for twelve months, each job seeker is re-assessed by a Stream Services Review to determine whether they are to be transferred to a higher (ie, higher-numbered) stream or, if in Stream 4, are to continue in it for a further six months. In the overwhelming majority of cases, however, the job seekers will be placed into the “work experience phase” which involves less intensive assistance from the provider and will remain there until they cease receiving participation payments (or, due to a change in circumstances, are transferred to a higher stream).

18. At the end of the first year of the new system, about 85% of all job seekers were currently connected with one of its four streams. Most other job seekers had been allocated to a separate system of employment service providers which have a Disability Employment Services (DES) contract with DEEWR. They are job seekers who have been assessed as having an injury, disability or health condition that requires specialist support to help them find and keep work, and possibly medium or long-term support while they are in work. Further details of the Job Services Australia and Disability Employment Services systems are provided below.

### **Job Services Australia**

19. As mentioned, Job Services Australia (JSA) is the main system of employment service providers, replacing the previous Job Network system from 1 July 2009. About 115 providers were selected by DEEWR after a call for tenders and were contracted to provide specified services for the three years to June 2012. They comprise a mixture of for-profit and non-profit organisations (some of which operate in only one locality and others of which operate much more widely) and about half of them were also contracted providers under the Job Network system.

20. Each JSA provider is allocated to one or more of about 115 geographical areas known as Employment Service Areas and is guaranteed a specified percentage of the referrals of job seekers in that area to JSA providers. As job seekers are able to choose the provider to which they are allocated, providers are allowed to exceed the guaranteed allocation by up to a specified percentage if they are able to attract sufficient job seekers. There are usually about five contracted providers in each Employment Service Area but fewer in more remote localities.

21. JSA providers are required by contract with DEEWR to provide a range of services to each of their allocated job seekers. This includes conducting an initial interview, arranging for the job seeker to sign an Employment Pathway Plan (EPP), providing job search facilities, maintaining contact at least monthly, facilitating and monitoring compliance with the EPP, and reporting compliance failures. They are also required to provide other services, depending on the stream in

which the particular jobseeker has been classified. This may include, for example, arranging training, work experience and job interviews.

22. JSA providers' services are subject to monitoring and audit by DEEWR. Their performance is assessed by reference to, amongst other criteria, Key Performance Indicators (KPIs) which compare each provider to other providers in relation to the proportion of their job seekers in different streams who achieve specified types of employment or training outcomes and the time taken for them to do so. The KPIs also include other assessments based on, for example, the incidence of particular forms of processing and service. Some KPIs are taken into account when DEEWR determines and publishes comparative assessments of providers (the "Star Ratings") and all of them are taken into account when it considers future allocations of work to providers.

23. Providers may receive the following types of fees from DEEWR at different stages of their work with a particular job seeker (see also Table 2.1):

- Service fees: paid quarterly for each jobseeker who is required to engage with them
- Placement fees: paid when a job seeker completes a specified number of hours in a job arranged by the provider
- Outcome fees: paid when a job seeker successfully completes 13 weeks (a "pathway outcome") and 26 weeks (a "full outcome") in an employment or education placement.

24. Providers can also draw on payments credited by DEEWR to an Employment Pathway Fund (EPF) account which it holds on their behalf. Each provider can draw from their EPF account to help fund assistance for job seekers such as counselling, training, equipment, work experience and wage subsidies. Subject to certain conditions, the account can be drawn on by the provider to purchase services etc from elsewhere or to reimburse itself for providing them. Money in the EPF account cannot be used for other purposes but it can be pooled rather than having to be spent on the particular jobseeker in relation to whom it was received. See Table 2.1 for further details.

**Table 2.1: Summary of Principal Payments for Providers**

|                        | Service fees<br>(max. pa) | EPF<br>credit   | Placement<br>fees | Outcome<br>fees |
|------------------------|---------------------------|-----------------|-------------------|-----------------|
| <b>Stream 1</b>        | Up to \$781               | \$11            | \$385-\$440       | \$0-\$1,476     |
| <b>Stream 2</b>        | Up to \$885               | \$550           | \$385-\$550       | \$446-\$2,340   |
| <b>Stream 3</b>        | Up to \$1,120             | \$1,100         | \$385-\$550       | \$446-\$5,280   |
| <b>Stream 4</b>        | Up to \$2,736             | \$1,100-\$1,650 | \$385-\$550       | \$891-\$5,280   |
| <b>Work experience</b> | Up to \$722               | \$500           |                   |                 |

Note: Some additional fees are paid in relation to certain categories of job seekers, such as those in remote areas or retrenched from certain specified industries.

## **Disability Employment Services**

25. Disability Employment Services (DES) is a system of specialist providers which replaced the former Disability Employment Network and Vocational Rehabilitation Services from 1 March 2010. About 220 providers were selected by DEEWR after a call for tenders and were contracted to provide services for the first three years of the new system. They comprise a mixture of non-profit and for-profit organisations, both large and small, as well as a public sector agency (CRS Australia). They operate from a total of almost 2,000 sites around Australia

26. People may be referred to the DES provider network if they have a disability which is permanent or likely to be permanent; have a reduced capacity for communication, learning or mobility; require support for more than six months after placement in employment; or require specialist assistance to build their work capacity. Their disability may be of an intellectual, psychiatric, physical or sensory nature.

27. Many of the people who are referred to DES providers are job seekers within the meaning of this report; that is, they are receiving participation payments and are subject to participation requirements. As such, they are subject to the new compliance system and accordingly they and their DES providers are included within the description and analysis of that system in this report. Many other people being assisted by DES providers, however, are not receiving participation payments and therefore are not subject to participation requirements. This includes, for example, a considerable number of people who are receiving a Disability Support Pension.

28. The obligations of DES providers in relation to services for job seekers are broadly similar to those applying to JSA providers, although they may also include obligations to provide ongoing support for a period after the job seeker finds employment. The arrangements for monitoring and audit of these providers, and the system for funding them, are also broadly similar to those for JSA providers.

## **COMPLIANCE BY JOB SEEKERS**

### **Introduction**

29. As mentioned earlier, a new statutory system for seeking to ensure compliance by job seekers with their participation requirements took effect from 1 July 2009. The principal aims of the new system are to remove perceived weaknesses in the previous system by

- strengthening early and constructive engagement between job seekers and their employment service providers; and
- reducing the incidence of hardship caused to vulnerable job seekers.

30. The new system includes the following four levels of failure to comply, for each of which there are differing criteria, procedures and sanctions:

- Connection Failures;
- Reconnection Failures;
- No Show, No Pay Failures;
- Serious Failures.

Some key aspects of each different type of failure are outlined below and in table 2.2. Here, as in the remainder of this report, the term “failures” means failures which have been determined by Centrelink to have occurred; it does not include occurrences which have been unsuccessfully alleged to constitute failures.

31. Usually these failures and related sanctions are imposed by Centrelink after receiving a Participation Report (PR) from the job seeker’s employment service provider which alleges that the job seeker has failed without valid reason to comply with a participation requirement. Centrelink may also act on its own initiative in some circumstances. If a PR is submitted, Centrelink must consider whether to “apply” the PR and impose the failure or to “reject” the PR so that no failure is imposed.

### **Connection and Reconnection Failures**

32. A Connection Failure may be imposed if a job seeker, without reasonable excuse, fails to comply with a participation requirement relating to attending appointments, agreeing an Employment Pathway Plan or undertaking job search. This includes, in particular, failure to attend appointments with, or arranged by, the job seeker’s provider or Centrelink.

33. There is no financial penalty for a Connection Failure. However, Centrelink responds by specifying a “reconnection requirement”, such as a rescheduled appointment with the provider, and failure to meet that requirement without reasonable excuse will then constitute a Reconnection Failure. The sanction for a Reconnection Failure is losing one-fourteenth of the fortnightly participation payment for each day until the requirement is met.

34. Providers must keep records on the DEEWR computer system in relation to all their appointments with each job seeker and show whether the job seeker attended. In the event of non-attendance, they must indicate whether they consider there was a valid reason. If they consider that there was no valid reason, they may decide to submit a Participation Report to Centrelink, or to make their own further attempts to achieve compliance, or to send a Contact Request asking Centrelink to contact the job seeker and arrange another appointment with the provider.

## No Show, No Pay Failures

35. This type of failure may be imposed when a job seeker, without reasonable excuse, fails to attend a compulsory activity such as training, work experience or a job interview or misbehaves while attending the activity. The sanction usually involves losing one-tenth of the fortnightly participation payment for each day on which the non-attendance or misbehaviour occur (usually not exceeding three days within a fortnight). Each day is counted as a separate failure, even if failures occur on consecutive days.

36. Providers are required to keep records of job seekers' attendance at compulsory activities under their Employment Pathway Plan, irrespective of whether the activities are conducted by the provider itself or by someone else such as a training organisation. In the event of non-attendance without valid reason, providers may notify Centrelink through a Participation Report which Centrelink will then either apply (ie, decide that a failure has occurred) or reject. Providers also have discretion, however, to require the job seeker to make up the lost time at the activity by attending for a similar period at a later date.

**Table 2.2: Types of Participation Failures and Sanctions**

| Type of Failure         | Sanction                                                                                                 |
|-------------------------|----------------------------------------------------------------------------------------------------------|
| Connection Failure      | No financial penalty, but a reconnection appointment is made                                             |
| Reconnection Failure    | Loss of 1/14th of fortnightly participation payment for each day until a reconnection appointment is met |
| No Show, No Pay Failure | Loss of 1/10th of fortnightly participation payment for each day on which the failure occurs             |
| Serious Failure         | Loss of payment for 8 weeks                                                                              |

## Serious Failures

37. This type of failure may be imposed if a job seeker's earlier participation failures are regarded as constituting "persistent non-compliance" or if the job seeker, without reasonable excuse, does not take up an offer of suitable employment.

38. Where the alleged Serious Failure involves persistent non-compliance, the job seeker must be referred to a Comprehensive Compliance Assessment (CCA) before Centrelink decides whether the failure has occurred and whether to impose the sanction. The CCA is conducted by a Centrelink social worker but the report is also sent to the relevant provider. It focuses on whether the non-compliance was persistent and deliberate (in which case a Serious Failure is imposed) or whether the jobseeker needs more appropriate participation requirements and/or more help to comply with them (in which case, appropriate action is initiated or recommended).

39. A Comprehensive Compliance Assessment is triggered automatically if the job seeker has three Connection/Reconnection

Failures, or three No Show No Pay Failures, within a six-month period. A CCA may also be conducted in other circumstances at the instigation of Centrelink or the provider, but in the latter case it is unlikely to lead to imposition of a Serious Failure.

40. The sanction for a Serious Failure is loss of participation payments for eight weeks, except for any part of that period during which the job seeker undertakes an approved Compliance Activity (eg, Work for the Dole or other type of work experience activity) for at least 25 hours per week. If a jobseeker agrees to undertake a Compliance Activity but none is available for them, they may be deemed to be undertaking such an activity until one becomes available. The sanction may be waived entirely on grounds of financial hardship if the job seeker does not have the capacity to undertake any kind of Compliance Activity and has total liquid assets below a specified amount.

### **Preclusion periods**

41. The new compliance system retains, with some modifications, a pre-existing sanction of an eight-week loss of payment for any job seeker who voluntarily leaves a job without reasonable excuse or loses a job through misconduct. The sanction is referred to in this report as a preclusion period but is officially called an Unemployment Non-Payment Period.

## **CONTRASTS WITH THE PREVIOUS COMPLIANCE SYSTEM**

42. In its submission to the Review, DEEWR pointed out that when the previous compliance system was introduced in 2006–7 there was an increase of more than 100% in the first year in the number of eight-week losses of payment and a further 100% increase in the second year. The DEEWR submission then referred to a number of submissions made by non-government sources to the Employment Services Review which the Australian Government conducted in early 2008. It said that these submissions

“raised concerns about the potential impact on vulnerable job seekers of the ‘penalise first’ approach that had been taken under [the previous system]. They indicated that stopping payment for eight weeks placed already vulnerable job seekers at great risk of disconnection and in many cases resulted in personal crisis and homelessness. They argued that this had flow-on costs to the community, through imposts on the health, housing and justice systems and by placing additional pressure on non government welfare organisations to provide support ... [They] also argued that eight week penalties were counter-productive in that job seekers were disengaged from employment services during the penalty period and, with no income support, could not afford to look for work.”

43. The DEEWR submission said that the previous system “provided little deterrence or early intervention when a job seeker first began to fail to meet their requirements. There was no real immediate consequence for initial failures to complete activities. Job seekers who failed to take part in an activity or program early in their payment period could miss up to a fortnight before any action was taken. The first actual financial penalty many job seekers received was an eight week non-payment period, which could not be removed regardless of any subsequent compliance by the job seeker.”
44. Under the previous compliance system, all failures which are now called Connection, Reconnection or No Show, No Pay Failures were called participation failures. There was no sanction for the first two failures, but three failures automatically led to an eight-week loss of payment. Each subsequent failure within a period of twelve months led to another eight-week loss of payment. By contrast, the new system enables providers to exercise discretion whether to initiate compliance action and also enables penalties to be applied earlier but to be less severe. The new system provides more safeguards against hardship arising from imposition of eight-week penalties, especially by establishing Comprehensive Compliance Assessments and the Compliance Activity option.
45. Further details of these changes and their impacts are provided in the following chapters of this report.



## **Chapter 3**

# **THE CHANGING CONTEXT**

### **INTRODUCTION**

1. This chapter examines some key aspects of the surrounding context in which the new compliance system operates. These are aspects which may affect the operation of the new compliance system but are not part of the system itself.
2. The chapter focuses especially on changes in the surrounding context which took effect when or after the compliance system was introduced on 1 July 2009. They relate to changes in
  - participation requirements for job seekers;
  - provision of employment services;
  - evaluation of service providers' performance;
  - the state of the labour market.
3. The final section of the chapter provides the Review's conclusions on the key issues which have been canvassed.

### **PARTICIPATION REQUIREMENTS**

4. The new compliance system was introduced at the same time as significant changes were made in the participation requirements applying to many job seekers. They included changes involving
  - the introduction of Employment Pathway Plans;
  - job seekers facing major barriers to finding work;
  - job seekers who finished school at an early age.

#### **Employment Pathway Plans**

5. At the same time as the new compliance system was introduced, the participation requirements were changed so that job seekers had to sign an Employment Pathway Plan (EPP) with their provider instead of the Activity Agreement which had to be signed between them prior to July 2009.
6. Each EPP is meant to be individually tailored to reflect the job seeker's circumstances and needs and to set out a considered plan of action which is aimed at maximising the job seeker's prospects of finding and holding a job. The main changes from the Activity Agreement are that the EPP is explicitly meant to cover all voluntary, as well as all compulsory, actions for the job seeker and to be more

comprehensive and up-to-date in its recording of those actions, including those relating to non-vocational barriers (which providers previously tended to put in their own separate informal plans with job seekers).

7. The EPP process can benefit the compliance system by increasing the likelihood that job seekers are adequately notified of specific obligations, especially because any changes to the EPP must be made at a face-to-face meeting between job seeker and provider. This improved clarity can reduce the risk of unfairness to job seekers who fail to comply with a requirement because they were not sufficiently aware of it. It can also reduce the risk of some job seekers evading requirements by being able to cast doubt on whether they had been adequately notified.

8. On the other hand, if undue specificity is required in EPPs, or at least thought by providers to be required, the process can cause unjustifiable rigidity, delay and expense for providers who are seeking to amend EPPs or trying to enforce compliance. These problems can be especially acute where geographical difficulties prevent job seekers and providers from meeting frequently face-to-face. Some providers fear that if they keep an EPP simple in order to avoid confusing or deterring the job seeker they may be criticised by DEEWR for being unduly vague or lax.

9. There appears to be widespread support for the general aim of the EPP process but there is considerable concern amongst providers that if they are required to place undue emphasis on specificity and speed in developing EPPs, their relationship with job seekers may be jeopardised. This relates particularly to the risk of job seekers believing that requirements have been imposed on them in the EPP without any real scope for negotiation. In these circumstances, the provider can appear to the job seeker to be unreasonably inflexible or non-responsive.

10. The speed with which providers are able to get Employment Pathway Plans signed by job seekers, and the thoroughness with which the Plans are prepared, are subject to significant levels of evaluation by DEEWR. The nature of the evaluation and some possible consequences of it are considered later in this chapter.

### **Job seekers with major barriers**

11. The new Job Services Australia (JSA) system has a mix of job seekers which is substantially different from the mix in the previous Job Network system. A considerable number of people receiving participation payments were not included in the Job Network system because they had major barriers to finding work, such as homelessness or mental health problems. They were referred to a separate system of providers and were subject to less stringent participation requirements.

12. Most of these people were allocated to a Personal Support Program (PSP) or Job Placement Employment Training Program (JPET) which involved requirements such as establishing secure accommodation, maintaining medical treatment or undergoing alcohol counselling in order to improve job seekers' prospects of becoming ready for training or work. By early 2009, about 70,000 job seekers were in these programs and a further 30,000 were on waiting lists for PSP and thereby subject to relaxed participation requirements. Over 5,000 of these people had been on the PSP waiting list for at least a year.

13. When the JSA system was established, the PSP, JPET and similar programs were discontinued and the kinds of job seekers who would previously have been allocated to them were included in the JSA system. This appears to have been aimed partly at improving assistance for these job seekers to find work (including those who had been "parked" on the lengthy waiting lists for the programs without any money being allocated to help them). It has also meant, however, that many more job seekers who face major barriers to finding work are now potentially subject to more stringent participation requirements.

14. Given the difficulties faced by many of these job seekers, it is possible that these changes could tend to increase the level of non-compliance with participation requirements and the risk of sanctions falling on highly vulnerable job seekers unless compensated for by other changes. Moreover, financial pressures could be generated for any providers who, when submitting tenders for a JSA contract or making subsequent management decisions, did not allow sufficiently for the difficulty of achieving good outcomes for these job seekers. These issues are considered later in this chapter when discussing funding and evaluation of providers.

### **Early school leavers**

15. A new "Earn or Learn" regime was progressively introduced from July 2009 for young people who leave school before completing Year 12 and wish to receive a participation payment. It requires them to participate in full-time or part-time education or training until they either reach the age of 21 or complete Year 12 (or a training course at Certificate II level). If the education or training is only part-time (less than 25 hours per week), they must undertake paid work, voluntary work or some other approved activity for the remainder of the 25 hours. Job search does not count as an activity for these purposes and is not a participation requirement for these job seekers.

16. There is broad support for the Earn or Learn regime's aim of encouraging young people to strengthen their qualifications and skills. However, there is also widespread concern that the regime is too inflexible for people who have been actively looking for work (and perhaps have had some short-term jobs) and are best suited to continuing, at least for a while, to look for work rather than being forced

back into education or training for which they are unsuited or unready. This applies especially to people for whom successful completion of Year 12 or a Certificate II course is an unrealistic goal, at least in the foreseeable future.

17. The main concern of relevance to this Review is that an inappropriately high incidence of participation failures and sanctions could be imposed on early school leavers due to the perceived inflexibility of the regime and of the monitoring which has been applied to its implementation. This concern is reinforced by the fact that, while early school leavers comprised about 10% of all job seekers during the first year of the new compliance system, they accounted for about 20% of all Participation Reports, participation failures and financial penalties.

18. It seems, however, that some of the problems may arise from early school leavers being regarded as basically ineligible for payment (not merely incurring a participation failure and related sanction). This may apply, for example, if a job seeker does not enter into an appropriate activity within a specified short period, even though vacancies in an appropriate activity may not be available within that time frame. There is also concern that the resultant time pressures can unduly limit the amount of help which is given to some deeply disadvantaged or de-motivated job seekers to choose a suitable activity of long-term benefit to them.

19. The relevant guidelines appear to provide some scope in narrowly defined circumstances for full or partial exemption from the requirements and to allow some non-vocational activities, such as drug counselling, to be approved as contributing towards the required 25 hours per week. It has been suggested, however, that this apparent flexibility has been somewhat constrained by the undoubtedly vigorous monitoring which was undertaken by DEEWR to ensure that providers brought all early school leavers into compliance with the new regime by 30 June 2010.

## **PROVISION OF EMPLOYMENT SERVICES**

20. The new compliance system took effect at the same time as major changes in the provision of services to job seekers were made by the introduction of the Job Services Australia (JSA) system. They included changes relating to

- assessment of eligibility for different levels of services;
- provision of “work experience” activities;
- funding for provision of services;
- suspensions of job seekers from providers’ services.

## Assessment of eligibility for service

### *Initial assessments*

21. As outlined in chapter 2, job seekers under the JSA system are classified into one of four streams on the basis of their assessed readiness for work. Those who are considered to face the greatest barriers to finding work are classified in Stream 4. The services which must be provided to them, and the funding for providers to do so, are more extensive than for job seekers in the other streams.

22. The classifications into streams are determined initially by Centrelink officers applying the Job Seeker Classification Instrument (JSCI) to the results of interviews with job seekers, often by telephone rather than in person. Tens of thousands of initial JSCI classifications are performed each month, either in person by Centrelink staff in local offices or on the telephone by central Centrelink staff. Job seekers who are likely to be allocated to Stream 4 must also undergo a Job Capacity Assessment by Centrelink or another designated assessor.

