



NATIONAL
FAMILY VIOLENCE
PREVENTION
LEGAL SERVICES



Putting single mothers last: the economic injustice of ParentsNext

Joint submission to the Senate Community Affairs References
Committee inquiry into ParentsNext

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National Family Violence Prevention Legal Services Forum

The NFVPLS Forum is comprised of 14 Aboriginal Family Violence Prevention Legal Service member organisations across Australia that provide holistic, specialist culturally safe supports to Aboriginal and Torres Strait Islander people experiencing or at risk of family violence – predominantly women and their children.

SNAICC – National Voice for Our Children

SNAICC is the national non-governmental peak body for Aboriginal and Torres Strait Islander children. SNAICC works for the fulfilment of the rights of Aboriginal and Torres Strait Islander children, in particular to ensure their safety, development and well-being.

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1. About this submission

1. On 4 December 2018, the Senate referred ParentsNext, including its trial and subsequent broader rollout, to the Senate Community Affairs References Committee (**the Committee**).
2. This is a joint submission made on behalf of the National Family Violence Prevention Legal Services (**NFVPLS**) Forum, SNAICC – National Voice for our Children (**SNAICC**) and the Human Rights Law Centre (**HRLC**).
3. This joint submission does not seek to address all the terms of reference in relation to this inquiry. Rather, this submission focuses on the:
 - (a) discriminatory design and implementation of ParentsNext and its unfair targeting of single mothers, particularly Aboriginal and Torres Strait Islander women; and
 - (b) inappropriateness of applying the Targeted Compliance Framework (**TCF**) – a system of financial punishments – to ParentsNext and the discriminatory impact of the TCF.
4. This submission relies primarily on data recently obtained from the Department of Jobs and Small Business and anecdotal evidence collected by SNAICC, the NFVPLS Forum and other community organisations. In addition, this submission focuses its recommendations on the experiences and interests of Aboriginal and Torres Strait Islander parents, who are targeted by the intensive stream of the program.

2. Executive summary

5. Each of us expects to be supported and treated fairly and compassionately by governments in times of need, and to have our contribution to Australia's economic prosperity, including through unpaid care work, valued. The Federal Government's ParentsNext program, which is underpinned by a punitive compliance framework and targets mothers with young children and Aboriginal and Torres Strait Islander women in particular, undermines these basic expectations.
6. ParentsNext is a program that calls into question Australia's compliance with the *Sex Discrimination Act 1984* (Cth), *Racial Discrimination Act 1975* (Cth) and *Age Discrimination Act 2004* (Cth). It is also inconsistent with a number of Australia's international human rights obligations and could be considered a "retrogressive measure" as it limits existing levels of enjoyment of the right to social security.
7. The ParentsNext program is not a reasonable or proportionate restriction on rights because it:
 - (a) is coupled with the TCF, an unfair system of financial punishments, which has left struggling parents without money for food, and will disproportionately impact Aboriginal and Torres Strait Islander women;
 - (b) fails to address structural barriers to the paid workforce, in particular for Aboriginal and Torres Strait Islander women;
 - (c) is likely to push some women into insecure work;
 - (d) devalues unpaid care work, predominately undertaken by women;
 - (e) fails to offer culturally competent service provision;
 - (f) was implemented without engagement with Aboriginal and Torres Strait Islander organisations and communities;
 - (g) is likely to have detrimental impacts on children; and
 - (h) intrudes upon rights to privacy and non-interference with family life
8. The ParentsNext program has been subject to one evaluation – the ParentsNext Evaluation Report – which fails to offer a robust assessment of the efficacy of the ParentsNext program.
9. The Government should abandon its flawed and punitive ParentsNext program and redirect the funding allocated to the administration of the program to evidence-based, voluntary and empowering measures that are *separate* to the receipt of parenting payments. Such measures should recognise parenting (and different approaches to parenting) as an indispensable form of labour and work in genuine partnership with Aboriginal and Torres Strait Islander

organisations and communities to create sustainable Aboriginal-led programs and institutions that support parents and workforce participation.

10. ParentsNext is another social security measure targeting Aboriginal and Torres Strait Islander people, and represents a missed opportunity for the Federal Government to work in collaboration with Aboriginal and Torres Strait Islander organisations and communities to address the structural barriers encountered by women with children trying to (re-)enter the workforce.