23. The JSCI is calibrated with a view to classifying a specified percentage of seekers into each stream. The target percentages for initial allocation are as follows: Stream 1 – 61%; Stream 2 – 18%; Stream 3 – 9%; Stream 4 – 12%. However, the proportions of job seekers in each stream at any one time are different from these initial targets because, for example, job seekers in Stream 1 are more likely to find work, and therefore to leave the system, than are those in Stream 4. After the first year of the new JSA system, the proportions of job seekers in each stream were approximately 30% for each of Streams 1 and 2, 25% for Stream 3 and 15% for Stream 4.

24. Many providers and other people who work with job seekers believe that a substantial number of job seekers who should be classified in Stream 4 have been incorrectly allocated to lower-numbered streams. They regard this as being partly a result of what they see as a major flaw of the JSCI system, namely undue reliance on telephone interviews rather than face-to-face meetings. They point to the barriers of understanding, communication and trust which are likely to affect a telephone interview, especially at such an early stage of contact with the job seeker.

25. DEEWR says that their tests show no significant difference in classification when the JSCI interview is conducted in person. Many providers and welfare organisations, however, continue to lack confidence in the process, partly because of the substantial proportion of job seekers who, due to circumstances not detected by the initial JSCI, are subsequently re-allocated to a higher stream or found to need some other special action. Some of the concerns relate especially to a perceived failure by Centrelink to detect and record homelessness.

26. Providers and welfare workers emphasise that it is often impossible to achieve in less than several meetings sufficient communication and understanding with a job seeker about what may be highly personal issues. They point to the necessity of building confidence and trust with job seekers to facilitate disclosure of sensitive information such as drug or alcohol issues. Often job seekers may have a misplaced, if understandable, fear that frank disclosure will adversely affect their eligibility for payment or the provider's willingness to provide assistance.

27. Many providers argue that these problems of misclassification substantially reduce their capacity to achieve and maintain effective engagement with some job seekers. In this situation, the incidence of participation failures and compliance action is also likely to increase.

#### *Subsequent assessments*

28. After the initial JSCI classification, providers can seek to change the original classification by undertaking a further JSCI themselves if they have clear evidence of changes in relevant circumstances. Alternatively, they can seek re-classification by requesting a Job Capacity Assessment (JCA) which usually includes a meeting with the job seeker but does not always do so, especially in country areas. Providers have expressed concerns, however, that JCAs are not necessarily conducted by a person with significant expertise in the key issues which need to be examined. Reforms to the JCA system which are due to take effect within the next 6–12 months are aimed at addressing these problems to some extent, although there are fears they will be accompanied by an increase in the incidence of telephone assessments.

29. Where a number of participation failures have occurred, the new Comprehensive Compliance Assessment (CCA) process provides an opportunity for Centrelink to do a further assessment of the needs and circumstances of a job seeker. About 40% of CCAs lead to a referral for a Job Capacity Assessment or to a direct re-allocation to a higher stream. This relatively high proportion suggests that the CCA process is valuable and, perhaps, that there is room for improvement in the earlier classification processes. The CCA process is considered in greater detail in chapter 5.

30. After about twelve months in a stream, job seekers usually undergo a Stream Services Review to assess whether they should be moved to a higher-numbered stream or be transferred to the “work experience phase” (which is discussed below). It is claimed by providers that these reviews are increasingly being conducted by telephone, with a consequential reduction in accuracy.

#### **“Work experience” activities**

31. The Job Services Australia system encourages greater diversity in the use of so-called “work experience” activities than occurred under Job

Network, where the main focus was on Work for the Dole. JSA providers have been especially encouraged to make greater use of training, as well as of part-time or voluntary work, than previously occurred. As a result, by the end of the first year of the new compliance system training accounted for about one-third of placements in “work experience” activities while Work for the Dole accounted for only about one-quarter. Precise figures for the previous year are not available but undoubtedly the proportion of Work for the Dole was very much higher

32. There seems to be widespread agreement that the greater diversity in referrals to activities under JSA enables more appropriate and effective services to be provided in many cases. From a compliance viewpoint, however, monitoring attendance at some of the types of activities which are now being used more widely can be more difficult and time-consuming, especially where the activity is being conducted by an “external” source rather than the job seeker’s own JSA provider. This applies particularly to training courses which involve large numbers of students (many of whom are not job seekers) or flexible times of participation.

33. Concerns have been expressed that external sources of work experience activities may become scarcer if those sources are required to undertake close monitoring and reporting of daily attendance. This issue is likely to become increasingly important in the near future as most of the first tranche of job seekers who have been in the JSA system for a year move into the “work experience” phase. This phase continues for whatever period remains until the job seeker finds work, ceases for some other reason to receive a participation payment, or is transferred to a higher stream.

### **Funding for services**

34. It is generally agreed that the Job Services Australia system of funding for employment services provides a welcome emphasis on the needs of the most disadvantaged job seekers, especially through the Employment Pathway Fund. There is concern amongst some providers, however, that by offering greater incentives for provision of training than for other “work experience” activities the system can motivate referrals to training even where that is not likely to be the best way of helping the job seeker into employment. This is partly because training can tend to be less expensive to conduct and also because, unlike most other activities, it often enables job seekers to obtain a formal qualification for which providers can later receive a bonus payment from DEEWR. This can have implications for the compliance system because, as mentioned earlier, participation in some training programs can be especially difficult to monitor. There is also the risk that job seekers may become de-motivated by repeated referrals to training programs which are unlikely to improve their employment prospects.

35. By comparison with the Job Network funding system, the JSA system places more emphasis on quarterly “service fees”. This approach also appears to have broad support in principle. The new service fees can improve the motivation for providers to establish and maintain engagement with job seekers, including by initiating compliance action, even if the prospect of obtaining a subsequent “outcome fee” for placing them in work does not seem very likely. Nevertheless, achieving a good proportion of outcome fees remains very important for providers’ financial viability.

36. When job seekers are in the “work experience phase”, the required degree of regular contact with providers is substantially reduced. The providers’ service fees are reduced and there is only an initial payment to the EPF. There is widespread concern about how useful this period will be for job seekers, how financially viable it will be for providers, and whether disengagement and compliance problems will become more common.

### **Suspension from providers’ services**

37. As mentioned in chapter 2, some job seekers are temporarily exempt from both the Activity Test and the requirement to comply with an Employment Pathway Plan. At the end of the first year of the new compliance system about 7% of all job seekers were in this category. A further 13% or so of job seekers did not have to comply with either of those basic requirements but were required to undertake an “approved activity”, usually some form of work or study for a specified number of hours. These two categories of job seeker generally have no requirement to engage actively with a provider. If they have already been allocated to a provider, they will be “suspended from stream services” when they become eligible for the exemption.

38. At the same time as the new compliance system was introduced, a further category of job seeker was added to those who are effectively exempt from the Activity Test and EPP requirements. They are job seekers who have a “temporary reduced capacity to work” which prevents them from working more than 14 hours per week but is not sufficient to bring them within the 7% of job seekers who have the formal type of exemption referred to in the previous paragraph. They may include, for example, people with short-term injuries or medical conditions. Job seekers in this group, which comprised about 6% of all job seekers at the end of the first year of the new system, have no requirement to engage with a provider and if already allocated to a provider are “suspended from stream services”.

39. A number of providers claim that since the new JSA system was introduced in July 2009 there has been a substantial increase in the percentage of the job seekers who have been allocated to them but are suspended from stream services. DEEWR data show that the nation-wide proportion of suspended job seekers increased to 26% in the final

quarter from the quarterly average of 23% in the preceding year. Many providers express great concern that so many of their job seekers are not required to engage with them and will not generate any fees for them. However, complaints that these suspended people “take up places” which could otherwise be filled with fee-generating job seekers are not so persuasive when, as now, the overall supply of job seekers is so low that very few providers are close to the maximum number of job seekers which can be allocated to them.

### **Disability Employment Services**

40. As mentioned in chapter 2, some job seekers are referred to providers in the Disability Employment Services (DES) network rather than to JSA providers. DES commenced operation in March 2010 and provides a range of services to job seekers, and many other people, who have some form of injury, disability or health condition which is considered to need specialist support.

41. When providing services to job seekers, DES providers are subject to arrangements which are broadly similar to those which apply to JSA providers. This includes, for example, the use of Job Capacity Assessments; preparation of Employment Pathway Plans and maintenance of specified levels of contact with job seekers; and submission of Participation Reports in accordance with the requirements of the new compliance system.

### **EVALUATION OF PROVIDERS**

42. The new compliance system took effect at the same time as important changes in the processes for evaluation of the performance of service providers under Job Services Australia. They included changes relating to

- Key Performance Indicators and Star Ratings;
- monitoring by DEEWR “contract managers”;
- impacts on future allocations of work to providers.

### **Key Performance Indicators and Star Ratings**

#### *KPIs 1 and 2, and the Star Ratings*

43. Although they are not significantly changed from the Job Network system, it is important to note in this context the impact of Key Performance Indicators 1 and 2 under JSA. They measure the proportion of job seekers on a provider’s books for whom employment outcomes have been achieved and the speed with which the outcomes have been achieved. They also determine the number of stars (out of five) which the provider is awarded in DEEWR’s Star Ratings system for comparison with other providers. They can also affect DEEWR’s other monitoring of providers and its future allocations of work to providers (see below).

44. KPIs 1 and 2 are measured every six months and communicated confidentially to each provider together with information about how it stands in comparison with other providers. Star Ratings are to be calculated every three months, with each provider receiving its own ratings and each alternate set of ratings also being made public (ie, every six months). These two KPIs and Star Ratings enable providers to assess and modify aspects of their own operations. They are a powerful incentive for providers to improve their outcomes by quickly achieving and maintaining engagement with job seekers, including through use of the compliance system. These factors can also encourage providers to focus mainly on those job seekers who have the best prospects of finding work rather than on intensive efforts to engage with other job seekers and thereby avoid having to initiate compliance action in relation to them.

### *KPI 3*

45. A new form of the previous Key Performance Indicator 3 has been brought progressively into operation since the establishment of the new compliance system. The equivalent under the Job Network system was less specific, transparent and quantitative than the current one. Like the previous one, the current KPI 3 is not taken into account for Star Ratings but will be taken into account when DEEWR considers future allocations of work to providers.

46. The new KPI 3 includes a number of quantitative and qualitative measures, of which those of greatest relevance to the operation of the compliance system relate to

- (a) the average number of days before the provider engages with the job seeker and they begin developing an Employment Pathway Plan;
- (b) the proportion of the provider's Employment Pathway Plans which contain sufficient detail (including "dates and milestones") of the required actions by the job seeker;
- (c) the provider's success rate in achieving the required frequency of attendances by job seekers at appointments with the provider.

47. Measures along these lines appear to be regarded by most providers as being, in broad principle, appropriate incentives for achieving effective engagement with job seekers (including by instigating compliance processes where necessary). Concern has been expressed, however, that if too much emphasis is placed on such measures some providers may respond by making hasty and inappropriate Employment Pathway Plans for some job seekers or by putting unreasonable pressure on them, including through premature compliance action. For example, the design of the measure concerning speed of engagement has been criticised as unduly encouraging providers to submit a Participation Report rather than take the time to

locate and engage with job seekers who are difficult to contact. Similar concerns have been expressed about the measure concerning frequency of contact with job seekers.

### **Monitoring by contract managers**

48. DEEWR employs about 200 staff as “contract managers” to monitor and evaluate the performance of providers. Some contract managers monitor a number of providers but others focus solely on one provider. Most of the monitoring is done by accessing information entered by providers in the electronic files for their job seekers which are held in the DEEWR system. The matters being monitored and the criteria for evaluation are very largely at DEEWR’s discretion and may be subject to substantial change over time, not necessarily preceded by consultation.

49. Providers appear generally to regard the role of contract managers under the Job Services Australia system as being more constructive and collaborative than the arrangements under Job Network. There is considerable concern amongst providers, however, about some aspects of the contract managers’ roles. This includes what is criticised as undue emphasis by some contract managers on Employment Pathway Plans being highly detailed and frequently updated and on high rates of contact between providers and job seekers being achieved. The intense emphasis is seen by some providers as causing unduly burdensome participation requirements and harsh compliance action, as well as excessive administrative workloads for providers.

50. There is also some fear amongst providers that the harsher approach towards contract management which was taken in earlier years under Job Network could re-emerge if, for example, formal or informal benchmarks were set for rates of initiation of compliance action. This fear may be inducing some providers to take harsher compliance action than is actually required by the current regime.

### **Future allocations of work**

51. At the mid-point of JSA providers’ current three-year contracts, DEEWR will consider whether to alter the agreed levels of allocation of work to them. In doing so, it will take account of the KPIs and the Star Ratings, as well as the results of other performance monitoring by the contract managers. Significant mid-term reallocations were made under the Job Network system and may occur also under the first JSA contract.

52. When the final Job Network contracts expired in mid-2009 and the first round of JSA contracts were awarded, many providers gained a considerably larger share of allocations, others lost all or much of their previous share, and a number of new providers entered the system. Past KPIs and Star Ratings were taken into account in the tendering process and it is reasonable for providers to anticipate that, despite some

indications to the contrary, similar processes may apply at the end of the current contracts.

53. Accordingly, there are strong motivations for providers to maximise their KPIs and Star Ratings, as well as to comply with the directions and exhortations of contract managers on matters which may not be directly measured in the KPIs or specified in the contract or formal DEEWL guidelines. The practices of providers in relation to selecting specific participation requirements for job seekers and deciding whether to initiate compliance action are amongst those which can be influenced considerably by these factors.

### **Disability Employment Services**

54. When Disability Employment Services was established with effect from March 2010, the providers became subject to a system of evaluation of their services for job seekers which is broadly similar to the system for evaluation of JSA providers. This includes Key Performance Indicators, Star Ratings and monitoring by contract managers.

## **THE LABOUR MARKET**

55. The state of the labour market is, of course, of major significance to the operation of the employment services system, including the effectiveness and financial position of providers. The official measure of unemployment across Australia fell from about 5.8% to 5.2 % during the first year of the new JSA and compliance systems. This was different, however, from the general expectation at the time when providers submitted their tenders for contracts to provide services under JSA. The expectation then was that unemployment was likely to rise towards the official forecasts of about 8%, thereby increasing the number of job seekers needing assistance but perhaps reducing the proportion of job seekers who had major personal barriers to finding work.

56. The consequential “shortfall” in referrals of job seekers to providers, especially of job seekers who are more work ready, has been cited by a number of providers as a cause of substantial financial pressure for them. This pressure appears, in turn, to have increased anxiety amongst providers about some aspects of the JSA and the new compliance system which are seen as increasing providers’ expenses or reducing their income. It may also have induced a tougher approach by some providers towards compliance by job seekers than would otherwise have occurred.

57. A major feature of the Australian labour market is the high proportion, by comparison with other OECD countries, of jobs which are casual and/or part-time. This makes it especially important for the JSA and compliance systems to recognise part-time or casual work as a realistic employment goal for many job seekers (at least in the short

term) and as a valuable form of work experience activity and Compliance Activity. It also emphasises the need for flexibility if a job seeker is unable to attend some appointments with their provider because they have had last-minute offers of casual work on the days in question.

## CONCLUSIONS

58. As explained earlier in this report, the Review is concerned principally with the operation of the new compliance system but it would be inappropriate to ignore the impact on that system of the context in which it operates. This is especially true because a number of changes in this context must be taken into account when seeking to draw comparisons between the operation of the new compliance system and its predecessor.

### *Employment Pathway Plans*

59. The new Employment Pathway Plan system was introduced at the same time as the new compliance system. It appears to have provided significant benefits in many instances but also to be at risk of becoming excessively rigid and bureaucratic for providers as well as unduly confusing for job seekers. If EPPs are expressed too comprehensively, job seekers can have difficulty understanding the key requirements with which they must comply and providers seeking to initiate compliance action may have difficulty in providing adequate notification of those requirements.

60. Further fine-tuning of the specified format for Employment Pathway Plans and the guidelines about their content could help to reduce these problems while still retaining the benefits. It is also important to ensure that inappropriately designed Key Performance Indicators or unduly zealous contract managers do not put excessive pressure on providers to get EPPs signed too quickly or to make the EPPs too detailed.

### *Highly disadvantaged job seekers*

61. Allocation of resources to providers and to the operation of the compliance system should take into account the demands placed on them by the transfer into the Job Services Australia system of a large number of highly disadvantaged job seekers who were not in the previous Job Network system. Assessments of the effectiveness of providers and of the compliance system should also take due account of that significant change. This applies especially to the rates of attendance at appointments and activities, the submission of Participation Reports by providers and the responses to them by Centrelink which are examined in chapters 4 and 5.

### *Early school leavers*

62. The Earn or Learn system appears to be operating with some undue rigidity in relation to the period within which job seekers must

enter into an appropriate activity. In practice, it can be very difficult and even impossible to identify an appropriate and available activity, even of an interim nature, within that time frame. More account needs to be taken of the circumstances of those early leavers for whom the best option, at least in the near future, is to be able to concentrate on looking for work (perhaps combined with undertaking some part-time work) rather than being forced into a premature return to inappropriate education or formal training.

#### *Assessments of job seekers*

63. There is room for improvement in the effectiveness of the Job Seeker Classification Instrument at detecting key circumstances of the job seeker and at classifying an appropriate proportion of job seekers into Stream 4. This is especially so when, as now, the composition of the overall group of job seekers has a higher proportion of highly disadvantaged job seekers than was expected when the JSCI was re-calibrated in the middle of 2009.

64. While practical constraints cannot be ignored, there is a strong case for maximising the proportion of assessments which are conducted in person, especially for vulnerable job seekers. This applies not only to the Job Seeker Classification Instrument but also, especially, to Job Capacity Assessments and Stream Services Reviews.

#### *“Work experience” activities*

65. Care is necessary to ensure that providers have a wide range of work experience activities to which they can and will refer job seekers when appropriate, rather than being unduly induced by financial considerations or lack of available alternatives to refer job seekers to low-cost training programs of dubious benefit. Failure to address imbalances of this kind aggravates the risk of non-compliance by job seekers and of ineffective assistance by providers.

66. The “work experience” phase into which most people who have been job seekers for twelve months will pass seems likely to raise substantial problems in relation to the supply and effectiveness of activities. It may also create considerable challenges for the compliance system to monitor and enforce compliance effectively while, on the other hand, not putting undue pressure on job seekers to engage in work experience activities which are of little likely benefit to their work prospects.

#### *Suspensions from providers’ services*

67. The rules for suspension of job seekers from providers’ services, and the way in which they are being applied, should be reviewed to ensure that providers are not being unduly discouraged from engaging constructively with some job seekers. This applies especially to job seekers who are considered to have a temporarily reduced capacity for work but could still comply with some participation requirements. There may be a case for applying some requirements, provided they are not

incompatible with the reduced capacity, and for paying some service fees to providers if job seekers agree voluntarily to engage with them.

#### *Evaluation of providers*

68. Key Performance Indicator 3 can have a major impact on the compliance system, especially on providers' behaviour in relation to Employment Pathway Plans, their efforts to make and maintain contact with job seekers, and their submission of Participation Reports to initiate compliance action.

69. The current Indicator seems generally satisfactory in these respects but needs some fine-tuning so that it does not put excessive pressure on providers to impose unduly rigorous requirements on job seekers or to resort prematurely to compliance action. Similar strengths and risks can be seen also in DEEWR's systems for funding providers and monitoring them through contract managers. They should be subjected to ongoing review to ensure that they are not adversely affecting the operation of the compliance system and that there is not undue inconsistency between the practices of different contract managers.

#### *Special problems*

70. Most of the issues mentioned above are of special concern in relation to job seekers who live in remote areas or for other reasons cannot readily access their providers or Centrelink offices. They are also of special concern in relation to job seekers who have severe difficulties in understanding or communicating or in organising their daily lives. This includes many young people, people with mental health or literacy problems, and Indigenous people.

### **The Review's recommendations**

71. The Review's recommendations for addressing the issues and responses outlined in these conclusions are provided in chapter 7.



## Chapter 4

# PARTICIPATION REPORTS

### INTRODUCTION

1. This chapter and the next chapter focus on the core elements of the new compliance system which has been in operation since July 2009. A preliminary outline of that system was provided in chapter 2.

2. This chapter looks at Participation Reports (PRs), which are the principal means for employment service providers to trigger a Centrelink investigation into whether a participation failure has occurred. The PR process has existed for many years but operates somewhat differently under the new compliance system. The following chapter looks at participation failures and the sanctions which they incur.

3. The examination of the Participation Report process in this chapter comprises

- an outline of the process;
- key issues for consideration;
- some conclusions about how the process works.

Recommendations arising from the conclusions are provided in chapter 7.

### AN OUTLINE OF THE PROCESS

4. Participation Reports are a crucial element of the compliance system. They are an important, often decisive, part of the material on which Centrelink relies in determining whether a participation failure has actually occurred and, if so, what action should be taken. They are also a means by which providers can try to engage or re-engage with job seekers.

5. This section outlines the procedures for submitting PRs and for responding to them. It then summarises some statistical data in these areas, both under the new system and in earlier times. In doing so, reference is sometimes made to the general distinction which is drawn in the system between “appointments” and “activities”. The former category includes appointments with providers or Centrelink. The second category includes activities to which job seekers may be referred such as training, Work for the Dole or other work experience activities.