3. Recommendations

Recommendation 1: that the ParentsNext program be abandoned and the money allocated to the program be redirected to voluntary, evidence-based programs that support parents and break down structural barriers to parents (re-)entering the workforce, particularly Aboriginal and Torres Strait Islander parents.

Recommendation 2: if the ParentsNext program continues, that:

- participants should not be subject to the TCF;
- the program should be voluntary, not mandatory; and
- greater flexibility should be incorporated into the program (to take into account experiences of family violence, where a person lives, factors relating to disability, mental health concerns, cultural obligations etc) so that participants are not left worse off by the program.

Recommendation 3: that the Government work in genuine partnership with Aboriginal and Torres Strait Islander organisations and communities to create sustainable Aboriginal-led programs and institutions that promote self-determination. In particular, the Government needs to ensure that Aboriginal and Torres Strait Islander people can access culturally safe and appropriate family support and employment services. Where culturally safe and appropriate services are not yet available, employment service providers should prioritise the hiring of Aboriginal and Torres Strait Islander staff, attend cultural competency training and demonstrate that competency before being able to deliver services.

Recommendation 4: that the Government develop an approach to social security that recognises the value of parenting, and different approaches to parenting, and rewards this as a form of labour. In particular, that the Government appreciate the critical importance and benefit of Aboriginal and Torres Strait Islander children being raised in their families and cultures.

4. Why the ParentsNext program should end

The ParentsNext program and compliance framework

11. The ParentsNext program has been operating in 10 trial site locations across Australia since April 2016. On 2 July 2018, the program started operating in all non-remote areas of Australia.
12. The program requires parents with young children to participate in “activities” in order to receive the Parenting Payment. If a parent fails to complete the “activities” and report their compliance, they are exposed to a system of financial sanctions called the Targeted Compliance Framework (TCF). Those sanctions include the suspension, reduction or cancellation of the parenting payment.
13. While parents can volunteer to participate in the program, it is mandatory for women who have received Parenting Payment for the last six months, have not been employed during that period, have a child aged under six years and meet at least one high risk/high priority criteria.
14. There are two streams – a targeted and intensive stream. The latter explicitly targets locations with high numbers of Aboriginal and Torres Strait Islander parents on the parenting payment.
15. For women caught by the “intensive stream”, the high risk/high priority criteria includes:
 - (a) is an early school leaver (aged under 22 years, has not completed the final year of secondary school or an equivalent level of education and is not undertaking full time study with a youngest child at least 6 months of age); or
 - (b) has a youngest child aged at least 5 years; or
 - (c) is eligible for ParentsNext based on an assessment, with a youngest child at least 6 months of age.¹
16. For women captured by the “targeted stream”, the criteria includes:
 - (a) is an early school leaver (aged under 22 years, has not completed the final year of secondary school or an equivalent level of education and is not undertaking full time study with a youngest child at least 1 year of age); or
 - (b) has a youngest child at least 5 years of age and is part of a jobless family (were a family has no reported employment earnings in the previous 6 months; or
 - (c) is eligible for ParentsNext based on an assessment, with a youngest child at least 3 years of age.²

¹ Australian Government, Social Security Guide, ParentsNext Summary & Participation Requirements (2 January 2019) <<http://guides.dss.gov.au/guide-social-security-law/3/5/1/167>>.

² Ibid.

17. Data obtained from the Department of Jobs and Small Business shows that as at 31 December 2018, 95% of ParentsNext participants are women. Aboriginal and Torres Strait Islander parents make up 19% of ParentsNext participants, in a context where Aboriginal and Torres Strait Islander people make up approximately 3% of the adult population nationwide. The data shows that, while there are more people participating in the targeted stream, people participating in the intensive stream (which targets Aboriginal and Torres Strait Islander parents) are having their payments suspended more often. Notably, Aboriginal and Torres Strait Islander parents make up 24% of the 16,025 payment suspensions, despite being 19% of participants – this is a concerning early trend.

ParentsNext discriminates on the basis of sex and race

18. ParentsNext directly and indirectly discriminates against women and Aboriginal and Torres Strait Islander people. This is conceded in the Statement of Compatibility with Human Rights attached to the *Social Security (Parenting payment participation requirements – classes of persons) Instrument 2018 (No. 1) (Statement of Compatibility)*. In particular, the “intensive stream” is targeted at Aboriginal and Torres Strait Islander women, with the justification being that they “have lower employment rates than Aboriginal and Torres Strait Islander men and non-Indigenous people”.³
19. Rights to equality and non-discrimination are protected by Articles 2 and 3 of the *International Covenant on Civil and Political Rights (ICCPR)* and the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*. Article 9 of ICESCR protects the right to social security. Under Article 26 of the ICCPR, if a state adopts social security legislation, it must do so in a non-discriminatory manner. Relevantly, protections against discrimination are part of Australian domestic law through the *Sex Discrimination Act 1984 (Cth)* and the *Racial Discrimination Act 1975 (Cth)*.
20. Further, the program potentially discriminates on the basis of age, in contravention of the *Age Discrimination Act 2004 (Cth)*, with a target demographic of the program singled out as early school leavers, aged under 22 years old, with a youngest child at least 6 months of age.
21. Discrimination will only be lawful if it is based on reasonable and objective criteria that serves a legitimate objective, is rationally connected to its stated objective and is a proportionate means of achieving that objective. Notably, there must be “a clear and reasonable relationship of proportionality” between the objective of ParentsNext and the means used by, and effects of, the program.⁴

³ Explanatory Statement, *Explanatory Statement Social Security (Parenting payment participation requirements – classes of persons) Instrument 2018 (No. 1)* 11.

⁴ United Nations Committee on Economic, Social and Cultural Rights, *General Comment no 20: Non-discrimination in economic, social and cultural rights*, 2 July 2009, E/C.12/GC/20 [13].

22. Discrimination can also be permitted if it constitutes a “special measure” – a positive measure taken to redress historical disadvantage and confer benefits on a particular group of people. The government has not referred to the ParentsNext program as a special measure.
23. The object of ParentsNext is to encourage parents of children under 6 years old to progress their education and employment goals.⁵ The Statement of Compatibility with Human Rights frames the ParentsNext program as an effective and proportionate means to achieve this goal. The basis and reliability of the evidence relied on by the Government to say that participants find the program “effective” is unclear. Certainly, the ParentsNext Evaluation Report fails to offer a robust and/or independent assessment of the efficacy of the ParentsNext program. In our assessment, ParentsNext cannot be justified as a reasonable and proportionate limitation on rights for the reasons set out in this submission.
24. The ParentsNext program could also be viewed as a “retrogressive measure” as it limits existing levels of enjoyment of the right to social security. The Federal Government therefore has the burden of proving that it has been introduced after the most careful consideration of all alternatives and that they are duly justified by reference to the totality of the rights provided for in ICESCR.⁶ To show this, the government must consult with affected groups in examining the proposed measures and alternatives. We are not aware of such consultation taking place.

Financial sanctions do not help people into work but cause distress and hardship

25. As a single parent, the maximum fortnightly amount of Parenting Payment is \$768.50 (including the pension supplement). This is an essential payment that helps a primary carer meet the health and developmental needs of their children during the critical early years.
26. The ParentsNext program operates on the assumption that financial sanctions – suspending, reducing or cancelling a payment – or the threat of them, results in greater engagement with employment services providers and positive employment outcomes. We are not aware of evidence to support this assumption, and anecdotal evidence indicates that the program is causing stress and harm for many women, including Aboriginal and Torres Strait Islander mothers.
27. Robust research from the United Kingdom has demonstrated that sanctions applied to social security payments are generally ineffective at helping people gain employment.⁷ Instead, programs like ParentsNext that target “lone parents” routinely trigger profoundly negative personal, financial, health and behavioural outcomes.⁸ Sanctions have been found to cause

⁵ Explanatory Statement, *Explanatory Statement Social Security (Parenting payment participation requirements – classes of persons) Instrument 2018 (No. 1)* 1.

⁶ United Nations Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The right to social security*, 4 February 2008, E/C.12/GC/19 [42].

⁷ Department of Social Policy and Social Work, *Final Findings Report: Welfare Conditionality Project 2013–2018* (June 2018) 29.