## Submitting Participation Reports

### *Recording non-attendance*

6. If a job seeker does not attend a compulsory *appointment*, their provider must record the non-attendance electronically through DEEWR's computer system but this record is not of itself a PR. The provider must also record whether it (a) considers there was a valid reason for the non-attendance, (b) considers there was no valid reason but does not wish to submit a PR, or (c) considers there was no valid reason and is submitting a PR. If option (a) or (b) is selected, the provider may decide to set another date for the appointment or, if it cannot contact the job seeker, to make a Contact Request to Centrelink.

7. If a job seeker does not attend an compulsory *activity*, the provider does not have to record non-attendance in the DEEWR system unless it decides to submit a PR or make a Contact Request. Other options for the provider include rescheduling the activity, allowing the job seeker to make up lost time, or taking no action if, for example, the non-attendance is considered to be an isolated instance in a general pattern of attendance at the activity.

### *Participation Reports*

8. Where a provider decides to submit a PR, it must do so in a specific electronic format on the DEEWR system. The format requires an indication of the nature of the participation requirement which the provider believes has not been complied with, the manner in which the requirement was notified to the job seeker and the reason (if any) given by the job seeker for non-compliance. This applies whether the participation requirement involves attendance at an appointment or activity, or some other action such as signing an Employment Pathway Plan.

9. The electronic format for a PR involves selecting boxes, or following directions, from a limited range of very briefly described options. It also includes some unstructured space for providers to record details of the job seeker's prior history of complying or failing to comply with requirements and also any other details which might mitigate or aggravate the alleged non-compliance. However, providers are not required to include this material and it is not easy for them to "cut and paste" the prior history from their own records into the PR.

10. In some circumstances, a PR is generated automatically by the DEEWR computer system as soon as a provider records a job seeker's failure to attend for what the provider considers to be an invalid reason. This applies especially to "reconnection appointments" and means that the provider does not have an opportunity to add in any details. If the provider does not record attendance or non-attendance before the end of the day of the appointment the DEEWR system will automatically record an attendance.

## Responding to Participation Reports

### *Initiating assessment*

11. All PRs are assessed by one of the 500 or so Centrelink staff who are members of specialist Participation Solutions Teams (PSTs) which are based in fifteen locations across Australia. All PST members are specially trained for assessment of PRs, which comprises most of their work. Assessments are usually initiated by a PST member telephoning the job seeker or by the job seeker being told, when visiting his or her local Centrelink office, to contact the PST by making a free call from that office.

12. PRs may be allocated to PST members in any part of Australia, irrespective of whether they relate to a job seeker in the same area or State as the PST. The same applies to telephone calls to a PST by job seekers, which go into a national queue unless they are from northern Australia (in which case they are routed to the PST offices in Townsville or Darwin). PST members are instructed that, wherever possible, they should finalise their assessment while the job seeker is still on the telephone. It has been unofficially estimated that more than half of them are completed in that way. About 98% of PRs are fully assessed by PSTs within the five day benchmark agreed with DEEWR.

### *Issues and methods*

13. The key issues which must be considered by PST members when responding to a PR are

- what is the specific participation requirement which allegedly has not been complied with ?
- was the participation requirement reasonable ?
- was the job seeker correctly notified of that requirement ?
- did they fail to comply with it ?
- if so, did they have a reasonable excuse for failing to comply ?
- should the job seeker be referred for re-assessment by, for example, a Job Capacity Assessment ?

14. In investigating and deciding these issues, PST members are required to speak with the job seeker. This may not be required, however, where the PR is going to be rejected on grounds which do not need discussion with the job seeker (eg, where the PR shows incorrect dates or refers to a requirement which was not shown as compulsory in the Employment Pathway Plan). PST members can make telephone inquiries to other sources of information (such as a doctor or a State welfare agency) while the job seeker is still on the line, and they can “patch in” those sources for a discussion with the job seeker. They can also call the provider to obtain further information, explanation or comment about what the job seeker has told the PST.

15. The PST member also has access to all of Centrelink's other relevant records about the job seeker. These may include, for example, information about medical conditions and treatment, counselling interviews, employment and compliance with participation requirements. Some of this information may not be known by the provider and, conversely, the Centrelink records may not include all of the relevant information which is known by the provider or is known informally, but not recorded, by the local Centrelink office. The PST member cannot access some of the information about the job seeker that is kept in the provider's records on the DEEWR computer system.

16. When the PST member has decided whether a participation failure is to be imposed, they must inform the job seeker and provider of their decision. If a failure is not being imposed, the PST member notifies the provider through the DEEWR computer system by entering a code for one or more of about 40 briefly described reasons for the decision. He or she may also decide to enter some further detail in a "free text" section.

### **Some numbers and trends**

17. In this and subsequent chapters, a number of historical comparisons are made between the new compliance system and its predecessor. The comparisons are usually made with the last year of the previous system (ie, 2008–9) because key circumstances, policies and guidelines varied considerably during the three years of that system's operation and, accordingly, generalised comparisons with those years are too complex and potentially misleading to be appropriate. Indeed, for reasons elaborated upon later in this chapter, even comparisons with the last year of the previous system must be treated with caution.

18. A number of comparisons are made between the final quarter of the first year of the new system (ie, April–June 2010) and the quarterly average for the last year of the previous system. The focus on the final quarter is because the system evolved considerably during its first year after a lengthy transition period and for some aspects of the system it is only in the final quarter that it can be regarded as fully operative. Conversely, when calculating the quarterly average for the last year of the previous system, only the first three quarters are taken into account because the impending introduction of the new system meant that the final quarter was highly atypical in a number of respects.

19. Some comparisons include adjustments for the different numbers of "active job seekers" in relevant periods. This excludes all job seekers who were suspended from stream services and therefore were not generally subject to participation requirements of the kind that might lead to Participation Reports and participation failures. Limitations on available data mean that some of these adjustments cannot be precise. However, they are sufficiently accurate for the uses to which they are put

in this report. For further details of these issues and the statistics summarised below, see the Statistical Annex.

### *Submissions of PRs*

20. During the first year of the new compliance system, the rate of attendance at appointments with providers averaged about 58% by comparison with about 56% in the previous year. In almost 50% of the non-attendances, providers considered that the job seeker had a valid reason for non-attendance and in about another 25% it reported an invalid reason but decided not to submit a PR. The remaining non-attendance reports led to submission of a PR. Due to changes in the range of options for providers to choose, comparable data relating to providers' assessments of reasons for non-attendance are not available for the last year of the previous compliance system.

21. The number of PRs in the new system started at a low level because of transitional issues but the total submitted in the final quarter of the first year was about 110,000. This total (and, unless stated otherwise, all other statistics relating to PRs in this report) excludes all PRs which were withdrawn before determination by Centrelink, were rejected because the job seeker was no longer receiving a participation payment or related to a preclusion period rather than a participation failure. For the final quarter of the first year, the total number of PRs excluded on these grounds was about 20,000.

22. The total of 110,000 for the final quarter of the first year was about 5% lower than the quarterly average for each of the previous two years. When expressed as a proportion of all active job seekers, the total of PRs for the final quarter was about 19% compared with 23–25% in each of the previous two years.

23. About 80% of the PRs submitted during the first year were for alleged Connection Failures. Another 15% or so alleged No Show, No Pay Failures and about 5% alleged Reconnection Failures. Most of the Serious Failures were triggered by several PRs which alleged one of the other three types of failure and were recorded in those categories of PR. Those relating to failures to take up a job offer, however, arise from PRs which are specifically for a Serious Failure and are recorded as such. They constituted a little under 1% of all PRs.

24. The overwhelming majority of PRs (more than 80%) during the first year of the new system related to alleged "failure to attend an appointment with a provider". The other main reason was alleged "failure to comply with an Employment Pathway Plan" which accounted for a little over 15% of the total. The former category was higher than the previous year and the latter category was lower.

25. About 49,000 job seekers, comprising about 6% of all job seekers, were the subject of three or more PRs during the first year of the new system. Collectively, they accounted for about 52% of all PRs. About

19,000 job seekers (about 2.5% of the total) were the subject of five or more PRs, accounting for about 25% of the total number of PRs. The total number of PRs relating to these job seekers with five or more PRs was a higher proportion of all PRs than in previous years.

26. Precise figures are not available in relation to the proportion of all PRs which related to job seekers in the respective JSA streams during the first year of the new system. It is clear, however, that job seekers in stream 4 were much more likely than those in other streams to be the subject of a PR.

27. During the first year of the new system, job seekers under 25 comprised about 30% of all job seekers but were the subject of about 47% of all PRs. They comprised about one-half of all job seekers who were the subject of 3 or more PRs. Indigenous job seekers comprised about 8% of all job seekers but were the subject of about 18% of all PRs. They comprised more than a quarter of all job seekers who were the subject of three or more PRs.

28. As mentioned earlier, the new compliance system introduced the option for providers to submit a Contact Request instead of a PR. In the final quarter of the first year of the new system, about 75,000 Contact Requests were submitted.

#### *Responses to PRs*

29. During the first year of the new system, the proportion of PRs which led to a participation failure being imposed (“applied PRs”) was about 25% during the first six months but as the system evolved the rates rose to 31% in the third quarter and to 37% in the final quarter. The proportion in the final quarter was substantially higher than the average of 31% during the previous year.

30. The proportions of applied PRs during the first year varied between different types of failures and between job seekers in different JSA streams. For the different types of failures, the approximate variations above and below the overall average proportion for all failures were: Connection – slightly higher; Reconnection – 14% lower; No Show, No Pay – 7% lower; Serious – 19% lower. Precise figures for the streams are not available but it is clear that for job seekers in Stream 4 the proportion of PRs which were applied was significantly below the overall average. For job seekers in the DES system the proportion was about 5% lower, and for job seekers who had a Vulnerability Indicator or who are Indigenous the proportions were 1–2% lower. For early school leavers the proportion was about 5% higher.

31. In general, there was little difference between the 15 Centrelink regions in relation to the proportion of PRs which were applied. However, the North and Western Australian regions had significantly below-average proportions, which may partially reflect the unusually high proportions of remote and Indigenous job seekers in those regions.

32. About 70,000 PRs did not lead to imposition of a participation failure (“rejected PRs”) in the final quarter of the first year, of which about 45,000 (65%) involved Centrelink deciding that the job seeker had a reasonable excuse for the alleged failure or, in some cases, that there was insufficient evidence. This proportion compared with about 68% in the previous year. The remaining 25,000 or so (35%) of rejected PRs in that quarter were due to Centrelink perceiving procedural errors by the provider in setting or notifying the participation requirement or in submitting the PR. This proportion was higher than in the previous year due to a substantial increase in the proportion which were attributed to “error in reporting” by the provider (outweighing a decrease in the proportion attributed to an inappropriate requirement by the provider).

33. Putting aside these cases of perceived procedural error, there were about 86,000 PRs during the last quarter in which Centrelink was required to determine whether or not the job seeker had a reasonable excuse or there was insufficient evidence to apply the PR. In about 48% (41,000) of these cases Centrelink decided that there was no reasonable excuse and therefore applied the PR and imposed a participation failure. Accordingly, amongst the total of 86,000 PRs where Centrelink formed a judgment about the substantive issues rather than procedural validity, the rate of applied PRs was about 48% and the rejection rate was about 52%.

34. Medical reasons accounted for about 35% of all PRs where Centrelink considered that the job seeker had a reasonable excuse. This proportion was down from about 50% or more in each of the two previous years. A further 20% were due to Centrelink deciding that the job seeker was engaged in other acceptable activities on the day in question, such as attending a job interview or having caring responsibilities. This proportion was similar to the previous two years. Other reasons included personal crises, transport difficulties, language or cultural difficulties and homelessness (each being 5–10%).

## **KEY ISSUES FOR CONSIDERATION**

### **Introduction**

35. Participation Reports have been a crucial element of successive compliance systems over many years. The new compliance system, however, seeks to encourage the exercise of greater discretion by providers when deciding whether to submit a PR. The relevant DEEWR guidelines emphasise the objective of promoting engagement and participation by job seekers and they encourage providers to try a range of other engagement strategies, including the new Contact Request process.

36. As mentioned earlier, the level of PRs at the end of the first year of the operation was running at a much lower level than under the previous system when expressed as a percentage of all active job seekers. An

extra 35,000 or so PRs would need to have been submitted for the total in the final quarter to have reached the same quarterly average, relative to the number of active job seekers, as in each of the two previous years. This, together with the very widespread use of the new Contact Request process, suggests that providers have begun to exercise more discretion than under the previous system.

37. It should be noted, however, that the scope for discretion by providers under the previous system may have been greater than at first appears. The obligation to submit a PR arose only if the provider recorded the job seeker as having, in its judgment, no valid reason for failure to comply. There is evidence to suggest that where providers did not consider a PR was justified even though the job seeker had not provided a valid reason, they may sometimes have recorded that there was a valid reason. Under the new system, they are able in such situations to record that the reason was invalid without then being required to submit a PR.

38. The operation of the PR system has been subject to criticism for many years. The main areas of concern have been that it too often

- weakens the ability of providers to achieve and maintain effective engagement with job seekers and assist them to find work;
- is unduly harsh on some especially vulnerable job seekers;
- causes financial loss to providers during periods when they cannot engage with job seekers;
- causes undue public expenditure by allowing some job seekers to continue receiving participation payments while evading participation requirements;
- is excessively complex and time-consuming, especially for providers but also for Centrelink and job seekers.

39. A key issue underlying a number of these concerns has been whether the rejection rate of PRs is too high or too low. Much of the concern is based on the “apparent rejection rates” which providers calculate, or form an impression about, from the outcomes of individual PRs as notified to them by Centrelink. Accordingly, it is very important to recognise that these calculations or impressions can easily be based on a misunderstanding of the varied circumstances in which PRs are recorded as rejected.

40. Almost one-fifth of all rejections which were notified to providers during the first year of the new compliance system were due to the PR having been withdrawn or circumstances having changed since the PR was submitted. The latter situation applied mainly where the job seeker had ceased receiving participation payment because, for example, he or she had found work. In reality, therefore, they represented instances where circumstances had changed, not ones where Centrelink and the provider had disagreed. These “apparent” rejections form the majority of

the 20,000 PRs which, as mentioned earlier, have been excluded from the statistics elsewhere in this report.

41. When assessing the size and significance of the rejection rate, it is also important to distinguish between those PRs which are rejected for procedural reasons and those where Centrelink has to form a view on the substantive merits of the provider's opinion that the job seeker had no reasonable excuse. As mentioned earlier, the rejection rate in the latter category was about 52% (by contrast with a rejection rate of about 63% when rejections on procedural grounds are included).

42. Several other factors tend to exaggerate the extent to which the apparent rejection rate reflects the incidence of disagreement between Centrelink and providers. For example, each rejection of a PR alleging a No Show No Pay failure is counted separately even though, for example, it may have been one of three PRs for successive days of absence from a training program due to the same illness. Moreover, if more than three PRs are submitted for, say, failure to attend an activity on successive days due to the same alleged illness, no more than three failures can be imposed and the other PRs will be automatically rejected. This occurs because the first three PRs will trigger a Comprehensive Compliance Assessment and the policy is not to impose any further participation failures until that assessment has been completed.

43. Another potentially misleading factor is that providers have to submit PRs whenever a job seeker leaves a job, irrespective of whether they consider that the job seeker had a valid reason of doing so. The rejection of such a PR by Centrelink does not necessarily indicate, therefore, a difference of opinion with the provider. It should also be noted that some recorded rejections relate to PRs which Centrelink considered to have been incorrectly prepared, whereupon the provider corrected the error and submitted a further PR which then led to the imposition of a failure.

44. It has been pointed out earlier that the rejection rate fell significantly during the final few months of the first year of the new system. This may well reflect the substantial tightening in March 2010 of the grounds on which PST members could reject PRs. It may also reflect the considerable efforts made in the same period by Centrelink, providers and DEEWR to improve the providers' understanding of when to submit a PR and what to include in it. As mentioned earlier, the overall rejection rate in the last quarter was 63% at the end of the first year, which was about 6% lower than in the final year of the previous compliance system.

45. Nevertheless, a range of concerns which have come to the attention of the Review suggest that there is considerable scope to further improve the operation of the Participation Report process and thereby, amongst other benefits, to increase the proportion of PRs which are considered by Centrelink to justify imposition of a participation

failure. The principal areas of possible concern are outlined below in relation to the following stages of the PR process:

- submission of PRs by providers;
- investigation of PRs by Centrelink;
- determination of PRs by Centrelink.

## **Submission by providers**

### *Providers' practices*

46. As mentioned earlier, about one-third of rejections of PRs during the first year of the new system were attributed by Centrelink to procedural mistakes by providers. These included errors in developing or recording the participation requirements for a job seeker, in notifying the requirements to the job seeker, and in submitting the PR to Centrelink. The last of these three categories was much more prevalent than in the last year of the previous system.

47. The other two-thirds of rejections involved Centrelink considering that the job seeker had a reasonable excuse for non-compliance. Some welfare organisations believe that failures by a number of providers to investigate adequately whether a reasonable excuse exists, or to recognise an excuse as reasonable, have often contributed to many of these inappropriate PRs being submitted.

48. It is widely believed, including amongst providers, that there is scope for considerable improvement in provider performance in these respects. Perceived problems include inadequate staff training by some providers as well as insufficient interaction with Centrelink (and to a lesser extent DEEWR) to improve providers' understanding of the relevant processes and criteria. This is said to affect the appropriateness of opinions formed by providers, especially about the existence of a reasonable excuse, and also the degree of detail which they include in PRs about relevant aspects of the job seeker's circumstances and compliance history. Some providers have emphasised that they do not get paid explicitly for submitting PRs and therefore are reluctant to devote much time to doing so.

49. A major cause of these problems appears to be what providers report as a very high level of staff turnover in their offices. When combined with the systemic issues mentioned below, this turnover puts a huge burden on those people who are responsible for training the new staff and closely supervising them while they gain experience. Another significant factor is seen by a number of providers and welfare workers as being the continuance in some quarters of the generally harsher approach (often referred to as a "culture") which the previous compliance system encouraged providers to take in situations of possible non-compliance.

50. The need to address these and other problems by strengthening interaction between providers and Centrelink was increasingly recognised during the first year of the new system and, as mentioned earlier, this may have contributed to the considerable decline in rejection rates towards the end of the first year. This interaction now includes exchange visits between providers and PST teams to observe each other at work. Meetings at area level between providers, Centrelink and DEEWR staff are generally held every six weeks, although attendance and follow-up on issues raised at the meetings appears to vary quite considerably between areas.

51. Many providers have stated that monitoring of their files by DEEWR often focuses on whether job seekers are being allowed to accumulate too many non-attendances at appointments before being the subject of a PR. It is possible that some providers may react to this monitoring by submitting PRs even where they think it is inappropriate to do so, but then fail to provide adequate supporting material. However, providers generally regard contract managers as being less prone to apply excessive pressure than under the previous compliance system and also as likely to be satisfied if the provider takes the new option of a Contact Request before considering a PR.

#### *Systemic issues*

52. A major contributing factor to these difficulties with submission of PRs is seen by many providers and others as being the excessive number, length and lack of clarity of the relevant rules and guidelines by DEEWR and Centrelink. These difficulties are seen as being aggravated by overlap and inconsistency between the materials, and by differences between what those materials say and what is conveyed by other means such as official training sessions, monitoring by DEEWR contract managers or comments at the six-weekly meetings.

53. Problems are also attributed to inadequate design of the electronic PR form itself and to lack of sufficient interactivity between the DEEWR system on which providers' records are held and PRs are submitted and the Centrelink system on which PRs are reviewed. Providers cannot readily transfer detailed information from their records on the DEEWR system into a PR without re-typing. There is also considerable confusion amongst providers about how much of the material which they include in a PR, or is elsewhere in the job seeker's Centrelink or DEEWR records, is accessible to and accessed by the PST staff who determine PRs.

54. Another contributing factor is seen as being undue pressure on providers and job seekers to develop a detailed Employment Pathway Plan (EPP) at their first appointment. This can lead to inappropriate selection or description of participation requirements because there has not yet been time for the provider to develop sufficient understanding of the job seeker's circumstances, including any barriers to communicating those circumstances and to understanding any requirements. In these

situations, PST staff may often feel uncertain whether particular participation requirements have been appropriately selected by the provider and adequately notified to the job seeker

55. A number of providers complain that these difficulties are aggravated considerably by many job seekers not being allocated to an appropriate JSA stream. Some providers could perhaps make more use of their right to administer a subsequent JSCI themselves but there are significant limitations on the circumstances in which they may do so. Views are mixed about the efficacy of Job Capacity Assessments (JCAs) in helping providers to correct misallocations or in reporting detailed information so that providers can speedily develop an appropriate EPP. Some providers are very pleased with the JCA process while others are rather critical, perhaps sometimes expecting a JCA to do work which DEEWR expects them to do.

## **Investigation by Centrelink**

### *Underlying concerns*

56. Many concerns about the outcome of Centrelink's consideration of PRs relate to perceived weaknesses in Centrelink's methods of investigation. There is widespread concern amongst providers about what they see as an unduly high level of rejection of PRs on the ground of "reasonable excuse". This applies especially to rejections based on alleged medical reasons, which comprised about 25% of all rejections in the first year of the new system (compared with about 33% in the previous year). Concern has also been expressed about the level of rejection for allegedly inadequate notification of the participation requirements to the jobseeker. These comprised about 13% of all rejections under the new system, which was a similar proportion to the previous year.