⁸ *Ibid.*

severe financial and psychological distress and the persistent threat of sanctions has been found to trigger extreme anxiety, even when not enacted.⁹ This evidence indicates that attaching a system of financial sanctions to the ParentsNext program will not be effective to achieving the objectives of the program.

28. As noted above, early data on financial sanctions under the TCF shows that Aboriginal and Torres Strait Islander parents are already being disproportionately impacted. This is not surprising given that they are directly targeted by the intensive stream of ParentsNext. It is cruel and unjust to withhold, or threaten to withhold, money from single parents when the day-to-day consequences of such action may mean not having enough money to put food on the table for their kids.
29. Anecdotal evidence collected by SNAICC has shown that one Aboriginal mother has already reported having her parenting payments cut and being forced to collect food vouchers from a charity. Another Aboriginal mother said that she was concerned that she and her children will end up homeless.
30. This comes at a time when the United Nations' Special Rapporteur on extreme poverty and human rights has already expressed unease about the effect of cuts to the payments available to single parents, which increase the financial hardships borne by single parent households.¹⁰
31. In addition, financial sanctions can make women more vulnerable to family violence and may act as a barrier to escaping violence. Victims/survivors of family violence can seek an exception to the program, however early reports suggest that disclosing this sensitive information to providers is challenging and may result in many victims/survivors being subjected to the program and the threat of sanctions.¹¹
32. Further, in NFVPLS Forum member experience, women who have complex histories and experiences of family violence can find it difficult to meet rigid bureaucratic requirements and engage with services, or are sometimes already engaged with a myriad of services (such as legal services and child protection agencies). An NFVPLS Forum member noted the concern that requiring single mothers to attend additional appointments and services – especially those that are not culturally safe – and punishing them for non-compliance, is setting them up to fail.

⁹ Ibid.

¹⁰ Phillip Alston, Special Rapporteur on extreme poverty and human rights, Mandates of the Special Rapporteur on extreme poverty and human rights, OL AUS 5/2017 (17 October 2017).

¹¹ See, eg, Luke Henriques-Gomes, Senate launches inquiry into program forcing single parents to attend 'story time', Guardian Online, 4 December 2018 <<https://www.theguardian.com/australia-news/2018/dec/04/senate-launches-inquiry-into-program-forcing-single-parents-to-attend-story-time>>.

Case study: Miriam (pseudonym)

Miriam is a 24-year-old single Aboriginal mother with a three-year-old child. Her ex-partner and father of the child was recently released from prison. Miriam has an intervention order against the father. Miriam is a victim/survivor of extreme levels of family violence and has been diagnosed with severe anxiety and depression. She has had difficulty engaging with an Aboriginal Family Violence Prevention Legal Service. Miriam is homeless with the child; they couch surf and sleep rough. The Aboriginal Family Violence Prevention Legal Service has tried to link her in with housing services, but she cannot stay in a refuge due to her anxiety.

Given the challenges she experiences engaging with services, it is unlikely that she would be able to meet the participation requirements of a program like ParentsNext and the likelihood of her losing payments as a result of non-compliance is high. Miriam is often out of phone credit and traveling to report to an employment service provider in person would be difficult as she does not have a car. Miriam's financial insecurity and mental health conditions would be exacerbated exponentially by ParentsNext.

- *Case study provided by a lawyer from Djirra Legal Services*

Case study

One of my clients called in asking me to prepare a support letter for her to submit to Centrelink. Her youngest child is 5 and Centrelink wanted her to participate in the ParentsNext program. She explained to Centrelink staff that she is going through a difficult time as she has experienced family violence in the last few years and is currently focusing on attending counselling and recovering. She was told by Centrelink that she would require a letter outlining what she was experiencing and why she would not be able to participate in the program.

- *Case study provided by a lawyer from Djirra Legal Services*

The program fails to address structural barriers to the paid workforce

33. The ParentsNext program cannot be characterised as a reasonable and proportionate restriction on rights when punitive means are employed that fail to address the structural barriers to paid workforce participation that entrench the disadvantage of many women with young children, particularly single parents and Aboriginal and Torres Strait Islander women. Structural barriers include the unaffordability and unavailability of child care, the casualisation of the workforce, racial discrimination and the limited employment opportunities available in rural and regional communities.

34. The Government has acknowledged that ParentsNext participants “often come from families that experience intergenerational disadvantage, and may suffer from complex circumstances that act as barriers to employment and education (like homelessness, domestic violence, drug and alcohol dependency, mental health challenges, and/or language and numeracy difficulty).”¹²
35. Yet the “activities” that can be undertaken as part of the ParentsNext program do not address the underlying structural barriers to workforce participation. Suitable “pre-vocational activities” include parenting courses, confidence building courses, financial management and attendance at medical appointments or activities.¹³ Suitable “vocational preparation activities” include training or education activities, part-time work and voluntary work. Some of these activities may be useful in individual cases, however individuals cannot be expected to overcome the entrenched gendered barriers to secure employment. These require concerted action by governments alongside communities.
36. Parents participating in the ParentsNext program have encountered difficulties making childcare arrangements for their children while they attend mandatory activities. SNAICC members report that ParentsNext participants struggle to find childcare services that are available and affordable, which can make it impossible to attend ParentsNext activities and lead to demerit points and the suspension of payments. This has the effect of blaming the struggling parent, who is made to bear the consequences of government decisions that perpetuate economic inequality.
37. The lack of relevance of some activities to the stated objective of the ParentsNext program is alarming in light of the financial sanctions that can be applied. One mother reported to a SNAICC member that they had to complete activities, such as arts and crafts, that were not useful for the purposes of finding work. Further, suitable “activities” can include taking a child to story time, playgroup and swimming lessons.¹⁴ Another mother told a SNAICC member: “I don’t see why we have to report every fortnight when we come to playgroup. I don’t like anything about this ParentsNext as I don’t get anything out of this.”
38. Regulating these aspects of parenting through the social security system represents an unacceptable incursion into the private life of these parents and their children.

¹² Explanatory Statement, *Explanatory Statement Social Security (Parenting payment participation requirements – classes of persons) Instrument 2018 (No. 1)* 8.

¹³ See Australian Government, Social Security Guide, ParentsNext Summary & Participation Requirements (2 January 2019) <<http://guides.dss.gov.au/guide-social-security-law/3/5/1/167>>.

¹⁴ Luke Henriques-Gomes, Senate launches inquiry into program forcing single parents to attend 'story time', Guardian Online, 4 December 2018 <<https://www.theguardian.com/australia-news/2018/dec/04/senate-launches-inquiry-into-program-forcing-single-parents-to-attend-story-time>>; Luke Henriques-Gomes, Single parents forced to attend 'story time' or lose Centrelink payments, Guardian Online, 6 November 2018 <<https://www.theguardian.com/australia-news/2018/nov/06/single-parents-forced-to-attend-story-time-or-lose-centrelink-payments>>.

The program pushes women towards insecure work

39. Research from the United Kingdom has shown that “welfare conditionality” – requiring people to behave in a particular way and meet conditions in order to access social support – is largely ineffective in facilitating people’s entry into or progression within the workforce.¹⁵ The most common experience was recurrent movements between one short-term, low-paid, insecure job to another, accompanied by interspersed periods when participants returned to reliance on social security payments, as short-term contracts ended or other events occurred.¹⁶
40. The results of this research are consistent with research undertaken by Good Shepherd on the “Welfare to Work” reforms in Australia. The Welfare to Work reforms significantly intensified welfare conditionality in Australia in 2006. Successive governments have since corroded support for parents and this has culminated today in parents being transferred off the parenting payment to another, lesser social security payment (often Newstart) once their child turns 6 years (if partnered) or 8 years (if single).
41. Good Shepherd investigated whether the Welfare to Work reforms had been effective in meeting their stated objectives of improving workforce participation, self-reliance and financial security for single mothers. They found that the reforms did not deliver on any of the stated objectives. Twenty five out of the twenty six women interviewed as part of Good Shepherd’s research reported that “jobactive providers had not assisted them in finding employment; only one participant reported receiving assistance to secure a short-term role”.¹⁷
42. Participants in ParentsNext have also noted this. Anecdotal evidence collected by SNAICC indicates that Aboriginal women have not found the program helpful and have found the reporting requirements patronising. One participant was told to take her child to volunteer work at a local zoo and said that the activities are unhelpful because “they expect us to do volunteer work to get us ready for the workforce” and “it’s silly that we have to report every fortnight”.
43. It is also problematic that ParentsNext providers receive an “outcome payment” when a participant achieves “sustainable employment”. “Sustainable employment” is defined as a minimum of 15 hours per week in paid employment for at least 12 weeks.¹⁸ This incentivises employment service providers to push women towards certain outcomes, regardless of their circumstances.
44. Pushing women to pursue limited work opportunities that lack security, adequate remuneration or a long-term career pathway just for the sake of getting them off income support runs counter to the ParentsNext program’s stated objective. It can also have the effect of further

¹⁵ Department of Social Policy and Social Work, *Final Findings Report: Welfare Conditionality Project 2013–2018* (June 2018) 18.