57. On the other hand, some providers and welfare workers believe that in some cases Centrelink imposition of a participation failure is inappropriate. This concern applies especially where job seekers have major problems of understanding or communicating due to problems relating to mental health, intellectual disability, personality disorder or language difficulties. It is argued that the gravity of these problems is not always realised by providers or Centrelink – sometimes because the problems are undiagnosed and other times because the job seeker is reluctant to acknowledge them to relative strangers in Centrelink or a provider's office.

58. Both of the areas for concern outlined in the previous two paragraphs relate especially to job seekers who have been the subject of a substantial number of PRs. For example, many providers are critical of what they see as repeated acceptance by Centrelink from the same job seeker of excuses which on their own might be credible and reasonable but collectively are much less persuasive. These outcomes are strongly

criticised for enabling a relatively small, but nevertheless excessive, number of job seekers to manipulate and evade the compliance system for lengthy periods. They can also gravely prejudice providers' efforts to achieve effective engagement with some of their more reluctant job seekers.

59. At the other end of the spectrum, there are concerns that some vulnerable job seekers are receiving multiple PRs and participation failures because of inadequate understanding by providers and Centrelink of the job seekers' great barriers to compliance. These outcomes are criticised for causing considerable harm to the job seekers and also damaging the prospects of effective engagement with them. It is generally acknowledged, however, that the new Comprehensive Compliance Assessment process is very much better than the previous system at protecting these types of job seeker from experiencing the severe hardship of an eight-week loss of payment.

#### *Centrelink processes*

60. As mentioned earlier, Centrelink's Participation Solutions Teams (PSTs) always speak with the job seeker before determining a PR, unless they have already decided to reject it. They then aim, wherever possible, to complete the investigation while the job seeker is still on the telephone and apparently they do so in the majority of cases. About 98% of all PRs are determined within the five day benchmark agreed with DEEWR.

61. The understandable pressure on PST members to move expeditiously may nevertheless contribute to what most providers say is a common failure by PSTs to contact them while a PR is being investigated, even where it is eventually rejected. As a result, providers may have no chance to comment on alleged information or explanation given to the PST by the job seeker. They also have less chance of understanding, and perhaps agreeing with, PST decisions which were based on information not known to the providers. On the other hand, Centrelink says that its PST members almost always try to telephone the provider if rejection of a PR is being considered, but often they get no answer or, more commonly, are told that no person with knowledge of the case is readily available.

62. There is widespread concern that some key information on Centrelink's files may not be known to the providers but, if known, might have led to a decision not to submit a PR or, on the other hand, to provide greater detail in it so that the reasons for submission were more persuasive. In some cases, the providers could perhaps have elicited the information themselves from the job seekers but may not have recognised the need to do so or not have been sufficiently motivated to that end. In other cases, however, the job seekers may not have realised that disclosure would help them or may have been very reluctant to disclose the information until they had time to develop a trusting

relationship with the provider. Moreover, some information may be disclosed to Centrelink only because it, unlike providers, has direct power to withhold payments.

63. There is general acknowledgement that some information held by Centrelink may not be disclosable to the provider for privacy reasons. This may apply where, for example, it relates to sensitive medical issues or to relatives of the job seeker. It is argued, however, that there is often no such barrier and, at the least, the information could perhaps be canvassed indirectly in the course of a call to the provider as part of the investigation of the PR. Centrelink is entitled by law to disclose any information to the provider that is reasonably necessary to facilitate the provider's effective and efficient provision of services and other duties under its JSA contract. This clearly includes information about barriers which may affect the types of requirements set by the provider or the job seeker's capacity to comply with those requirements.

64. Concerns have also been expressed about PST members' perceived lack of knowledge of local factors which may be relevant to their investigation. This may include, for example, knowledge of local geography, labour markets, transport, health services and cultures. In some cases, it could include knowledge of the particular job seeker. Local Centrelink offices are said to be more likely to have such knowledge than PST members who may be located in another region or State. Accordingly, it has been suggested that PST members should consult staff in the job seeker's local office more frequently than currently occurs.

65. The nation-wide PST system has enabled PRs to be investigated and decided upon by staff who are more highly qualified, trained and monitored than it would generally have been possible to achieve in local Centrelink offices. The system also enables calls to be answered more promptly and, perhaps, the time of PST staff to be managed more efficiently. Some people argue, however, that if calls were routed to the nearest PST, as occurred under the previous system, these benefits could still be sufficiently achieved while also obtaining some of the advantages of more localised knowledge.

66. The national queuing system means that providers would not usually know where their PR was being handled, yet many providers allege that there are wide regional variations in the performance of PSTs. These perceptions may relate more to the handling of inquiries to the special PST "hotline" service for providers, calls to which are usually answered by the PST in the provider's own region. As mentioned earlier, the region in which the job seeker lives does not seem to affect significantly the likelihood of rejection, except in relation to North and Western Australia where difficulties arising from remoteness and the incidence of Indigenous people may contribute to a higher level of rejections.

## Determinations by Centrelink

### *Centrelink practices*

67. As under the previous compliance system, there is considerable criticism, especially from providers, that PSTs are too reluctant to reject implausible excuses provided by job seekers for apparent non-compliance. These providers are especially concerned where the job seeker in question has a lengthy record of apparent non-compliance and where the providers' PR included extensive details about this record and their other reasons for rejecting the job seeker's excuses. As mentioned earlier, their concerns are based partly on the difficulties which they believe are caused for their attempts to engage with recalcitrant job seekers and partly on the cost to themselves and the public revenue.

68. One area of particular concern is when job seekers repeatedly claim medical reasons but fail to provide evidence to the provider, at least in relation to the particular non-attendance. These currently comprise about 16% of all rejections (by comparison with about 20% in the last year of the previous system). In some of these cases, however, medical evidence in Centrelink's own records may have been sufficient to indicate that the job seeker's excuse was reasonable.

69. Another area of concern is when job seekers repeatedly make other arrangements, such as travel or medical appointments, for dates on which they are meant to be meeting with their providers. Rejections on the ground that the job seeker had another activity on the day which was regarded as an acceptable excuse comprise about 15% of all rejections (similar to the level under the previous system). A third area of concern relates to job seekers who seem to have a pattern of transferring to a new provider just before a scheduled appointment with their current provider.

70. Some providers are also critical of what they regard as an excessively high rejection rate of PRs on the ground that the job seeker was not correctly notified of the requirement in question. This accounts for about 13% of all rejections, which is similar to the level under the previous system. The incidence may be exacerbated by providers giving inadequate detail in the PR about the method of notification and/or not having an opportunity to comment on what the job seeker said to the PST.

71. A frequently-heard call from providers is for PSTs to provide clearer and more detailed reasons for their decisions, both in their initial determination and by providing suitable avenues for subsequent oral inquiries. Many providers argue that better explanations of reasons might often lead them to understand and agree with the PST decision, especially if it was based on additional information. Centrelink agrees that there may be scope for improving the ways in which reasons are provided by PSTs, but also suggests that some providers do not take sufficient care to read and act on the reasons which are provided. It also

argues that providers could make more use of avenues such as the dedicated PST hotlines for inquiries by providers and the opportunities for raising issues at the six-weekly meetings with Centrelink and DEEWR or through DEEWR's special Centrelink Liaison Officers.

### *Provider practices*

72. In response to these various concerns, views expressed from a range of government and non-government quarters suggest that much of the problem stems from some providers submitting PRs without adequate investigation or cause and/or inadequately preparing their PRs. These issues have been canvassed earlier, as has the contribution which may be made by inadequate investigative techniques within PSTs.

73. Some criticism by providers of PST determinations could reflect their own ignorance or harshness about the difficulties which job seekers can encounter when seeking to comply with participation requirements, to prove compliance or to demonstrate a reasonable excuse. This can apply, for example, when job seekers lack the financial or physical capacity to visit the requisite doctor for a medical certificate, especially for each occasion of an episodic or chronic condition. Similar lack of understanding or fairness amongst PSTs is said by some welfare organisations to contribute to participation failures being imposed inappropriately on some vulnerable job seekers.

74. Concern has been expressed that some providers do not understand, or perhaps accept, the requirements of social security law, administrative law and the principles of natural justice under which PSTs must operate. These include the need for job seekers to have been correctly notified of their participation requirements and to have been given a reasonable opportunity to be heard before a determination is made. On the other hand, it is argued that many of the problems might be reduced if the provider was also given an opportunity to be heard by the PST.

## **CONCLUSIONS**

75. It is very difficult to draw firm conclusions about the impact of the new compliance system at this stage, including the operation of the Participation Report process. Introduction of the new system, and the contemporaneous introduction of Job Services Australia, involved a lengthy period of transition and then adjustment. It was only towards the end of the first year that the system may have become bedded down sufficiently to provide a moderately reliable sense of its likely operation in future. Moreover, the new system involved so many changes in key structures and processes, as well as in matters of detail, that it is often impossible to relate cause to effect or to make reliable historical comparisons on the basis of either data or opinion. Nevertheless, the

Review has arrived at the following conclusions on issues canvassed in this chapter.

#### *Submission of Participation Reports*

76. The Participation Report process has existed for many years as a key part of successive compliance systems. The main change in the new compliance system was to encourage greater use of discretion by providers when deciding whether to submit PRs. This included introduction of the preliminary option of making a Contact Request. A large number of Contact Requests has been made and the use of PRs has declined significantly from the previous system, at least when adjusted to allow for the increase in the total number of job seekers. Accordingly, providers appear to be getting more help from Centrelink than under the previous system in achieving engagement with job seekers and there is evidence to suggest that they are now exercising greater discretion in their decisions whether to submit a PR.

#### *Centrelink responses to Participation Reports*

77. After starting at a relatively low level at the beginning of the new system, by the final quarter of the first year the proportion of Participation Reports which led to imposition of a participation failure had risen to a considerably higher level than the average for the previous year. The rising rate during the first year probably reflects growing familiarity by providers with the procedures for submitting PRs and also changes during the year to the guidelines for assessment of the reports.

78. Despite these desirable improvements in the quality of PRs being submitted by providers and of Centrelink's response to those PRs, there remain good grounds for believing that further improvements should be made. This applies even though almost one-fifth of the rejections notified to providers do not result from a difference of opinion between Centrelink and the provider. For example, many of them relate to PRs which were withdrawn or related to job seekers who were no longer receiving a participation payment.

#### *Directions for action*

79. The twin goals for strengthening the Participation Report process should be to improve the appropriateness and quality of the PRs being submitted by providers, and to improve the quality and transparency of Centrelink's responses to PRs.

80. This approach requires simplification of the rules, processes and materials about the compliance system with which providers and staff in Centrelink and DEEWR need to be familiar. It also requires improved flows of information and advice, especially between providers and Centrelink staff in relation to submission and determination of PRs. Centrelink's processes for investigating and determining PRs need to be strengthened, especially in relation to the degree of communication with providers. As discussed in chapter 3, it is also important for the JSA

payment and monitoring systems to be conducive to effective operation of the PR process.

#### *Job seekers with multiple PRs*

81. A high priority is to focus on situations in which a particular job seeker is the subject of a substantial number of PRs. It is important to reduce the relatively small but unacceptable number of job seekers who are able for a sustained period to evade reasonable participation requirements. The damage done to the prospects of effective engagement with these job seekers, and to the perceived integrity of the whole system of participation payments, clearly calls for further action.

82. The proposed focus on job seekers with large numbers of PRs should also seek to ensure that hardship is not being caused to any of them who may be highly vulnerable people rather than entrenched evaders. It seems clear, however, that the risk of such hardship has been reduced very substantially by the new Comprehensive Compliance Assessment process and further progress may depend to a considerable extent on changes outside the compliance system. Nevertheless, significant concerns remain in relation to, for example, some young people and some Indigenous people.

83. Adopting a risk management approach is crucial for achieving adequate improvement. Extra resources are needed for monitoring and improving the quality of PRs being submitted in these situations and of Centrelink's response to them. There needs to be a focus on particular methods of possible evasion relating, for example, to alleged lack of notification of requirements, medical issues or transfers between providers. It is also important to ensure that providers understand any particular causes of vulnerability, or barriers to compliance, which may currently be under-recognised.

#### **Recommendations**

84. The Review's recommendations for addressing the issues and responses outlined in these conclusions are provided in chapter 7.

## Chapter 5

# PARTICIPATION FAILURES AND SANCTIONS

### INTRODUCTION

1. This chapter focuses on the new structure of failures and sanctions which is at the heart of the new compliance system. The structure established four distinct forms of participation failure – Connection Failures, Reconnection Failures, No Show, No Pay Failures and Serious Failures – each of which has its own particular criteria, procedures and sanctions. It also includes a related type of failure and sanction referred to in this report as a preclusion period. A preliminary outline of this structure was provided in chapter 2.

2. The new structure is accompanied by three processes of central significance to its operation. The first is the Participation Report process, which existed prior to the new compliance system but now operates somewhat differently. It has been discussed in chapter 4. The other two are the Contact Request and Comprehensive Compliance Assessment processes, both of which are innovations of the new system and are examined mainly in this chapter. It also includes a new Compliance Activity option.

3. This chapter examines the new structure and processes under the following headings:

- an overview of the major changes;
- Connection Failures and Reconnection Failures (including Contact Requests);
- No Show, No Pay Failures;
- Serious Failures (including Comprehensive Compliance Assessments and Compliance Activities);
- the overall design of the system (including preclusion periods).

The final section of the chapter provides some conclusions about how the structure and related processes are working. Recommendations arising from the conclusions are provided in chapter 7.

### AN OVERVIEW OF THE MAIN CHANGES

#### The changes

4. The new structure of failures and sanctions is the centrepiece of the new compliance system. Its primary goal is to achieve earlier and more effective engagement of job seekers without the need to resort to

severe sanctions, except where all other reasonable options have been tested without success. Consistent with this goal, the new structure differs from the previous structure in several key respects.

5. The new system gives providers an explicit discretion to decide not to initiate compliance action until they have tried other strategies, including the new Contact Request option which provides Centrelink help to achieve engagement. Where a failure is nevertheless incurred, the new structure usually imposes a relatively mild and early sanction rather than, as commonly occurred under the previous compliance system, waiting until three failures have occurred and then applying a severe sanction of an eight-week loss of payment.

6. In the case of most first failures, especially those relating to appointments with providers, the sanction is that Centrelink immediately sets a “re-connection appointment” with the provider which means that failure to attend that appointment will lead to loss of payment for the days before engagement finally occurs. In these situations, the first failure is called a Connection Failure and the second is called a Reconnection Failure.

7. Although the structure is somewhat different for first failures which relate to attendance at training or work experience activities, it imposes in these circumstances also a relatively mild and early sanction rather than wait until three failures have occurred. In this situation, however, the failure is called a No Show, No Pay Failure and the sanction involves loss of payment for the day of non-attendance. The same applies to the second instance of non-attendance, even if it is on the following day.

8. If a job seeker incurs three failures, the new structure may lead to the same eight-week loss of payment as under the previous compliance system. However, the sanction is not imposed unless a Comprehensive Compliance Assessment decides that the job seeker has been persistently non-compliant and therefore a Serious Failure has occurred. Where a Serious Failure is imposed, the new structure still pursues its emphasis on re-engagement by establishing a Compliance Activity option which allows the job seeker to undertake an activity similar to work experience for eight weeks in lieu of the loss of payments. Under the old system, an eight-week loss of payment was mandatory, with the consequential risk of lengthy disengagement.

9. The new structure was initially designed to implement accrued losses of payment from the next day on which the job seeker’s regular payment was due. The aim was to emphasise the link between the failure and the sanction. However, concern about the hardship that might be caused by such speed meant that a further delay of one payment period (usually a fortnight) was inserted during the legislation’s passage through Parliament.

10. It is too early to draw very firm conclusions about the overall impacts of these changes. In any event, historical comparisons need to be treated with great caution in light of the major changes in labour markets, policy settings, administrative arrangements, concepts and terminology over the past ten years. Moreover, underlying impacts may be counter-acted or exaggerated by the effects of transitional adjustments and of contemporaneous changes such as the introduction of Job Services Australia.

11. Most people who were consulted by the Review considered the new structure to have a number of strengths and to be an improvement on previous arrangements. There were, however, a number of concerns or uncertainties about particular aspects. These strengths and concerns are considered in the following sections of the chapter. Before doing so, however, it is appropriate to summarise some key statistics. Further details of these data are provided in the Statistical Annex.

### **Some numbers and trends**

#### *Attendance rates*

12. A key goal of a structure of failures and sanctions should be to improve attendance rates at compulsory appointments and activities. As mentioned earlier, there appears to have been only a modest increase under the new system in the attendance rate at appointments with providers, rising to 58% from 56% in the previous year. Unfortunately, the data are not sufficiently disaggregated to enable detailed analysis and confident historical comparisons.

#### *Failures and financial penalties*

13. During the first year of the new system, participation failures reached an annual total of about 115,000 after beginning at an abnormally low level due to transitional effects. The total in the final quarter was about 40,000 failures, which was similar to the quarterly average in the previous year. In relation to the total number of all active job seekers, however, it was considerably lower than the previous year's average; a total of almost 50,000 failures in the final quarter would have been needed to reach the same ratio to the number job seekers as the quarterly average in the previous year.

14. The total number of participation failures which incurred financial penalties during the first year of the new system was about 23,000. In the final quarter it was about 9,000, which was more than double the quarterly average for the previous year. When adjusted to allow for the greater number of overall job seekers under the new system, the total was still about 40% higher compared with the previous year. In addition to these penalties for participation failures, about 10,000 penalties due to preclusion periods were incurred during the first year, of which about 3,000 were in the final quarter.

15. The number of short financial penalties (that is, less than an eight-week loss of payment) in the final quarter of the first year of the new system was about 8,500 (comprising about 70% of all financial penalties for participation failures or preclusion periods). This was an increase from a quarterly average of about 700 (12% of all financial penalties) in the last year of the previous system.

16. Conversely, the number of eight-week penalties in the last quarter of the first year was about 3,500 (about 30% of all penalties for participation failures or preclusion periods). This was a decrease from about 5,000 (about 88% of all penalties) in the previous year. Most of the eight-week penalties were for preclusion periods, not Serious Failures. Further details of these sanctions are provided later in the chapter.

#### *Particular categories of job seeker*

17. The incidence of participation failures amongst job seekers under 25 years was especially high. They comprised about 30% of all job seekers but accounted for about 50% of all failures. They were not, however, over-represented amongst job seekers with Serious Failures. The incidence of failures amongst Indigenous people was also very high. They comprised about 8% of all job seekers but accounted for about 16% of all failures. On the other hand, they were not over-represented amongst job seekers with Serious Failures. Both young people and Indigenous people accounted for smaller proportions of all Serious Failures than under the previous system.

18. Precise data are not available about the incidence of participation failures amongst job seekers with Vulnerability Indicators by comparison with other job seekers. It is clear, however, that job seekers with a VI were much less likely than other job seekers to incur a Serious Failure. Job seekers in Streams 3 and 4 were over-represented amongst those job seekers who had incurred any type of participation failure. It is clear, however, that Stream 4 job seekers were under-represented amongst those job seekers with Serious Failures. Further details about sanctions for each type of failure are provided later in this chapter.

## **CONNECTION FAILURES AND RECONNECTION FAILURES**

### **Introduction**

19. About 93,000 Connection Failures were imposed during the first year of the new system, with the rate increasing considerably during the year so that the total for the final quarter was about 32,000. Connection Failures constituted about 80% of all failures under the new system. All but about 5% of Connection Failures were failures to attend a provider appointment, with the remainder including failures to sign an Employment Pathway Plan and failures to submit a job search diary.

20. About 5,400 Reconnection Failures were imposed during the year, constituting about 5% of all failures. The rate rose considerably during the year with the number in the final quarter being about 2,200.

21. Historical comparisons of the number of these failures are of limited validity due to substantial changes in detail from their closest equivalents under the previous system and in the context in which they operate. Nevertheless, it appears that as at the end of the first year of the new system the total of Connection and Reconnection Failures was running at a significantly lower level than for their closest equivalents in the last year of the previous system.

### **Some strengths**

22. The combination of Contact Requests, Connection Failures and Reconnection Failures in the new compliance system is widely regarded as an improvement on previous systems, mainly because it is more conducive to early and constructive engagement between providers and job seekers. The new Contact Request option, which was chosen on about 75,000 occasions in the final quarter of the first year, may have contributed to the combined incidence of Connection and Reconnection Failures being lower than for the closest equivalents under the old system.

23. The option of seeking Centrelink's assistance through a Contact Request has widespread support. This is partly because Centrelink's control over participation payments can give it greater influence than providers may have when requiring job seekers to attend appointments or comply with other obligations. It is also because the option reduces the risk for providers of alienating the job seeker, and thus damaging the prospects of constructive interaction, if they try to invoke a Connection Failure at the start of the relationship. A further benefit for providers is that making Contact Requests usually involve less work, cost and delay than submitting a Participation Report.

24. The new arrangements for imposing a loss of payment for a Reconnection Failure until re-engagement occurs are generally seen as an improvement. In practice, however, they are not as different from the previous system as might appear at first. This is because, although there was no formal category of reconnection failure under the previous system, a short-term loss of payment could be imposed in some circumstances where a job seeker failed to attend a re-connection appointment. Nevertheless, the process is more transparent and widespread under the new system and Centrelink now seeks to schedule a re-engagement appointment for a time as early as the same day on which the Connection or Reconnection Failure is imposed rather than, as previously, within the next fortnight.