¹⁶ Ibid.

¹⁷ Good Shepherd, “Outside systems control my life”: The experience of single mothers on Welfare to Work (2018).

¹⁸ Department of Employment, *ParentsNext Discussion Paper* (2017) 13.

entrenching the intergenerational disadvantage experienced by many of the women targeted by the program, particularly in light of the fact that parents bear the financial costs of meeting ParentsNext participation requirements (for example, course fees).¹⁹

ParentsNext devalues unpaid work predominantly undertaken by women

45. The ParentsNext program further devalues the enormous amount of unpaid labour, undertaken primarily by women, to care for children. It reinforces the perception of paid work as the only valuable form of labour by linking parenting payments to the completion of mandatory vocational “activities”, rather than recognising parenting as a challenging but critical form of labour, and particularly in the vital early years of a child’s life.
46. The intensive stream of the program, targeted at Aboriginal and Torres Strait Islander women, is particularly concerning in this regard. It forces women to turn their minds to (re-)entering the workforce as soon as their child is six months old, with the program requiring them to take prescribed steps to (re-)enter the workforce and report compliance.
47. Requiring mandatory participation when a child is six months old goes against the best evidence underlining the importance of development and attachment in the first 1000 days of life.²⁰ Families Australia has expressed concern about the proposed focus on parents with children under five years of age and emphasised the importance of supporting parents to parent in the early years.²¹ As pointed out by the Centre for Excellence in Child and Family Welfare, improved access to employment is not an adequate argument for taking away people’s choice and making the program compulsory.²²

Lack of culturally competent service providers and engagement with Aboriginal and Torres Strait Islander organisation and communities

48. Culturally safe and appropriate employment service providers need to be available and offer services that are tailored specifically to the unique needs of Aboriginal and Torres Strait Islander people and communities. Members of SNAICC, who work with ParentsNext participants, report that parents have already reported having to undertake activities that are not culturally safe and appropriate, nor helping them find paid work.
49. Despite the Discussion Paper for the ParentsNext National Expansion raising concerns about the cultural competency of service providers, there is no evidence that there has been consultation with Aboriginal and Torres Strait Islander people and communities about improving the situation. In addition, the ParentsNext Evaluation Report offers limited insight

¹⁹ See Australian Government, Social Security Guide, ParentsNext Summary & Participation Requirements (2 January 2019) <<http://guides.dss.gov.au/guide-social-security-law/3/5/1/167>>.

²⁰ Tim Moore, Noushin Arefadib, Alana Deery, Sue West, The first 1000 days: An evidence paper - Summary, Centre for Community Child Health (2017).

²¹ Families Australia response to the ParentsNext National Expansion Discussion Paper available at: <<https://familiesaustralia.org.au/submission/response-to-the-parentsnext-national-expansion-discussion-paper/>>.

²² Centre for Excellence in Child and Family Welfare, Feedback on the discussion paper for the ParentsNext national expansion (5 October 2017).

into the impact of the ParentsNext program on Aboriginal and Torres Strait Islander women and more generally fails to offer a robust and/or independent assessment of the efficacy of the program.

50. The NFVPLS Forum and SNAICC are peak Aboriginal and Torres Strait Islander bodies with a focus on supporting Aboriginal and Torres Strait Islander women and children. Neither of these organisations have been consulted and they are not aware of any other Aboriginal and Torres Strait Islander Community Controlled Organisations who were consulted about ParentsNext.

Impact on children

51. Article 26 of the *Convention of the Rights of the Child* requires Australia to ensure that children have the opportunity to develop healthily and that they and their families have access to social security where needed. Equal and fair access to social security can be critical to ensuring that parents living in poverty can meet the health and developmental needs of their children.
52. The Statement of Compatibility alleges that the ParentsNext program is compliant with this obligation because it:
- (a) assists parents to find employment in the future, therefore helping to disrupt intergenerational disadvantage; and
 - (b) will connect parents, and by proxy their children, with local services and community organisations that will support them to meet their identified needs.²³
53. The Statement of Compatibility mischaracterises the ParentsNext program. As set out above, there is no evidence that the program is effective in assisting parents to find employment, nor are most of the “activities” that parents are being forced to engage with the type that help break cycles of intergenerational disadvantage or the structural barriers to paid employment.
54. The Statement of Compatibility states that the ParentsNext program will “not include any activities or services that would compromise their ability to parent.”²⁴ This is not the experience of women participating in the program. As highlighted above, women have encountered challenges making childcare arrangements for their children in order to attend required activities. It is essential that this barrier be understood in the context of recent legislative and policy changes to early childhood education and care through the introduction of the New Child Care Package (**NCCP**) in July 2018. The NCCP abolished the Budget Based Funding (**BBF**) model that provided direct operational funding to early childhood education and care services in areas where the market would not normally allow services to operate, notably in rural and remote communities. 80 per cent of BBF services focussed on Aboriginal and Torres

²³ Explanatory Statement, *Explanatory Statement Social Security (Parenting payment participation requirements – classes of persons) Instrument 2018 (No. 1)* 12.

²⁴ *Ibid.*

Strait Islander children.²⁵ Preliminary analyses suggests that the NCCP will result in reduced access to early childhood education and care services for Aboriginal and Torres Strait Islander children and their families.²⁶

55. The punitive regime of sanctions will increase levels of emotional and financial stress in some families and leave parents without money for daily essentials, like nutritious food, necessary for positive child health and development.²⁷ ParentsNext – a program that directly discriminates against Aboriginal and Torres Strait Islander parents – is compromising the rights of children whose parents are subject to the program.
56. The program also potentially discriminates against children on the basis of their family type, with children in disadvantaged sole parent families facing discrimination as a result of the withdrawal of payments (which is less likely to affect children in less vulnerable families).²⁸

Pressure to sign privacy waivers

57. It is also inappropriate that pressure is being placed on women to sign a privacy waiver, allowing private employment service providers to collect their “sensitive information”, including medical information. There have been reports that some case workers have told participants that they would have their parenting payments cut if they refused to sign the form.²⁹ This incursion on the right to privacy and the right to social security has not been justified by the government and does not appear to be a reasonable or proportionate restriction on these rights.

Specific concerns with the Targeted Compliance Framework

58. The HRLC has raised deep concerns with the TCF in the past, and opposed its expansion to CDP regions in 2018. This is because:
- (a) one, two and four week no-payment penalties cannot be waived no matter how desperate a person’s circumstances are;
 - (b) vulnerable people will be cut off Centrelink altogether; and

²⁵ Bill Palmer, ‘BBF Services and the Jobs for Families Child Care Package’ (Australian Government Department of Education and Training, 2016).

²⁶ Deloitte Access Economics, Impacts of aspects of the Jobs for Families Child Care Package on Indigenous communities, 18 February 2016 <www.snaicc.org.au/wp-content/uploads/2015/12/Impacts_aspects_Jobs_for_Families_Child_Care_Package_Indigenous_communities.pdf>.

²⁷ See, eg, Luke Henriques-Gomes, Service providers call for Parents Next overhaul after families left without food, Guardian Online, 19 December 2018 <www.theguardian.com/australia-news/2018/dec/19/service-providers-call-for-parents-next-overhaul-after-families-left-without-food>.

²⁸ Beth Goldblatt, More than unpopular. How ParentsNext intrudes on single parents’ human rights, The Conversation, The Conversation Online, 16 January 2019 <<https://theconversation.com/more-than-unpopular-how-parentsnext-intrudes-on-single-parents-human-rights-108754>>.

²⁹ Luke Henriques-Gomes, ParentsNext: single mothers say they were forced to allow ‘sensitive’ data to be collected, Guardian Online, 28 January 2019 <www.theguardian.com/australia-news/2019/jan/28/parentsnext-single-mothers-say-they-were-forced-to-allow-sensitive-data-to-be-collected?>.