25. There seems to be broad agreement that imposing a financial sanction related to the duration of the disengagement after a

Reconnection Failure is much better than, as often occurred under previous systems, imposing no sanction unless and until, perhaps very much later, a further failure occurred and then a very heavy sanction was imposed. Also, the careful consideration provided by the new Comprehensive Compliance Assessment process means that providers can now be less worried that submitting Participation Reports for additional Connection or Reconnection Failures may trigger an inappropriately heavy sanction.

26. The speed of processing alleged Reconnection Failures is enhanced by the fact that Participation Reports are now generated automatically by the DEEWR computer system as soon as a provider records non-attendance at a re-engagement appointment without a valid reason. Some providers have pointed out, however, that this means the PR may be considered without full information from the provider about how it has tried to contact the job seeker.

### **Some concerns**

27. Some concern has been expressed that providers are not making enough use of Contact Requests (CRs), perhaps partly because the option is not brought sufficiently to their attention at key stages of the electronic processes for reporting to Centrelink. On the other hand, as mentioned earlier, a very large number of CRs were made during the first year. Indeed, some providers believe that the process is sometimes used as a way of shedding responsibility for trying to engage with reluctant job seekers. Some providers also believe that CRs are being over-used because of the perceived problems with submitting Participation Reports which have been mentioned earlier.

28. Some providers believe that many Contact Requests are being processed too slowly. Centrelink's practice is make two attempts to contact the job seeker within two working days to agree on a new appointment date. Where the two calls are not successful, however, the practice is to wait until the job seeker can be contacted when visiting Centrelink on his or her next pay day. This delay, and the fact that the attendance rate by job seekers at appointments made through the CR process is only about 50%, may explain some of the providers' concerns. On the other hand, Centrelink says that delays often occur because of legitimate unavailability of the job seeker to attend on any earlier date or because of a lack of time slots in the provider's appointment schedule. These problems can be especially significant in remote areas where providers may visit for only one day per fortnight or even less frequently.

29. Concerns have been expressed that after a Connection Failure has been imposed too many re-engagement appointments are being set by Centrelink for dates several weeks later, rather than at the much earlier dates which are meant to be arranged. It appears that where Centrelink is able to make contact quickly with job seekers the re-engagement

appointment is almost always set for some time in the following two days. However, as with Contact Requests, where contact with the job seeker is not achieved quickly it usually is left until the job seeker's next pay day visit to Centrelink. Also a shortage of available vacancies for appointments is said to be a cause of some delays, especially in remote areas.

30. There are signs that the Reconnection Failure arrangements may be causing undue harshness in some instances. Under the previous system, 62% of the equivalent failures led to losses of payment exceeding 14 days. Under the new system, however, the proportion has climbed to 71%. Both the number of Reconnection Failures and the number which involve more than two weeks loss of payment were trending upwards significantly at the end of the first year.

31. These lengthy losses due to Reconnection Failures have been attributed largely to many job seekers not becoming aware that they are losing payments until a considerable time has passed, perhaps not until their next pay day which may be as much as 14 days after the losses commenced. Moreover, the penalty is back-dated to the date of the failure to attend, even though a number of days may have elapsed before the job seeker is contacted, the PR determined and the failure imposed. It is argued that such substantial penalties should not be incurred for failure to attend what may be no more than two appointments – especially as failure to attend, say, five days of an activity incurs only five days loss of payment.

32. The greatest concern expressed to the Review about Connection and Reconnection Failures is not to do with the structure of these failures and the related sanctions but with what is seen as an unduly high rate of rejection of Participation Reports alleging such failures have occurred. This issue has been considered in Chapter 4. Strong criticisms of undue complexity and inconsistency in the new structure of failures and sanctions, including Connection and Reconnection Failures, are considered later in this chapter.

33. A fundamental issue, of course, is whether the new system of Connection and Reconnection Failures is demonstrably improving the rate of attendance at appointments with providers. There is no sign as yet of a substantial improvement and, as mentioned, the attendance rate at appointments arranged by Centrelink in response to a Contact Request appears to be running at only about 50%. There are many reasons why the attendance rate cannot reasonably be expected to approach 100%. They include the job seekers finding work, falling ill or having some other unexpected problem after the appointment was made. It would also be premature to form firm conclusions at this comparatively early stage about the new system's longer term impact. Nevertheless, it is clearly appropriate to be concerned if further improvements in attendance rates do not emerge over the next year or so.

34. It is important to bear in mind in any attempt to improve attendance rates the concerns expressed from many quarters about special difficulties in communication and compliance which apply to younger people who are homeless, highly transient or have significant problems concerning mental health or drugs. It was suggested that some young people may be especially unaware of, or reluctant to disclose, problems relating to their health and may also be especially wary that disclosures relating to matters such as drugs or homelessness may lead to adverse consequences. Analogous concerns arise in relation to many people with mental health difficulties.

## **NO SHOW, NO PAY FAILURES**

### **Introduction**

35. During the first year of the new system, about 17,000 No Show, No Pay Failures were imposed, comprising about 15% of all failures. The rate increased during the year, with the total in the final quarter being about 6,000. This is substantially higher than the incidence of the closest equivalent types of failure under the previous system.

36. About 90% of No Show, No Pay Failures were imposed for failure to attend an activity required in a job seeker's Employment Pathway Plan. The remainder related to failure to attend a job interview or inappropriate conduct during a required activity or job interview

### **Some strengths**

37. There is widespread support in principle for the introduction of this type of failure. As with Connection and Reconnection Failures, the main strength of No Show, No Pay Failures is seen as promoting engagement and re-engagement more promptly, fairly and constructively than the previous system. In particular, it can do so in relation to the first day of non-attendance and it imposes a sanction directly related to the duration of the failure. By contrast, the previous system applied no sanction until the third failure and then imposed one which often bore little relationship to the gravity or recency of the failures. The new system also gives providers explicit discretion not to seek imposition of a sanction if they prefer to try other strategies.

38. Because multiple No Show, No Pay Failures can be imposed for successive days of non-attendance, it is especially important that this new type of failure is accompanied by the new Comprehensive Compliance Assessment process. For reasons outlined later when discussing Serious Failures, the CCA process substantially reduces the risk of a heavy sanction being imposed unreasonably. This also enables providers to seek imposition of participation failures without fearing that they may thereby trigger an outcome which, for reasons unknown to them, would be unfair and counter-productive.

## Some concerns

39. Providers can experience great difficulties when seeking to monitor attendance by job seekers at “external” activities (ie, activities conducted by other organisations to which job seekers are referred by their providers). Where providers are paying for the job seeker’s participation, they may sometimes be able to require that non-attendance be reported to them. In many cases, however, the other organisation may be unwilling to comply because of the administrative burden involved or because they consider the ethos and effectiveness of their program would be prejudiced. This can include, for example, TAFE colleges, counselling programs and small charities providing Work for the Dole placements. Some consider that privacy principles preclude them from reporting daily attendance.

40. Even where monitoring is attempted, the No Show, No Pay concept does not always fit comfortably with the types of work experience activities which instead of requiring attendance on specified dates may involve completion of a task in the job seeker’s own time or participation for a number of hours over a given period. Moreover, if a job seeker fails to attend, questions arise as to how soon the external organisation must notify the provider and whether that organisation or the provider is responsible for ascertaining the reasons for non-attendance. A number of providers are clearly very uncertain about their monitoring and reporting obligations in these respects. Indeed, a substantial number of providers seem to have little awareness of, or experience with, the actual operation of this type of failure.

41. Many of these problems of monitoring existed also under the previous compliance system but were probably less widespread because most referrals of jobseekers were into Work for the Dole activities, where such reporting was part of the standard contract with the providers of such activities. By contrast, as mentioned in chapter 3, there is now a considerable emphasis on training or work experience activities which often are conducted by external organisations rather than the job seeker’s own provider or a Work for the Dole provider and may not involve supervised daily attendance.

42. As mentioned earlier, the new Comprehensive Compliance Assessment process substantially reduces the risk of unfairly treating multiple absences in a short period, all of which might have been for the same reason which the job seeker considered to be reasonable. Both job seekers and providers are still at some risk from the inevitable uncertainties of a CCA, however, especially in relation to the assessment whether the failures “demonstrate a pattern of non-compliance or should be viewed as a single instance” (albeit spreading over more than one day). Thus far, however, the risk of unfairness does not appear to be substantial.

43. A number of concerns have been expressed about the sanction for a No Show, No Pay Failure. While the first failure to attend an appointment (a Connection Failure) attracts no financial sanction and the second failure (a Reconnection Failure) results in losing one-fourteenth of fortnightly payments for each day until attendance occurs, both the first and second failures to attend an activity (No Show, No Pay Failures) incur loss of payment for each failure at the rate of one-tenth of fortnightly payments. Moreover, there is no equivalent of the form of warning provided by a Connection Failure. These differences have attracted some criticism as being unnecessarily complex and often inimical to the goal of constructive engagement. They are considered further in the section below on the overall design of the new structure of failures and sanctions.

44. The No Show, No Pay Failure was named and initially designed with the aim of linking the sanction to the particular non-attendance more clearly than occurred under the previous system. This attempted link was weakened to some extent when the legislature decided to delay imposing the loss of payments from the job seeker's next pay day to the following pay day. However, the original intention was bound to achieve only a tenuous link as the administrative processes for investigating an alleged failure and then implementing losses of payment mean that in many cases the loss would have been implemented up to a fortnight, or even more in some cases, after the non-attendance in question. Moreover, the amount lost in any fortnight depends on whether the due payment for that period exceeds the amount to be deducted, which may not occur if, for example, the job seeker finds some part-time or casual work. In this situation, the residual deduction is held over to the next payment period.

45. A number of welfare organisations and providers have emphasised, as they did when securing the legislative change, that imposing a loss at the first pay day could cause great hardship for job seekers in highly vulnerable circumstances. This is especially so as they may have been given no prior warning or may not understand the warning they were given.

46. Several issues raised above, especially about complexity and inconsistency, relate to the overall design of the new structure of failures and sanctions which is considered later in this chapter. Concerns about the impact of the Participation Report process on this type of failure have been considered in chapter 4.

## **SERIOUS FAILURES**

### **Introduction**

47. About 910 Serious Failures were imposed during the first year of the new system, constituting about 1% of all failures. This is likely to be an abnormally low annual total, as it began with no job seeker having

started to accumulate the failures which are needed to trigger Serious Failures for persistent non-compliance. The quarterly rate of imposition increased considerably during the year so that in the final quarter about 390 Serious Failures were imposed. This level was still only about 13% of the quarterly average in the previous year, due mainly to a fall of about 85% in the number which were imposed for persistent non-compliance. There was also a substantial decline, however, in the other type of Serious Failure, relating to failure to take up a job offer.

48. In the final quarter of the first year, about 65% of the total number of Serious Failures related to persistent non-compliance. All of these failures were the result of a decision to that effect by a Comprehensive Compliance Assessment. About 85% of all CCAs during the year were automatically triggered when a job seeker incurred three Connection/Reconnection Failures or three No Show, No Pay Failures. The other 15% of CCAs were not triggered automatically but instead were requested by a provider or, less commonly, by a Centrelink officer. Most CCAs in this category, however, are unlikely to have involved consideration of a possible Serious Failure.

49. About 10% of all CCAs during the first year of the new system led to imposition of a Serious Failure and another 55% or so led to the job seeker being referred for further assessment or assistance. In the remaining 35% or so, the job seeker was referred back to the provider, often with recommendations about action which the provider could take to improve employment prospects and/or compliance.

50. As mentioned earlier, the new system introduced an option for job seekers to have the eight-week sanction for a Serious Failure waived by undertaking a Compliance Activity for at least 25 hours in each of the eight weeks. During the first year, this option was taken up by about 35% of eligible job seekers. Those job seekers who do not have the capacity to undertake any kind of Compliance Activity can apply for a waiver of the sanction due to financial hardship. About 1.5% of all Serious Failures were waived on this ground during the first year.

### **Some strengths**

51. There is very widespread support for the major reduction in the number of eight-week sanctions for persistent non-compliance that has occurred under the new system. The previous system was generally regarded by providers and welfare workers as having been much too harsh in this respect, thereby causing unjustifiably severe hardship and in many cases weakening the prospects of maintaining constructive engagement with the job seeker. As mentioned earlier, the proportions of young people and Indigenous people amongst those incurring Serious Failures has decreased significantly under the new system.

52. Welfare agencies have reported and strongly welcomed a very considerable decline in the numbers of people seeking their help

because of incurring an eight-week sanction. This view was shared by members of the Social Security Appeals Tribunal, which experienced a decline of about 94% in the number of appeals against eight-week sanctions.

53. A major cause of these reductions was the new Comprehensive Compliance Assessment process which replaced the previously automatic imposition of eight-week sanctions after three failures had occurred. It examines whether any failures which have been imposed on the jobseeker in the last six months constitute a pattern of deliberate and persistent non-compliance and therefore a Serious Failure. It also undertakes a detailed examination of the job seekers' circumstances, including possible barriers to compliance, and almost always includes a face-to-face discussion with the job seeker.

54. CCAs often lead to a job seeker being, for example, transferred to a higher JSA stream, referred for more specialised assessment and assistance (whether through the provider or otherwise) or exempted from some or all participation requirements. These roles are commended by many providers and welfare organisations, as is the role as a safeguard against unintended harshness arising from submission of PRs by providers who may not have been fully aware of the job seeker's circumstances.

55. Comparison with data from the last year of the previous system suggests that the CCA process may have been responsible for about half of the large reduction which has occurred in the number of Serious Failures for persistent non-compliance. The remaining reduction stemmed from fewer jobseekers accumulating enough failures to reach the threshold at which a Serious Failure can be imposed, due partly perhaps to improvements in early intervention arising from the new system of Contact Requests, Connection Failures and Reconnection Failures.

56. Other likely contributors to the reduction include changing the threshold from three failures of any type to either three Connection/Reconnection Failures or three No Show, No Pay Failures; requiring the three failures to have occurred within 6 months, not 12; and re-starting the count of failures after a Serious Failure has been imposed. A further contributing factor would be the low rate of participation failures during the transitional phase in the first six months of the new system.

57. There is strong support in principle for the new Compliance Activity option as a way of avoiding undue harshness while at the same time imposing a substantial sanction and encouraging re-engagement. As outlined below, concerns about the new option relate to aspects of its implementation.

## Some concerns

58. Many providers believe that they should have an opportunity to be involved in the CCA process and to give their perspectives of the job seeker. This partly reflects a concern by some providers that the process is sometimes too lenient towards job seekers, thereby making it harder to induce recalcitrant job seekers into cooperating with providers. There is also some criticism of delays in the process (which may be allayed partially by the recent decision to conduct them by telephone where imposition of a Serious Failure is not under consideration).

59. There are concerns amongst welfare workers and providers that eight-week sanctions are still being imposed inappropriately on some vulnerable job seekers. They say that the test for waiver on grounds of financial hardship is excessively stringent, especially in relation to the definition and level of liquid assets which preclude eligibility for the waiver

60. Concerns have been expressed that the take-up rate of about 35% for the Compliance Activity option is unduly low. Failure to take up the option may be due to the job seeker finding a new work opportunity, accepting a pre-existing work opportunity or relying on an ongoing but previously undisclosed source of work income. It may also be due to some job seekers deciding to rely on a partner's income, or on assistance from other sources such as charities, rather than undertake a Compliance Activity.

61. The relative incidence of these and other possible reasons for not taking up the Compliance Activity option is unclear at this early stage of the new system. Some of them may be desirable indications that the option is reducing unjustified failures to find work or failures to disclose work income. Where this does not happen, however, an undesirable lack of re-engagement through participation in Work for the Dole or some other work experience program may occur. Accordingly, some people argue that the Compliance Activity should be compulsory for any job seeker who wishes to recommence receiving participation payments after the eight-week sanction has expired.

62. As with the other types of participation failure, the effectiveness of the Serious Failure process is seen by some providers as being eroded by an unduly high rate of rejection of Participation Reports. This issue has been considered in chapter 4. Concerns about inconsistencies between the rules applying to Serious Failures and to other circumstances leading to long-term loss of payments ("preclusion periods") are canvassed in the following section.

## OVERALL DESIGN OF THE SYSTEM

63. Despite widespread support for the general goals and directions of the structure of failures and sanctions in the new compliance system,

there is a considerable level of concern about some complexities and perceived inconsistencies within the structure. It is also argued that the structure needs to be harmonised with the preclusion periods which are also part of the new compliance system.

### **The new structure of failures**

64. The new structure of participation failures has a number of differences between its treatment of failures relating to appointments and those relating to activities. As mentioned earlier, for a sequence of three failures to attend appointments the sanctions may consist of three warnings (for Connection Failures) and then, after the third failure, consideration of an eight-week sanction (through a Comprehensive Compliance Assessment and possible Serious Failure). If one of three failures is a Reconnection Failure, the sanction for that failure will be loss of payment for each day until attendance occurs.

65. By contrast, for a sequence of three failures to attend activities, the sanction for each failure is loss of payment for the day of non-attendance (a No Show, No Pay Failure) and then, after the third failure, the consideration of an eight-week sanction by the same process as applies to Connection and Reconnection Failures. No prior warning stage is required, even though the failures may well occur on successive days and for the same reason. The loss of payment for one day of non-attendance is calculated as one-tenth of the job seeker's fortnightly payment (in an attempted linkage with the ten working days in that period) but for Reconnection Failures the rate is one-fourteenth of the fortnightly payment.

66. There are also some complexities and apparent anomalies in the definition of which occasions count as appointments rather than activities. For example, a job interview is regarded as an activity, even though in some respects it probably has more of the character of an appointment. There is no clear link between the importance of the missed appointment or activity and the severity of the sanction. For example, missing just one day in a twenty day training course may incur the same sanction as failing to attend a job interview.

### **Preclusion periods**

67. As outlined in chapter 2, a preclusion period may be imposed where the job seeker, without reasonable cause, voluntarily leaves a job or misbehaves in a way which leads to dismissal from it. When a preclusion period (officially called an "unemployment non-payment period") applies to a job seeker, he or she will not receive participation payments for eight weeks.

68. The main concerns in this context are apparent mismatches between the rules for preclusion periods and those for Serious Failures in the new compliance system. For example, CCAs are mandatory before

imposing a Serious Failure for persistent non-compliance but not for the other type of Serious Failure (failing to take up a suitable job offer) or for imposition of a preclusion period. The Compliance Activity option is available for Serious Failures but not for preclusion periods. The criteria for granting waivers on grounds of hardship also differ between Serious Failures and preclusion periods.

69. These differences have been criticised as unduly complex, inconsistent and counter-productive. An example of the last of these characteristics is said to be that if job seekers refuse a job offer they may incur a Serious Failure but will be able to stay in receipt of payments by undertaking a Compliance Activity. If they decide to “give the job a go”, however, and later leave the job or are dismissed they will not have the option of a Compliance Activity to avoid application of the preclusion period.

## CONCLUSIONS

70. The new structure of failures and sanctions is still at an early stage of implementation and its operation was still evolving significantly at the end of the first year of operation. This consideration, together with the contemporaneous introduction of Job Services Australia and the difficulties in making reliable statistical comparisons with the previous compliance system, means that assessments of the impact of the new structure must be made with great caution and often with substantial qualifications.

71. Thus far, the overall impact of the new structure appears to have been beneficial. The combination of greater flexibility for providers and a more modulated range of sanctions appears to have led to modest improvements in job seekers' engagement with providers and to a major reduction in concerns about unduly harsh treatment of vulnerable job seekers. As intended, the system has led to a substantial increase in the number of early, lower-level sanctions and a substantial decrease in the number of higher-level sanctions.

### *Contact Requests*

72. The new Contact Request option for providers is being used very widely and proving beneficial in many instances. However, there is cause for concern that, even where Centrelink is able to contact job seekers and make new appointments for them with their providers, too many job seekers are then failing to attend the appointments. There are also grounds for discouraging providers from over-using Contact Requests in lieu of, where appropriate, making further efforts of their own to contact job seekers or submitting a Participation Report.

### *Connection Failures*

73. Although the rate of attendance at appointments has increased a little under the new system, in the absence of further improvement there

may be a case for imposing a financial sanction for Connection Failures in some circumstances. If further experience of the new system demonstrates that such a course would be appropriate, the substantial risk of causing undue hardship requires that any penalty should not apply to vulnerable job seekers and should be repayable when the job seeker agrees to another appointment.

#### *Reconnection Failures*

74. The new processes for making re-engagement appointments and imposing Reconnection Failures appear to have contributed to improvements in the speed of re-engagement by comparison with the previous system. However, there is some scope for clarifying and simplifying the procedures. There is ground for concern that some vulnerable job seekers may be suffering undue hardship from lengthy losses of payment due to difficulties in understanding and complying with their requirement to re-engage and perhaps not knowing that they are losing payments.

#### *No Show, No Pay Failures*

75. The No Show, No Pay Failure concept is good in principle but it faces substantial practical difficulties. These relate partly to monitoring and reporting of non-attendance at activities which are conducted by external organisations instead of the providers themselves. They also include problems in defining and measuring non-attendance in many instances. Most of these problems existed to some extent under the previous compliance system but they have become more significant due to the greater encouragement of a diversity of activities in the new JSA system, especially in training and part-time or voluntary work, and to the need under the new system to identify a specific date for the failure.

#### *Comprehensive Compliance Assessments and Serious Failures*

76. The new Comprehensive Compliance Assessment process is a crucial and generally very beneficial element of the new system. It greatly reduces the major risk under the previous system of excessively harsh sanctions being imposed, especially in relation to vulnerable job seekers. The CCA process also reduces the risk of job seekers becoming disengaged irretrievably as a result of a lengthy loss of payment and it has strengthened the targeting of further assessment and assistance to help overcome barriers to compliance and employment.

77. It is not yet clear whether the CCA process and Serious Failure concept have had much impact, whether positive or negative, on the long-standing problem of a small but nevertheless unacceptable number of job seekers being able to evade their participation requirements for a sustained period. In the absence of a substantially beneficial impact, further targeted action is necessary to address this concern, including perhaps some intensive investigations and assessments allied to the CCA process.

### *Compliance Activity*

78. The new Compliance Activity option appears to be having a useful impact. Its future operation should be monitored, however, in case further action is needed to increase the take up rate.

### *Timing of sanctions*

79. There is a case for trying to make financial sanctions take effect from the job seeker's first, rather than second, pay day after a failure is imposed. This could induce earlier compliance in some cases and reduce the risk of incurring a large loss of payment. On the other hand, it could also cause considerable hardship and, in many cases, not significantly improve the job seeker's understanding or speed of compliance. A more effective approach is to ensure that job seekers receive immediate and clear notification of the loss which they are beginning to incur and of ways to prevent further loss.

### *Harmonisation of sanctions*

80. There is considerable scope for harmonising and simplifying the nature and sequencing of sanctions between failures applying to appointments and activities respectively. This applies to the current differences between the sanctions for first failures in relation to appointments and activities, and to the rate at which losses of payments are calculated for each day of non-compliance. It applies also to some differences in processes and sanctions between the four types of participation failure and the system of preclusion periods.

## **Recommendations**

81. The Review's recommendations for addressing the issues and responses outlined in these conclusions are provided in chapter 7.



## **Chapter 6**

# **OTHER ISSUES**

### **INTRODUCTION**

1. This chapter focuses on a number of specific terms of reference for the Review which have not been addressed in earlier chapters. They relate to

- assistance and compliance in remote regions;
- availability of non-vocational services;
- complaints, reviews and appeals;
- impacts on employment outcomes.

### **ASSISTANCE AND COMPLIANCE IN REMOTE REGIONS**

2. A number of employment service providers and welfare organisations have emphasised a range of special difficulties which can arise when trying to provide employment services for job seekers in remote locations. These include difficulties in achieving initial engagement when job seekers are contactable only by post and their mailing address is not near where they live or when the provider only visits the location for a brief visit every fortnight or month. Problems can also arise from lack of literacy and from cultural factors which preclude attendance or are alleged to have done so. This is especially relevant in relation to the very large proportion of job seekers in remote regions who are Indigenous.

3. Even where these issues do not exist, there is often a severe shortage of available services for assessment, training or work experience programs and also of local employment opportunities to which it is realistic for the job seeker to aspire. From a compliance viewpoint, these shortages can mean that if an appointment or activity is missed the next available date may be considerably later. The problems of communication mentioned earlier can aggravate compliance difficulties and the likelihood of Participation Reports being submitted without the provider necessarily having been able to ascertain whether there was a valid reason for non-attendance. On the other hand, it is not uncommon for exemptions from some participation requirements to be granted in these situations.

4. It was pointed out in chapter 4 that the proportion of Participation Reports (PRs) which led to imposition of failures was significantly lower in North and Western Australia than in all other regions. This is perhaps

not surprising given the frequency with which the special problems of communication, distance and availability of services which have been mentioned above occur in these regions. Some providers claimed that, through lack of local knowledge, Participation Solutions Teams tend to accept too readily excuses related to alleged cultural or geographic factors, especially in remote regions. On the other hand, most PSTs have their own Indigenous experts on staff and all Participation Reports relating to job seekers in northern Australia are handled in the Darwin or Townsville offices where there is considerable access to expertise in local and cultural issues.

5. As mentioned in chapters 4 and 5, Indigenous people were highly over-represented amongst those job seekers who were the subject of at least one Participation Report (PR) and amongst those who were the subject of at least three PRs. The proportion of their PRs which led to imposition of a failure was considerably lower than for other job seekers, but they were still highly over-represented amongst job seekers who incurred a participation failure. They were not, however, significantly over-represented amongst those who incurred a Serious Failure and their relative representation in that category appears to have decreased under the new system. These data relate to all Indigenous people, not only those who are in remote areas.

6. There is a very widespread view that, especially for reasons mentioned above, it is extremely difficult and often impossible for the employment services and compliance systems to work effectively in remote areas, especially in relation to Indigenous people. It is not generally argued, however, that the situation has become worse under the new system. Many of the problems seem to be inevitable consequences of living in very remote areas. Others may be aggravated by applying in these areas the general Job Services Australia model for contracting competing providers in each area.

7. There may be scope for some improvements in the methods for assessing the circumstances and needs of Indigenous people in remote areas through the Job Seeker Classification Instrument, Job Capacity Assessment and Stream Services Review. This could include greater emphasis on assessments being conducted in person. Consideration could also be given to making special compliance rules in relation to remote communities rather than relying on Centrelink officers to grant exemptions and exercise discretions on an individual basis.

## **AVAILABILITY OF NON-VOCATIONAL SERVICES**

8. The Review was asked to report on “the gaps between Federal policy and State service provision for persons with non-vocational special needs or barriers” and on “the adequacy of non-vocational support services in regional areas”. The time frame allowed for conduct of the Review has made it impossible to examine these issues in any

detail. The range of services and geographic areas in question, as well as the need to access and rigorously assess data from many different government and non-government sources, are such that a separate and lengthy Review would be necessary to arrive at firm and specific conclusions.

9. Nevertheless, it is clear from views expressed to the Review by providers and welfare workers from many different parts of the country that there are severe shortages of non-vocational services in many, if not most, regional areas. This applies especially to mental health, drug and alcohol and housing services. The shortages are worst in remote areas, of course, where most such services are provided on the basis of infrequent visits. Special difficulties can apply when people with limited communication skills and aptitude for education, such as many early school leavers, can only access education or training programs by correspondence or other remote means.

10. These shortages pose great problems for providers seeking to assess and assist job seekers, although the Employment Pathway Fund has improved the capacity to engage such services as may be available. The shortages also make it difficult to operate an effective and fair compliance system because, for example, evaluation of a job seeker's reasons for non-attendance can be more difficult, as can the identification and implementation of measures which would assist the job seeker to comply in future. It can also be much more difficult to reschedule missed appointments for an early date.

11. Concerns have been mentioned earlier about the conduct of assessments such as the Job Seeker Classification Instrument and Job Capacity Assessment by telephone rather than in person. These problems are less easily avoidable, of course, when people with the relevant expertise are not readily available in locations near to the job seeker.

12. While there is no evidence that the new compliance system has aggravated the shortage of non-vocational services in regional areas, the benefits of some key innovations are perhaps less likely to be experienced in those areas than in other areas. This may apply, for example, to Comprehensive Compliance Assessments if they have to be undertaken by telephone or have a very limited range of non-vocational services to which they can refer job seekers for assessment or assistance. The same may apply to lack of availability of suitable Compliance Activities as options for averting an eight-week loss of payment for a Serious Failure.

## **COMPLAINTS, REVIEWS AND APPEALS**

13. The Review was asked to report on “the number of complaints made with the departmental hotline, Social Security Appeals Tribunal or Ombudsman’s office in relation to the new arrangements”. Precise statistics about calls to the DEEWR and Centrelink hotlines in relation to operation of the new compliance system have not been obtainable. However, Centrelink has advised that the overall number of calls has decreased very considerably.

14. Requests for internal review by Centrelink of decisions to impose financial sanctions are considered by Authorised Review Officers (AROs). Precise figures have not been obtainable but Centrelink advises that the number of requests in relation to participation failures has decreased by about 50% from the last year of the previous system. It appears that the success rate for these reviews was about 25%.

15. About 20 complaints were made to the Ombudsman in relation to aspects of the new compliance system during its first year. This contrasted with about 60 in the last year of the previous system and about 230 in 2007–8. The Ombudsman has welcomed the decrease, while also pointing out that, as in previous years, caution should be applied when using numbers of complaints to assess the quality of government administration, especially where those affected are vulnerable people such as Indigenous people in remote areas.

16. The number of appeals to the Social Security Appeals Tribunal against imposition of sanctions by Centrelink fell very considerably from an average of a little over 2000 in each of the last two years of the old system to about 200 in the first year of the new system. The success rate for job seekers increased a little from 22% to 28%.

## **IMPACTS ON EMPLOYMENT OUTCOMES**

17. The Review was asked to report on “the impact of the compliance regime on employment participation and long-term unemployment”. During the first year of the new system the overall unemployment rate fell from 5.8% to 5.2%. The labour force participation rate, which measures the proportion of people of workforce age who have work or are actively looking for it, remained relatively steady at a historically high level (about 65% at the end of the year).

18. According to the Australian Bureau of Statistics, about 110,000 people had been unemployed for 12 months or more at the end of the first year of the new system. They comprised about 18.0% of all unemployed people and about 0.9% of the labour force. These latter proportions were significantly higher than twelve months earlier, having risen sharply since 2007 due largely to the economic downturn associated with the recent global financial crisis.

19. It is not possible, however, to draw reliable conclusions from these data about the impacts of the new compliance system. This is partly because any such impacts may take more than a year to become significant. Principally, however, it is because there are many other factors which can contribute to changes in these outcomes, a number of which are likely to be much more significant than the compliance system. This applies especially to key macro-economic policies in Australia and overseas, as well as to factors such as climate, wars and elections at home and abroad.

20. Moreover, improvements in some employment outcomes can give a misleading impression of deterioration in other measures. For example, an increase in employment can lead more people to resume job seeking and therefore, prior to them being able to find work, giving the appearance of an increase in the unemployment rate. An improvement in the labour market will tend to increase, at least initially, the proportion of unemployed people who have been unemployed for more than twelve months. This is because the first people to go back to work as the market picks up are likely to be disproportionately from the ranks of those people who have been unemployed for relatively short periods.

## CONCLUSIONS

### *Remote areas*

21. The new compliance system faces great difficulties in remote areas, especially in relation to Indigenous people. While some of its innovative safeguards are preventing hardship which might otherwise have occurred, there is a clear risk that Participation Reports and participation failures will continue to accumulate for reasons which have more to do with the dearth of opportunities and services in these areas than with recalcitrance on the part of job seekers. The need to maintain assistance and pressure on job seekers to maximise their limited opportunities must be balanced with the risk of pointless and damaging harassment to comply with unfeasible or inappropriate participation requirements. While some of the general recommendations in this report would also be beneficial in remote areas, they need to be complemented by proposals from a more specialised and intensive review.

### *Non-vocational services in regional areas*

22. It is clear that shortages of non-vocational services are greatly weakening the efficacy and fairness of the compliance system in many regional areas. The principal need is additional funding for those services, as well as for innovative but careful utilisation of internet and other technologies which can improve communication with services in both regional centres and metropolitan areas.

### *Complaints, reviews and appeals*

23. Data in relation to the level of complaints and appeals concerning the compliance system suggest that the level of dissatisfaction by job seekers with the quality of administration and decision-making was very much lower in the first year of the new compliance system than in the previous two years. This partially reflects, no doubt, the large reduction in the number of eight-week loss of payments that were imposed.

### *Employment outcomes*

24. It is possible that the new compliance system may have assisted a little to improve employment outcomes and that such improvements could develop a little further in the coming year. But there is no firm evidence to that effect and it is inherently unlikely that such evidence would be obtainable.

## Chapter 7

# RECOMMENDATIONS

### INTRODUCTION

1. This chapter provides the Review's recommendations for addressing a range of issues considered in this report. Before doing so, it summarises some basic principles which the Review has sought to apply when developing its recommendations.
2. The structure of the chapter is as follows:
  - some underlying principles;
  - principal recommendations;
  - other recommended action.

### SOME UNDERLYING PRINCIPLES

3. In assessing impacts of the new compliance system and making recommendations for strengthening its operation, the Review has sought to apply the following principles.

#### *Obligations on job seekers*

4. Unemployed people who wish to receive income support from the government should be required to make reasonable efforts to obtain employment. These requirements can appropriately include attendance at appointments and activities which are likely to improve the job seeker's prospects of employment, including by assessing the kinds of barriers which he or she may face and the kinds of assistance which may be needed.

#### *Requirements for individual job seekers*

5. The requirements placed on a job seeker should take reasonable account of his or her individual circumstances. This includes a job seeker's existing or potential aptitudes as well as circumstances such as health status or family responsibilities which may limit their capacity to take advantage of some types of opportunity or to comply with some types of requirement.

#### *Enforcement of requirements*

6. Requirements should be enforced in order to maximise job seekers' prospects of obtaining employment and to support people and organisations which are engaged to help job seekers to do so. Enforcement is also necessary to prevent abuse of the social security

system, unjustifiable loss of government revenue, and erosion of public support for assisting unemployed people to survive financially and to find work.

#### *Methods of enforcement*

7. Enforcement should be pursued in ways which recognise the characteristics and record of the individual job seeker in question. This includes sensitivity to the great difficulty which some job seekers experience in understanding and complying with requirements that may seem simple to others. It also includes vigorous scrutiny of people who appear to have no reasonable excuse for persistent non-compliance.

#### *Focus on engagement*

8. The main purpose of seeking to enforce requirements should be to achieve or restore active engagement of job seekers with processes and activities which have a reasonable likelihood of improving their employment prospects. Sanctions should be designed and applied to achieve this purpose, not merely to punish, except where it has become clear that the job seeker is persistently and deliberately failing to meet reasonable requirements.

#### *Impacts on providers*

9. The design and enforcement of requirements on job seekers should take reasonable account of the interests of people providing assistance to job seekers. In particular, they should be clear, consistent, and not subject to arbitrary change. They should not impose unreasonable administrative burdens on providers or unjustifiably hamper providers' ability to deliver appropriate assistance.

#### *Accountability and efficiency*

10. The design and enforcement of requirements on job seekers, providers and public servants should be consistent with due public accountability and efficient administration. The requirements should be expressed clearly and succinctly, and they should be readily accessible to anyone with a reasonable interest in them. Key elements should be specified in legislation or other material after being available in draft form for public comment. In order to facilitate ongoing review of the compliance system by Parliament and the public, detailed statistics about its operation should be made available promptly and publicly.

#### *Responding to mistakes*

11. It is inevitable that mistakes will be made by people operating within large and complex systems of this kind. A high priority should be given to promptly identifying and rectifying mistakes, as well as reducing the likelihood of recurrence by improving relevant rules, training or work practices. Job seekers and other people who may be adversely affected by mistakes should have ready access to independent review of decisions relating to them.

## **PRINCIPAL RECOMMENDATIONS**

### **General issues**

R1. (1) A major Simplification Review of all Centrelink's and DEEWR's public documentation and electronic materials relating to the compliance system should be conducted under the oversight of independent consultants with expertise in plain English drafting and IT design.

(2) The Review should aim to reduce substantially the number, length and complexity of documents and electronic material; remove inconsistencies between them; and improve the clarity and accuracy of the formats for electronic reporting by providers.

R2. (1) A high priority should be given to improving inter-operability between the Centrelink and DEEWR IT systems, especially in relation to the capacity for providers to see appropriate material on the Centrelink system and for Centrelink staff to see appropriate material in the providers' records on the DEEWR system.

(2) The Privacy Commissioner should be consulted about the possible impact of proposed improvements on the privacy of job seekers and providers.

R3. (1) Providers should ensure that their employees receive adequate information and training about the compliance system, especially about submitting Participation Reports and responding to the outcomes of those reports, and about interacting with highly vulnerable job seekers.

(2) DEEWR should engage Centrelink to conduct training sessions for providers' staff in the operation of the compliance system (including joint sessions with relevant Centrelink and DEEWR staff where appropriate) and to expand the current arrangements for visits between the staff of providers and of Centrelink to experience each other's work roles.

R4. (1) Centrelink and DEEWR should strengthen their processes for interaction with providers and welfare workers about policy and implementation issues.

(2) This should include strengthening the awareness and effectiveness of the existing six-weekly meetings at Area level (including involvement of welfare workers) and of the existing Centrelink and DEEWR "hotlines".

R5. (1) DEEWR should ensure that its methods of funding and monitoring JSA providers do not unduly influence providers' decisions about whether or not to initiate compliance procedures or how to do so.

(2) For example, the number of Participation Reports made by a provider should not be included in any Key Performance Indicator or taken into account when allocating business between providers.

## **Initial assessment and engagement**

R6. (1) The Job Seeker Classification Instrument should be re-calibrated when the labour market changes substantially, in order to ensure that it takes due account of the proportion of job seekers who are likely to face major barriers in finding work.

(2) All Job Capacity Assessments should be made by a person with expertise that is relevant to the particular job seeker's circumstances, except in narrowly specified circumstances.

R7. (1) Centrelink should strengthen its processes for ensuring that job seekers understand their obligations and rights in relation to appointments with their provider, and that Vulnerability Indicators (VIs) are applied to appropriate job seekers before referral to a provider.

(2) Centrelink should also seek to ensure that job seekers who may be especially difficult to contact because of homelessness, mental health problems, language difficulties, remoteness etc are urged to designate an appropriate contact person who may be able to help Centrelink and their provider to contact the job seeker.

(3) If further and significant improvements are not achieved in attendance rates at initial appointments with providers, consideration should be given to targeted changes in the sanction for a Connection Failure (see R.14 below).

R8. (1) Providers should be encouraged not to be highly prescriptive in Employment Pathway Plans until they have fully explored the job seeker's circumstances and needs (especially for job seekers in Stream 4).

(2) Employment Pathway Plans should distinguish very clearly between those requirements which are generic and those which are specific to the particular job seeker.

## **Participation Reports**

R9. (1) Members of Centrelink's Participation Solutions Teams (PSTs) should not be under undue pressure to finalise consideration of Participation Reports (PRs) without adequate investigation; in particular, they should not have to finalise consideration prior to re-engaging the job seeker with the provider.

(2) In order to strengthen lines of communication about Participation Reports, each provider in an area should be given the name of a person within the PST office in that area who has been designated as the specific liaison person for that provider.

R10. (1) Except in specified circumstances, PST members should discuss with the provider any PR which is being considered for rejection due

to inadequate notification of the requirement, an inappropriate requirement or the job seeker having a reasonable excuse.

(2) Providers should be required to ensure that their internal records and processes enable speedy and informed responses to inquiries by PSTs. This should include nominating a senior staff member with whom Centrelink can liaise directly.

R11. (1) Centrelink should ensure that adequate details of the reasons for a decision in relation to a PR are made available to both the job seeker and the provider.

(2) Where a PR has been rejected due to inadequate notification, an inappropriate requirement or the job seeker having a reasonable excuse, providers should be entitled to discuss the reasons directly with the decision-maker, their designated liaison officer in the closest PST office, or via the PST hotline for providers.

R12. (1) Where possible, the usual postal notification to job seekers that a financial sanction has been imposed on them should be supplemented by notification by telephone, text or email. The notification should include a very clear and specific indication of the nature and timing of the sanction, and what can be done to avert or minimise it.

(2) Where a contact person has been designated by the job seeker (see R. 7 above) the notification should be provided to that person as well as to the job seeker.

R13. (1) In addition to their current system of internal reviews, Centrelink and DEEWR should engage an independent expert to conduct an Annual Review of a random sample of Participation Reports in certain categories in order to identify any systemic problems in the processes and criteria for submission and determination of such Reports.

(2) The proposed scope of each Annual Review, and its subsequent results, should be made publicly available.

### **Connection and Reconnection Failures**

R14. (1) If further and significant improvements are not achieved within the next 12 months or so in jobseekers' attendance rates at appointments with providers, consideration should be given to Centrelink having a discretion in specified circumstances to suspend payment as the result of a Connection Failure.

- (2) This discretion should be exercisable where
- the job seeker is in Stream 1 or 2 and is not the subject of a Vulnerability Indicator; and
  - the missed appointment had been agreed with the job seeker by Centrelink (for example, as the result of a Contact Request by the provider).

(3) The suspension could be for, say, fourteen days subject to payment being restored with full back pay if the job seeker agrees to a new appointment for a date earlier than the end of the suspension period.

R15. (1) The loss of payments for a Reconnection Failure should commence from the date on which the failure is imposed, not the date of the failure itself.

(2) Any losses of payment exceeding fourteen days should be repaid if the job seeker undertakes a Compliance Activity for the number of days in question, or is in financial hardship, on terms analogous to those applying to waiver of penalties for Serious Failures.

### **No Show, No Pay Failures**

R16. Providers and external organisations involved in conducting activities for job seekers should be given clear and practical information about the requirements for recording and reporting attendance.

R17. The sanction for a first No Show, No Pay Failure should be the same as for a Connection Failure, and the sanctions for subsequent No Show, No Pay Failures relating to the same activity should be the same as for a Reconnection Failure.

### **Comprehensive Compliance Assessments and Serious Failures**

R18. Comprehensive Compliance Assessments should be triggered automatically by three participation failures of any type.

R19. (1) High priority should be given to ensuring adequate resources are available for Comprehensive Compliance Assessments to be conducted promptly and thoroughly by appropriately qualified Centrelink staff.

(2) This should include ensuring that assessments involve a face-to-face discussion with the job seeker and, in general, a discussion with the provider.

(3) DEEWR contract managers should give special attention to providers' follow up on the information and recommendations which the providers receive from Comprehensive Compliance Assessments,

R20. (1) Detailed research should be conducted into the reasons why some job seekers who incur a Serious Failure either do not opt to undertake a Compliance Activity or withdraw from that activity prior to completion of the required period.

(2) Depending on the results of the research, consideration should be given to improving the availability of appropriate Compliance Activities and of assistance for job seekers to access them; and to reinstating the loss of payment period if a job seeker ceases attending the Compliance Activity without reasonable excuse.

R21. The limits on eligibility for waiver of a Serious Failure on the ground of financial hardship should be reviewed regularly, especially in relation to liquid assets, to ensure that they are fair and keep pace with changes in the cost of living.

### **Intensive Reviews and Case Conferences**

R22. Where two or more Participation Reports in relation to a job seeker have been rejected within the previous six months and a PST member proposes to reject a further report, he or she must discuss it with the provider by telephone or in person and then refer it for final decision by a designated senior PST member.

R23. (1) A special Case Conference should be held where five or more Participation Reports (whether or not leading to imposition of a failure) have been submitted within the previous twelve months in relation to a job seeker but no Comprehensive Compliance Assessment has been undertaken.

(2) The Case Conference should be convened by a Centrelink officer who also conducts Comprehensive Compliance Assessments, and it should be attended by the job seeker and a senior representative of the provider.

(3) The purpose of the Case Conference should be to assess whether the job seeker needs further assistance to achieve compliance or should be subject to different participation requirements. Where appropriate, more stringent investigation or oversight should be agreed by Centrelink and the provider (including, for example, more frequent attendance by the job seeker at Personal Contact Interviews with Centrelink).

(4) The Case Conference should also consider whether the job seeker's compliance with the Activity Test is sufficient to establish continuing eligibility for the participation payment.

### **Job seekers in remote areas**

R24. A special review should be undertaken of the operation of the JSA and compliance systems in remote areas, focusing on issues such as the impacts of competition between providers, the conduct of assessments by telephone, the shortage of training and employment opportunities, and the provision of exemptions or rejection of Serious Failures due to problems of remoteness.

### **Publication of statistics**

R25. (1) DEEWR and Centrelink should ensure prompt publication of quarterly statistics about the operation of the compliance system.

(2) The statistics should include, at least, quarterly updates to the information which is provided in the Statistical Annex to this report.

## **OTHER RECOMMENDED ACTION**

### **General issues**

- (1) The role of DEEWR's special liaison officers with Centrelink should be strengthened substantially.
- (2) When considering possible changes in Key Performance Indicators and in guidelines for comparative monitoring by contract managers, DEEWR should provide adequate prior opportunity for public comment.

### **Initial assessment and engagement**

- (1) Where the Job Seeker Classification Instrument (JSCI) is being administered in relation to a job seeker with a Vulnerability Indicator, the JSCI should be administered in person except in narrowly specified circumstances.
- (2) The JSCI procedures should place greater emphasis on explaining to job seekers that frank disclosure of their circumstances is likely to help Centrelink and providers to provide appropriate assistance.
- (3) The Key Performance Indicator about the speed with which providers establish Employment Pathway Plans (EPPs) with job seekers should measure the proportion signed within a benchmark period, not the average number of days before signature.
- (4) Relevant guidelines and monitoring processes for EPPs should not require or encourage inclusion of an excessive range of activities or highly specific detail which may involve frequent updating and/or cause confusion.
- (5) All Job Capacity Assessments, and all Stream Services Reviews for job seekers in Streams 3 and 4, should involve an interview with the job seeker in person, except in narrowly specified circumstances.
- (6) It should be emphasised to providers that they are responsible for adequately investigating job seekers' circumstances, not merely relying on Centrelink assessments.
- (7) Providers should not be discouraged from trying to engage with a job seeker pending resolution of a Contact Request, provided that any contact with the job seeker must be reported immediately to Centrelink and the Contact Request withdrawn.

### **Participation Reports**

- (1) The format of Participation Reports should be revised to emphasise the importance of providing detail of the job seeker's circumstances and compliance history and to facilitate provision of this information.
- (2) The format should also explicitly remind providers of other options, such as making a Contact Request, seeking a Job Capacity Assessment

or Comprehensive Compliance Assessment, or allowing the job seeker to make up missed time at a required activity.

(3) The format for recording Centrelink's decisions not to impose a participation failure in response to a Participation Report should be revised to encourage more accurate and detailed statements of reasons.

(4) Where a Participation Solutions Team member considers that a Participation Report has been incorrectly completed, the report should be returned to the provider for re-submission rather than being rejected, and the period prior to re-submission should not be counted when measuring PSTs' speed of processing.

(5) DEEWR's principal measure of rejection rates for Participation Reports should exclude reports which are rejected because of the job seeker's changed circumstances (such as finding work and thus ceasing to receive a participation payment) or because a Comprehensive Compliance Assessment has been triggered already.

(6) The first of the Annual Reviews of a sample of Participation Reports (see R. 13) should include rejections on medical grounds or for lack of adequate notification of the participation requirement.

### **No Show, No Pay Failures**

(1) The sanction for each No Show, No Pay Failure should be one-fourteenth, not one-tenth, of the job seekers' fortnightly entitlement.



# STATISTICAL ANNEX

## INTRODUCTION

In the following tables, historical data have been provided to enable the identification of trends in the new compliance system in relation to its predecessor. Any comparisons should be made with caution, noting that key circumstances, policies and guidelines varied considerably during the three years of that system's operation and, accordingly, generalised comparisons are potentially misleading. Data for 2007–8 are provided for indicative purposes only and the figures should not be directly compared with those for 2008–9 and 2009–10 due to changes in methodology/calculations. Where categories of data are not applicable to certain time periods, the shorthand "NA" has been used to indicate this.

Generally, data are provided for the first four quarters of the new compliance system and the quarterly average for the last two years of the previous system. When calculating the quarterly average for the last year of the previous system (ie, 2008–9), only the first three quarters have been taken into account because the impending introduction of the new system meant that the final quarter was highly atypical in a number of respects. Similarly when considering data for the new compliance system, the focus should be on the final quarter, because the system evolved considerably during its first year and for some aspects of the system it is only in the final quarter that it can be regarded as fully operative. Further, monthly data on many key aspects of the system were still changing significantly at the end of the first year of the new system.

Some comparisons include adjustments for the different numbers of active job seekers in relevant periods. These exclude all job seekers who were effectively exempt from participation requirements of the kind that might lead to Participation Reports and participation failures. Limitations on available data mean that some of these adjustments cannot be precise. However, they are sufficiently accurate for general comparisons.

### **General Notes:**

- All quarterly data are based on figures for the last of each quarter.
- In some tables, totals may differ slightly from the sum of components due to rounding procedures.

**Table A1: NUMBERS OF JOB SEEKERS**

|         |        | Active job seekers |     | Suspended job seekers |                                 |                   |                             |     | Total job seekers |
|---------|--------|--------------------|-----|-----------------------|---------------------------------|-------------------|-----------------------------|-----|-------------------|
|         |        |                    |     | Temporary exemption   | Temporary reduced work capacity | Approved activity | Total suspended job seekers |     |                   |
| Year    |        | No.                | %   | No.                   | No.                             | No.               | No.                         | %   | No.               |
| 2007-8  | Qtr Av | 515,154            | 79% | 69,875                | NA                              | 69,108            | 138,982                     | 21% | 654,136           |
| 2008-9  | Qtr Av | 531,617            | 77% | 70,212                | NA                              | 92,843            | 163,055                     | 23% | 694,672           |
| 2009-10 | Q1     | 558,595            | 73% | 69,055                | 38,515                          | 99,335            | 206,905                     | 27% | 765,500           |
|         | Q2     | 585,021            | 74% | 70,473                | 46,036                          | 91,533            | 208,042                     | 26% | 793,063           |
|         | Q3     | 588,155            | 74% | 64,793                | 44,703                          | 93,971            | 203,467                     | 26% | 791,622           |
|         | Q4     | 571,702            | 74% | 58,265                | 49,355                          | 97,868            | 205,488                     | 26% | 777,190           |

**Notes:**

- The quarter average for 2008–9 does **not** exclude the final quarter as no transition effects are apparent in job seeker numbers.
- “*Active job seekers*” means job seekers who are currently engaging with their provider and actively seeking work or undertaking activities targeted at non-vocational barriers with a view to becoming work-ready.
- “*Suspended job seekers*” means job seekers whose obligation to meet with a provider has been suspended because they have a temporary exemption from the activity test, have a temporarily reduced work capacity below 15 hours or are undertaking an approved activity.
- “*Temporary exemptions*” means exemptions for jobseekers for a specified period of time from all participation requirements (including the Activity Test and Employment Pathway Plan), except usually a requirement to attend a quarterly interview with Centrelink. Job seekers are not required to engage with an employment service provider for the duration of their exemption.
- “*Temporary reduced work capacity*” means job seekers who have a temporarily reduced work capacity of 0–14 hours and are not required to engage with an employment service provider. They are able to fully satisfy their participation requirements through a quarterly interview with Centrelink.
- “*Approved activity*” means an activity such as part-time work or education which fully meets the job seeker’s participation requirements for a specified period. Job seekers undertaking approved activities are not required to engage with an employment service provider.
- “*NA*” indicates that the suspension for “Temporary reduced work capacity” was not available prior to July 2009.

**Table A2: JOB SEEKERS WITH A VULNERABILITY INDICATOR (VI)**

| Year    |    | No. of job seekers with a VI | % of all job seekers |
|---------|----|------------------------------|----------------------|
| 2008-9  | Q1 | 130,501                      | 21%                  |
|         | Q2 | 142,281                      | 21%                  |
|         | Q3 | 140,105                      | 20%                  |
|         | Q4 | 146,725                      | 20%                  |
| 2009-10 | Q1 | 157,025                      | 21%                  |
|         | Q2 | 164,006                      | 21%                  |
|         | Q3 | 161,147                      | 20%                  |
|         | Q4 | 163,237                      | 21%                  |

**Notes:**

- The numbers of job seekers shown with a Vulnerability Indicator are as on the last day of each quarter.
- Job seekers may have more than one Vulnerability Indicator

**Table A3: ATTENDANCE AT APPOINTMENTS WITH PROVIDERS**

|         |    | Appointments attended |     | Appointments not attended |                        |                            | Total appointments not attended |     | Total appointments |
|---------|----|-----------------------|-----|---------------------------|------------------------|----------------------------|---------------------------------|-----|--------------------|
|         |    |                       |     | Valid reason              | Invalid - PR submitted | Invalid - PR not submitted | No.                             | %   | No.                |
| Year    |    | No.                   | %   | %                         | %                      | %                          | No.                             | %   | No.                |
| 2008-9  | Q1 | 892,017               | 55% | 27%                       | 18%                    | NA                         | 716,275                         | 45% | 1,608,292          |
|         | Q2 | 859,641               | 56% | 26%                       | 19%                    | NA                         | 683,675                         | 44% | 1,543,316          |
|         | Q3 | 1,082,204             | 58% | 23%                       | 19%                    | NA                         | 782,605                         | 42% | 1,864,809          |
|         | Q4 | 943,092               | 56% | 25%                       | 19%                    | NA                         | 736,000                         | 44% | 1,679,092          |
| 2009-10 | Q1 | 1,273,292             | 59% | 18%                       | 11%                    | 11%                        | 886,064                         | 41% | 2,159,356          |
|         | Q2 | 1,180,667             | 58% | 20%                       | 11%                    | 10%                        | 844,364                         | 42% | 2,025,031          |
|         | Q3 | 1,389,794             | 58% | 19%                       | 12%                    | 10%                        | 987,760                         | 42% | 2,377,554          |
|         | Q4 | 1,342,742             | 56% | 20%                       | 13%                    | 10%                        | 1,045,579                       | 44% | 2,388,321          |

**Notes:**

- “Valid reason” means that the provider has determined that the job seeker had a reasonable excuse for not attending the appointment.
- “Invalid - PR submitted” means that the provider has determined that the job seeker did not have a reasonable excuse for not attending the appointment, or has been unable to make contact with the job seeker and has decided that a PR is the most appropriate method for re-engaging the job seeker.
- “Invalid - PR not submitted” means that the provider has determined that the job seeker did not have a reasonable excuse for not attending the appointment, or has been unable to make contact with the job seeker, but is using their discretion by deciding that a PR is not the most appropriate method for re-engaging the job seeker. The provider may have rescheduled the appointment, or if unable to make contact, submitted a Contact Request.
- “NA” means this was not an option for a provider in the 2008–9 period. Prior to July 2009 if a job seeker did not have a reasonable excuse for missing an appointment, the provider was required to submit a PR.

**Table A4: NUMBERS OF PARTICIPATION REPORTS AND CONTACT REQUESTS**

| Year    |        | Participation Reports (PRs) |                         | Contact Requests (CRs) |                         |
|---------|--------|-----------------------------|-------------------------|------------------------|-------------------------|
|         |        | No. of PRs                  | % of active job seekers | No. of CRs             | % of active job seekers |
| 2007-8  | Qtr Av | 119,065                     | 23%                     | NA                     | NA                      |
| 2008-9  | Qtr Av | 123,262                     | 25%                     | NA                     | NA                      |
| 2009-10 | Q1     | 70,162                      | 13%                     | 60,379                 | 11%                     |
|         | Q2     | 98,968                      | 17%                     | 69,283                 | 12%                     |
|         | Q3     | 98,452                      | 17%                     | 73,546                 | 13%                     |
|         | Q4     | 109,216                     | 19%                     | 76,282                 | 13%                     |

**Notes:**

- Participation Reports shown are for Connection, Reconnection, No Show, No Pay, and Serious Failures for failing to take up a suitable job offer. Participation Reports are not directly submitted for Serious Failures for persistent non-compliance as these are determined following a Comprehensive Compliance Assessment which is triggered by three previous Participation Reports or through a request from a provider or Centrelink.
- Individual job seekers can be the subject of multiple Participation Reports and/or Contact Requests.
- “% of active job seekers” means the number of Participation Reports or Contact Requests expressed as a proportion of the total number of active job seekers (ie. job seekers who are not suspended – see Table 1) at the end of each quarter. This does not represent the actual percentage of job seekers who received a Participation Report or Contact Request.
- “NA” means there was no historical equivalent procedure to the Contact Request, which was introduced in July 2009.

**Table A5: REASONS FOR PARTICIPATION REPORTS  
BY PROVIDER**

|                |               | Main Reasons                           |                            |                                     | Total for main reasons |     | All other reasons | Total reasons |
|----------------|---------------|----------------------------------------|----------------------------|-------------------------------------|------------------------|-----|-------------------|---------------|
|                |               | Failure to attend provider appointment | Failure to comply with EPP | Failure to attend Work for the Dole |                        |     |                   |               |
| Year           |               | %                                      | %                          | %                                   | No.                    | %   | %                 | No.           |
| <b>2007-8</b>  | <b>Qtr Av</b> | 62%                                    | 19%                        | 13%                                 | 112,329                | 94% | 6%                | 119,065       |
| <b>2008-9</b>  | <b>Qtr Av</b> | 63%                                    | 21%                        | 12%                                 | 118,643                | 96% | 4%                | 123,262       |
| <b>2009-10</b> | <b>Q1</b>     | 89%                                    | 9%                         | NA                                  | 68,903                 | 98% | 2%                | 70,162        |
|                | <b>Q2</b>     | 81%                                    | 18%                        | NA                                  | 97,730                 | 99% | 1%                | 98,968        |
|                | <b>Q3</b>     | 82%                                    | 17%                        | NA                                  | 97,407                 | 99% | 1%                | 98,452        |
|                | <b>Q4</b>     | 83%                                    | 16%                        | NA                                  | 108,057                | 99% | 1%                | 109,216       |

**Notes:**

- “*Failure to comply with EPP*” includes Participation Reports for Connection Failures due to failing to comply with an Employment Pathway Plan and for No Show, No Pay Failures due to failing to attend an activity, as well as equivalent failures to comply with the Activity Agreement in previous years.
- “*NA*” means that no separate Participation Report category existed for failing to attend Work for the Dole from July 2009. These are now reported as Participation Reports for No Show, No Pay Failures due to failing to attend an activity and included in above data under “*Failure to comply with EPP*”.

**Table A6: CENTRELINK RESPONSES TO PARTICIPATION REPORTS**

|                |               | Participation failure imposed ("applied") |     | Participation failure not imposed ("rejected") |     | Total Reports |
|----------------|---------------|-------------------------------------------|-----|------------------------------------------------|-----|---------------|
| Year           |               | No.                                       | %   | No.                                            | %   | No.           |
| <b>2007-8</b>  | <b>Qtr Av</b> | 51,827                                    | 44% | 67,238                                         | 56% | 119,065       |
| <b>2008-9</b>  | <b>Qtr Av</b> | 38,039                                    | 31% | 85,222                                         | 69% | 123,262       |
| <b>2009-10</b> | <b>Q1</b>     | 19,167                                    | 27% | 50,995                                         | 73% | 70,162        |
|                | <b>Q2</b>     | 25,548                                    | 26% | 73,420                                         | 74% | 98,968        |
|                | <b>Q3</b>     | 30,040                                    | 31% | 68,412                                         | 69% | 98,452        |
|                | <b>Q4</b>     | 40,757                                    | 37% | 68,459                                         | 63% | 109,216       |

**Notes:**

- Participation Reports shown are for Connection, Reconnection and No Show, No Pay Failures and for Serious Failures for failing to take up a suitable job offer. Participation Reports are not directly submitted for Serious Failures for persistent non-compliance as these are determined following a Comprehensive Compliance Assessment which is triggered by three previous Participation Reports or through a request from a provider or Centrelink.
- Figures for "*Participation failure imposed*" may differ from the totals shown for failures in Table A9 because Participation Reports are not submitted directly for Serious Failures for persistent non-compliance.

**Table A7a: CENTRELINK REASONS FOR REJECTING PARTICIPATION REPORTS: OVERVIEW**

|                |               | Job seeker had reasonable excuse |     | Procedural errors relating to: |                        |                    |       | Total procedural errors |     | Total reasons |
|----------------|---------------|----------------------------------|-----|--------------------------------|------------------------|--------------------|-------|-------------------------|-----|---------------|
|                |               |                                  |     | Nature of requirements         | Notifying requirements | Submitting reports | Other |                         |     |               |
| Year           |               | No.                              | %   | %                              | %                      | %                  | %     | No.                     | %   | No.           |
| <b>2007-8</b>  | <b>Qtr Av</b> | 31,958                           | 57% | 12%                            | 9%                     | 21%                | 3%    | 24,198                  | 43% | 56,155        |
| <b>2008-9</b>  | <b>Qtr Av</b> | 48,185                           | 68% | 7%                             | 12%                    | 11%                | 1%    | 22,580                  | 32% | 71,395        |
| <b>2009-10</b> | <b>Q1</b>     | 32,296                           | 61% | 3%                             | 14%                    | 18%                | <1%   | 20,964                  | 39% | 53,260        |
|                | <b>Q2</b>     | 48,908                           | 64% | 3%                             | 11%                    | 17%                | <1%   | 27,319                  | 36% | 76,227        |
|                | <b>Q3</b>     | 47,119                           | 66% | 3%                             | 11%                    | 14%                | <1%   | 23,777                  | 34% | 70,896        |
|                | <b>Q4</b>     | 47,016                           | 66% | 3%                             | 10%                    | 14%                | <1%   | 24,343                  | 34% | 71,359        |
|                | <b>Year</b>   | 175,339                          | 65% | 3%                             | 13%                    | 18%                | <1%   | 96,403                  | 35% | 271,742       |

**Notes:**

- “*Reasonable Excuse*” means that Centrelink determined that the job seeker had a reasonable excuse for failing to comply with the requirement.
- “*Nature of requirements*” means that Centrelink determined that the requirement with which the job seeker did not comply was not reasonable or appropriate to the circumstances of the job seeker. This includes, for example, where a job seeker was referred to an unsuitable activity, where attendance required an unreasonable travel distance, or where a job did not meet minimum work conditions or enable a job seeker to arrange or access childcare.
- “*Notifying requirements*” means that Centrelink determined that the jobseeker did not receive notification, was not notified correctly, or was not given enough time to meet their requirement. This includes, for example, instances where mail may have gone astray, or the job seeker had no permanent residence for mail to be sent to.
- “*Submitting Reports*” means that Centrelink rejected the Participation Report on the ground that it was not valid. This includes, for example, where the report was submitted for a period during which the job seeker had an exemption or was not receiving any payments; it was submitted for a requirement not contained in the Employment Pathway Plan; or the report was filled out incorrectly containing the wrong code or date of incident
- “*Other*” includes a small number of Participation Reports rejected by Centrelink for reasons other than the above (for example, where a Participation Report for a Reconnection Failure is rejected because the earlier Connection Failure was revoked following an appeal).

**Table A7b: CENTRELINK REASONS FOR REJECTING PARTICIPATION REPORTS: REASONABLE EXCUSE**

|         |        | Medical reason A | Medical reason-B | Other acceptable activity | Personal crisis | Caring responsibilities | Homelessness | Transport difficulties | Cultural / language issues | Other | Total reasonable excuse |         |
|---------|--------|------------------|------------------|---------------------------|-----------------|-------------------------|--------------|------------------------|----------------------------|-------|-------------------------|---------|
| Year    |        | %                | %                | %                         | %               | %                       | %            | %                      | %                          | %     | %                       | No.     |
| 2007-8  | Qtr Av | 12%              | 20%              | 12%                       | 2%              | 5%                      | 1%           | 1%                     | 1%                         | 3%    | 57%                     | 31,958  |
| 2008-9  | Qtr Av | 20%              | 13%              | 13%                       | 5%              | 7%                      | 3%           | 3%                     | 2%                         | 4%    | 68%                     | 48,815  |
| 2009-10 | Q1     | 17%              | 7%               | 12%                       | 6%              | 5%                      | 4%           | 4%                     | 2%                         | 3%    | 61%                     | 32,296  |
|         | Q2     | 17%              | 8%               | 13%                       | 8%              | 5%                      | 4%           | 4%                     | 3%                         | 3%    | 64%                     | 48,908  |
|         | Q3     | 16%              | 8%               | 13%                       | 8%              | 5%                      | 4%           | 5%                     | 4%                         | 3%    | 66%                     | 47,119  |
|         | Q4     | 14%              | 11%              | 13%                       | 7%              | 5%                      | 5%           | 4%                     | 5%                         | 3%    | 66%                     | 47,016  |
|         | Year   | 16%              | 9%               | 13%                       | 7%              | 5%                      | 4%           | 4%                     | 4%                         | 3%    | 65%                     | 175,339 |

**Notes:**

- Percentages above represent the proportion of all Participation Reports rejected, and as such each row equals the "Total reasonable excuse" percentage, rather than adding up to 100%.
- "Medical reason A" means that Centrelink determined that a medical reason prevented the job seeker from complying with the requirement, but the job seeker did not provide specific evidence relating to this particular incident. Included in this category are instances where the job seeker had previously provided evidence of the medical condition or it was not considered reasonable or necessary for the job seeker to attend a doctor.
- "Medical reason B" means that Centrelink determined that a medical reason prevented the job seeker from complying with the requirement, and the job seeker provided specific evidence relating to the particular incident.
- "Other acceptable activity" means that Centrelink determined that the job seeker was participating in an activity that made it acceptable not to meet the requirement (for example, undertaking paid work, attending an interview, etc).
- "Personal crisis" means that Centrelink determined that a personal crisis prevented the job seeker from complying with the requirement (for example, a bereavement of a family member).
- "Caring responsibilities" means that Centrelink determined that the job seeker had caring responsibilities that prevented them from complying with the requirement (for example, caring for a sick dependant or relative).
- "Homelessness" means that Centrelink determined that a jobseeker's homelessness prevented the job seeker from being able to comply with the requirement.
- "Transport difficulties" means that Centrelink determined that unforeseeable transport difficulties prevented the job seeker from complying with the requirement (for example, a car breaking down or public transport services being cancelled or disrupted).
- "Cultural / language issues" means that Centrelink determined that cultural diversity, language, literacy or numeracy issues prevented the job seeker from being able to understand or comply with the requirement.
- "Other" includes all other Participation Reports rejected on grounds that the job seeker had a reasonable excuse for not complying (for example, a police restriction, community service order or legal appointment). Prior to July 2009, this also included instances where the Participation Report related to the first offence of a job seeker and a warning was given rather than a failure being imposed.

**TABLE A8: NUMBER OF PARTICIPATION REPORTS PER JOB SEEKER, 2009–10**

| Number of PRs per job seeker | Number of job seekers | % of all job seekers | % of all Participation Reports |
|------------------------------|-----------------------|----------------------|--------------------------------|
| 0                            | 588,984               | 75%                  | 0%                             |
| 1                            | 105,161               | 13%                  | 28%                            |
| 2                            | 38,365                | 5%                   | 20%                            |
| 3                            | 19,704                | 3%                   | 16%                            |
| 4                            | 10,859                | 1%                   | 11%                            |
| 5+                           | 18,771                | 2%                   | 25%                            |
| <b>Total</b>                 | <b>781,844</b>        | <b>100%</b>          | <b>100%</b>                    |

**Notes:**

- “% of all job seekers” indicates the proportion of all job seekers who have received the specified numbers of Participation Reports.

**Table A9: NUMBERS OF PARTICIPATION FAILURES**

| Year           |               | No. of failures | % of active job seekers |
|----------------|---------------|-----------------|-------------------------|
| <b>2007-8</b>  | <b>Qtr Av</b> | 56,015          | 11%                     |
| <b>2008-9</b>  | <b>Qtr Av</b> | 40,721          | 8%                      |
| <b>2009-10</b> | <b>Q1</b>     | 19,179          | 4%                      |
|                | <b>Q2</b>     | 25,640          | 5%                      |
|                | <b>Q3</b>     | 30,162          | 6%                      |
|                | <b>Q4</b>     | 41,009          | 7%                      |

**Notes:**

- Failures shown include Connection, Reconnection and No Show, No Pay Failures, and Serious Failures for persistent non-compliance or failing to take up a suitable job offer.
- “% of active job seekers” means the number of failures as a proportion of the total number of active job seekers (ie. job seekers who are not suspended – see Table A1) at the end of each quarter.
- Figures for “No. of failures” may differ from figures for “Participation failures imposed” in Table A9 because Participation Reports are not submitted directly for Serious Failures for persistent non-compliance.

**Table A10a: TYPES OF PARTICIPATION FAILURE: OVERVIEW**

|         |        | Connection Failures |     | Reconnection Failures |    | No Show No Pay Failures |     | Serious Failures |    | Total Failures |
|---------|--------|---------------------|-----|-----------------------|----|-------------------------|-----|------------------|----|----------------|
| Year    |        | No.                 | %   | No.                   | %  | No.                     | %   | No.              | %  | No.            |
| 2007-8  | Qtr Av | 45,748              | 82% | NA                    | NA | 5,401                   | 10% | 4,866            | 9% | 56,015         |
| 2008-9  | Qtr Av | 34,509              | 85% | NA                    | NA | 3,251                   | 8%  | 2,961            | 7% | 40,721         |
| 2009-10 | Q1     | 16,702              | 87% | 780                   | 4% | 1,601                   | 8%  | 96               | 1% | 19,179         |
|         | Q2     | 20,054              | 78% | 1,044                 | 4% | 4,345                   | 17% | 197              | 1% | 25,640         |
|         | Q3     | 23,917              | 79% | 1,299                 | 4% | 4,710                   | 16% | 236              | 1% | 30,162         |
|         | Q4     | 32,350              | 79% | 2,236                 | 5% | 6,038                   | 15% | 385              | 1% | 41,009         |

**Notes:**

- Current categories of failures did not exist prior to 1 July 2009, so the most comparable previous failure types have been used for earlier years.
- "NA" means there is no comparable failure type for Reconnection Failures as the most similar types of failures were previously counted under the historical equivalent of Connection Failures.

**Table A10b: TYPES OF PARTICIPATION FAILURE: SERIOUS FAILURES**

|         |        | Persistent non-compliance |     | Refused suitable job |     | Other reasons |     | Total Serious Failures |
|---------|--------|---------------------------|-----|----------------------|-----|---------------|-----|------------------------|
| Year    |        | No.                       | %   | No.                  | %   | No.           | %   | No.                    |
| 2007-8  | Qtr Av | 2,608                     | 54% | 678                  | 14% | 1,579         | 32% | 4,866                  |
| 2008-9  | Qtr Av | 1,380                     | 47% | 279                  | 9%  | 1,302         | 44% | 2,961                  |
| 2009-10 | Q1     | 12                        | 13% | 84                   | 88% | NA            | NA  | 96                     |
|         | Q2     | 92                        | 47% | 105                  | 53% | NA            | NA  | 197                    |
|         | Q3     | 122                       | 52% | 114                  | 48% | NA            | NA  | 236                    |
|         | Q4     | 252                       | 65% | 133                  | 35% | NA            | NA  | 385                    |

**Notes:**

- "Other Reasons" includes a number of participation failures that were counted as Serious Failures and received an 8 week penalty (eg, not attending full-time Work for the Dole) prior to July 2009.

**Table A11: OUTCOMES OF COMPREHENSIVE COMPLIANCE ASSESSMENTS**

|         |      | Serious Failure imposed (8 wk penalty) |     | Further assessment/assistance |               |       | Change in Employment Pathway Plan |     | Other action or no action |       | Total |       |
|---------|------|----------------------------------------|-----|-------------------------------|---------------|-------|-----------------------------------|-----|---------------------------|-------|-------|-------|
|         |      |                                        |     | JCA                           | Higher stream | Total | No.                               | %   | No.                       | %     |       |       |
| Year    |      | No.                                    | %   | No.                           | No.           | No.   | %                                 | No. | %                         | No.   |       |       |
| 2009-10 | Q1   | 12                                     | 7%  | 103                           | 1             | 104   | 57%                               | 14  | 7%                        | 54    | 29%   | 184   |
|         | Q2   | 92                                     | 9%  | 456                           | 28            | 484   | 47%                               | 97  | 9%                        | 356   | 35%   | 1029  |
|         | Q3   | 122                                    | 9%  | 563                           | 56            | 619   | 45%                               | 119 | 9%                        | 509   | 37%   | 1,369 |
|         | Q4   | 252                                    | 13% | 604                           | 94            | 698   | 36%                               | 288 | 15%                       | 721   | 37%   | 1,959 |
|         | Year | 478                                    | 10% | 1,726                         | 179           | 1,905 | 42%                               | 518 | 13%                       | 1,640 | 36%   | 4,541 |

**Notes:**

- “JCA” means recommended referral to a Job Capacity Assessment
- “Higher stream” means recommended referral to a higher-numbered stream of services in the Job Services Australia system.
- “Other action or no action” means no formal recommendation was made to change servicing arrangements, but additional information or suggestions may have been made for providers to take account of when dealing with job seeker.

**Table A12: SANCTIONS FOR SERIOUS FAILURES**

|         |      | Eight-week loss of payment |     | Financial penalty waived |     |                    |    | Total |
|---------|------|----------------------------|-----|--------------------------|-----|--------------------|----|-------|
|         |      |                            |     | Compliance Activity      |     | Financial hardship |    |       |
| Year    |      | No.                        | %   | No.                      | %   | No.                | %  | No.   |
| 2009-10 | Q1   | 45                         | 47% | 48                       | 50% | 3                  | 3% | 96    |
|         | Q2   | 124                        | 63% | 70                       | 36% | 3                  | 2% | 197   |
|         | Q3   | 142                        | 60% | 88                       | 37% | 6                  | 3% | 236   |
|         | Q4   | 196                        | 51% | 183                      | 48% | 6                  | 2% | 385   |
|         | Year | 507                        | 55% | 389                      | 43% | 18                 | 2% | 914   |

**Notes:**

- “Compliance Activity” means that the eight-week loss of payment was waived due to the jobseeker agreeing to undertake a Compliance Activity for the eight-week period involving weekly participation of 25 hours
- “Financial Hardship” means that the eight-week loss of payment was waived due to the job seeker having liquid assets below a specified amount.

## Appendix 1

### TERMS OF REFERENCE

**The terms of reference of the Review were specified in section 42ZA of the Social Security (Administration) Act 1999, inserted by the Social Security Legislation Amendment (Employment Services Reform) Act.**

Section 42ZA Review of impact of compliance regime

- (1) The Minister must cause an independent review of the impact of the amendments made by this Division to be undertaken as soon as possible after 30 June 2010.
- (2) The review must report on:
  - (a) the effectiveness of the compliance regime in:
    - (i) meeting job seeking requirements;
    - (ii) reducing financial hardship;
    - (iii) reducing compliance costs for job seekers, employment service providers and the Government; and
    - (iv) using the 'no show, no pay' provision to increase compliance with job seeking requirements;
  - (b) the impact on vulnerable job seekers including Indigenous job seekers;
  - (c) the impact of the compliance regime on employment participation and long-term unemployment;
  - (d) the number of complaints made with the departmental hotline, Social Security Appeals Tribunal or Ombudsman's office in relation to the new arrangements;
  - (e) the gaps between federal policy and state service provision for persons with non-vocational special needs or barriers;
  - (f) the adequacy of non-vocational support services in regional areas;
  - (g) the effectiveness of training for and consistency of understanding of Centrelink staff, employment providers and departmental contract managers in the new arrangements;

- (h) the adequacy of information and education provided to new and existing clients about the new system;
  - (i) the adequacy of resourcing for Centrelink to implement the new arrangements and deal with related complaints;
  - (j) the effectiveness and use of criteria such as hardship, vulnerability and reasonable exclusion within Comprehensive Compliance Assessments; and
  - (k) any other related matter.
- (3) The review must be conducted by an independent panel, chaired by a person with expertise in social security and employment services matters.
- (4) The Minister must provide the panel with adequate resources to undertake the review.
- (5) The panel must give the Minister a written report of the review, and the Minister must cause a copy of the report to be made public and tabled in each House of the Parliament by 30 September 2010.

## Appendix 2

### MEMBERS OF THE REVIEW

**Julian Disney AO** (Chair of the Review) is Professor of Law and Director of the Social Justice Project at the University of NSW. He is currently chair of the Australian Press Council, National Affordable Housing Summit, Community Tax Forum, Anti-Poverty Week and the Energy and Water Ombudsman Council. He has previously been a Law Reform Commissioner, Coordinator of the Sydney Welfare Rights Centre, President of the Australian Council of Social Service and President of the International Council on Social Welfare which represents national social welfare organisations in more than eighty countries. He has been chair or member of many government advisory committees including the National Board of Employment, Education and Training, Economic Planning Advisory Council, Social Security Advisory Council, Welfare Reform Consultative Forum, Administrative Review Council and Affordable Housing Task Force. He is a member of the Board of Governors of the Committee for the Economic Development of Australia.

**Anna Buduls** (BA, MCom) has been a professional company director for the last 16 years, acting as a non-executive director with both government and private sector companies. Over the years these have included Macquarie Generation (Australia's largest electricity generator), Mirvac, Freedom Furniture, Hamilton James and Bruce (recruitment), SAI Global, and recently she was appointed to the board of Centro Properties Group. Anna's career has also included three years as a financial journalist with the Australian Financial Review, and 7 years in investment banking with Macquarie Bank. She also currently owns a small travel software business employing 40 people. In 2008 Anna was on the three-person Steering Group for Australian Government's White Paper on Homelessness. She is involved with support programs for the homeless, and chairs Beyond Empathy, a not-for-profit organisation that uses the arts to engage with multiply disadvantaged young people.

**Peter Grant PSM** had a career of more than 30 years in the Australian Public Service, mainly in the fields of employment, education and training. He played a significant role in implementing the Higher Education Contribution Scheme in the late 1980s, and in designing the major changes to employment service delivery in the mid-1990s. After serving as Deputy Secretary for several years Peter left the public service in 2001, but has continued an active involvement in the public policy

arena. As part of the Australian Government's program of strategic reviews he has led major reviews of employment services, grants policy and Indigenous programs across the Commonwealth. He chaired the board of the National Centre for Vocational Education Research from 2003–2009, and has undertaken several assignments for the World Bank and other international organisations. He chairs the Contributions Review Panel for Education Services for Overseas Students, is on the Audit Committee of the Australian Public Service Commission, and is deputy chair of the Australian Youth Orchestra.

## Appendix 3

# PUBLIC CONSULTATIONS AND SUBMISSIONS

### PUBLIC SUBMISSIONS

1. Australian Council of Social Service
2. Boystown
3. Campbell Page
4. Centrelink
5. Commonwealth Ombudsman
6. Community & Public Sector Union
7. Department of Employment, Education and Workplace Relations
8. Fairfield Migrant Resource Centre
9. Good Shepherd
10. Jobs Australia
11. Johnston, Adam
12. Magill, Brian
13. Medicott, Ronald
14. Mersey Natural Resource Management Group
15. Mission Australia
16. Murdi Paaki Regional Enterprise Corporation Limited
17. National Council for Single Mothers and their Children
18. National Employment Services Association
19. Northcott Disability Services
20. Robert Anderson
21. St Kilda Income Equality Group
22. Sureway Employment & Training
23. Tony Collins
24. Welfare Rights Centre, Queensland
25. Welfare Rights Centre, Sydney

### PUBLIC CONSULTATIONS: VENUES AND DATES

|            |              |
|------------|--------------|
| Brisbane   | 22 June 2010 |
| Dubbo      | 7 July 2010  |
| Geelong    | 9 June 2010  |
| Melbourne  | 9 June 2010  |
| Perth      | 30 June 2010 |
| Sydney     | 6 July 2010  |
| Townsville | 21 June 2010 |

## **PUBLIC CONSULTATIONS: PARTICIPANTS**

A4e Australia  
Advance Employment Inc.  
Advanced Personnel Management  
AMES  
Australian Burundian Community Organisation  
Australian Council of Social Services  
Australian Integrated Employment & Training Services  
Breakthru People Solutions  
Campbell Page  
Capabilities Employment Service Inc  
CentaBRACE Employment  
Centacare Employment Group  
Centacare Townsville  
Central West Community College  
Communicare Inc.  
Community First International  
Community Workforce Solutions  
CRS Australia  
CVGT Employment & Training  
Fairfield Migrant Resource Centre  
G-Force Staffing Solutions  
Hanover Welfare Services  
Inner South East Partnership in Community and Health  
Interact Injury Management  
Intework Incorporated  
IPA Personnel  
Joblink Plus  
Jobs Australia  
Johnston, Adam  
Local Employment & Training Solutions  
Mach 1 Australia Incorporated  
Mai-Wel Limited  
MarctWorks DES  
MAX Employment  
MBC Employment Services  
Mission Australia  
National Employment Services Association  
National Welfare Rights Network  
NEATO Employment Services  
Open Minds  
Orana Education & Training Co-operative  
Perth Townsville Community Legal Service  
PVS Workfind

Seager, Karen  
Skill Hire  
SkillsConnection  
Social Security Rights Victoria (Inc)  
South Burnett Jobmatch  
St Vincent de Paul Society  
Summit Employment & Training  
Sureway Employment & Training  
Wallace, Gwenda  
Welfare Rights & Advocacy Service  
Welfare Rights Centre, Brisbane  
Welfare Rights Centre, Sydney  
Welfare Rights Unit, Melbourne  
Wesley Uniting Employment  
Westvic Staffing Solutions  
Workskil Incorporated



## Appendix 4

# MINISTERIAL LETTERS

**The following letters were sent to the Chair of the Review, Prof Julian Disney, by the then Minister for Employment Participation, Senator the Hon Mark Arbib, during the course of the Review.**

**31 MAY 2010**

Dear Professor Disney,

I am writing to advise the Job Seeker Compliance Review panel of the intent of the arrangements recently announced by the Minister for Human Services, the Hon. Chris Bowen MP, and myself for changed Centrelink job seeker interviews and to invite the panel to take them into its consideration.

Most unemployed payment recipients currently attend a Centrelink office in person, generally fortnightly, to report their job search efforts and advise of any earnings or challenges in circumstances that might affect their rate of qualification for payment. Under the announced changes from 1 July 2010 payment recipients will be able to report to Centrelink by internet or telephone. To ensure that there is no reduction on the focus on job seeker obligations, job seekers will also be required to attend regular face-to-face Personal Contact Interviews with Centrelink.

These face-to-face interviews will be longer and more intensive than the current contacts, which are often quite cursory and give little opportunity to focus on job seeker compliance. The frequency with which job seekers are required to attend these interviews will be determined by their circumstances and risk factors but will be generally 4, 6 or 12 weekly.

In line with existing practices for Centrelink appointments, failure to attend these regular Personal Contact Interviews will result in the job seeker's income support payment being withheld until the job seeker does attend Centrelink, at which time the withheld payment will be paid back in full. In some ways this reflects the current practice of not releasing payment if a job seeker fails to lodge their fortnightly form which, although not technically a suspension, has the same effect.

Suspension of payment is not a feature of the current compliance framework. In fact the legislation is structured in such a way that a job seeker who fails to attend an appointment with their provider of Centrelink can either be suspended or can be subject to a compliance failure, depending on the type of notice they have been given, but cannot be subject to both consequences. However, suspension and compliance action are both designed to provide an incentive to re-engage.

Should you wish to discuss these matters further, please contact Bruce Edwards from the Department of Education, Employment and Workplace Relations on (02) 6121 6421.

Yours sincerely,

Mark Arbib

## **2 JULY 2010**

Dear Professor Disney,

You will recall that I wrote to you on 31 May 2010 about the announcement by myself and the Hon Chris Bowen MP, Minister for Human Services, of changes to the way unemployment payment recipients will report to Centrelink, and invited the Panel to take them into its consideration.

Under those changes, to be introduced from 1 July 2010, more income support recipients will be able to report to Centrelink by internet or telephone and most will also be required to attend regular Participation Contact interviews. In line with current processes, Centrelink will suspend a person's payment if they fail to attend their Participation Contact Interview, pending attendance at a rescheduled interview.

Since that announcement, the Australian Government has given consideration to extending the use of suspension to job seekers who fail to attend appointments with their employment service provider. We believe that suspension of payment utilised in such a way that it complemented the compliance framework, could provide a useful tool for improving job seeker engagement.

I invite the Job Seeker Compliance Review Panel to give consideration to this possible measure.

Should you wish to discuss these matters further, please contact Bruce Edwards from the Department of Education, Employment and Workplace Relations on (02) 6121 6421.

Yours sincerely,

Mark Arbib