- (c) there are a lack of safeguards to protect people from administrative errors by employment service providers.
59. The TCF is a largely-automated demerit point system of financial sanctions. A parent gets a demerit point and has their payment suspended each time they miss a requirement without a valid reason. If a participant gets 5 demerit points in a 6 month period, they may move into “the penalty zone” unless a capability assessment by the Department of Human Services (**DHS**) identifies that the requirements imposed on them are inappropriate. After entering the penalty zone, if a parent misses any more requirements, they risk:
- (a) having their payment cut for 1, 2 or 4 weeks; and
- (b) having their payment cancelled.³⁰
60. ParentsNext participants are required to report compliance with their Employment Pathway Plan and “activities”. Having to log compliance with “activities” is not only patronising for parents, it can be complicated by the realities of life for many women – responding to the urgent needs of their children, not having mobile phone credit or reliable access to the internet and not owning a car to report in person.
61. Once a parent is in the penalty zone, there is no requirement for DHS to assess whether they will be able to meet their or their children’s basic needs before a penalty is applied. While a reasonable excuse communicated to the provider (for example, serious illness or unforeseen caring responsibilities) will prevent payment reduction or cancellation, the TCF does not give providers the discretion to opt against reporting non-compliance where a parent faces destitution or other hardships as a result of their payments being cut. This is of particular concern to Intensive participants who, by definition, have more intensive requirements to comply with, yet come from areas where there are higher levels of socio-economic disadvantage and/or where a high proportion of parenting payment recipients are Aboriginal and Torres Strait Islander peoples.³¹
62. The Parliamentary Joint Committee on Human Rights has considered the application of the TCF.³² Concerns were raised by the Committee that no-payment penalties cannot be waived on the basis of financial hardship, which indicated an *incompatibility* with the right to social

³⁰ See Australian Government Department of Human Services website, “Demerits and penalties for not meeting mutual obligation requirements” (9 January 2019) <www.humanservices.gov.au/individuals/enablers/demerits-and-penalties-not-meeting-mutual-obligation-requirements/44416#penaltyzone>.

³¹ The Federal Government’s remote Community Development Program (**CDP**) sees more onerous and rigid obligations imposed on people in remote Aboriginal and Torres Strait Islander communities when compared to people covered by the equivalent non-remote Jobactive program. This has correlated with much higher rates of financial sanctions. See Lisa Fowkes, ‘The Application of Income Support Obligations and Penalties to Remote Indigenous Australians 2013-2018’ (CAEPR Working Paper, forthcoming).

³² In relation to the Social Services Legislation Amendment (Welfare Reform) Bill 2017 (**Welfare Reform Bill**) and Social Security Legislation Amendment (Community Development Program) Bill 2018 (**CDP Bill**). See Parliamentary Joint Committee on Human Rights, Parliament of Australia, Human Rights Scrutiny Report: Report 11 of 2017 (17 October 2017) [2.467]; Parliamentary Joint Committee on Human Rights, Parliament of Australia, Human rights scrutiny report: Report 10 of 2018 (18 September 2018) [1.34].

security because some people may be left unable to meet basic necessities for survival during the non-payment period.³³ The Committee has noted that it “is unclear how limiting the availability of a waiver on the grounds of severe financial hardship would achieve the stated objectives” of the TCF, which the Government identified broadly as reducing “long-term unemployment” and “welfare dependency”.³⁴

63. We also have concerns about a lack of procedural safeguards for vulnerable parents interacting with private employment service providers. We understand that for the first five indiscretions, a demerit point will be issued and payments suspended, without DHS oversight. This shifts responsibility for making sure an employment service provider has complied with its obligations to the vulnerable parent – rather than the government taking responsibility for the providers it has contracted, the parent forced to participate in ParentsNext will need to ask their provider to reconsider the demerit point, and if still dissatisfied call a Department of Jobs and Small Business customer service line. In addition, because the issuing of a demerit will be considered an “administrative mechanism”,³⁵ rather than a decision under social security law, the usual rights to review under the *Social Security (Administration) Act 1999* appear to be restricted, at least for the first five demerit points, creating an accountability gap.
64. Between 1 July and 31 December 2018, over 16,000 parents had payments suspended, nearly a quarter of whom identified as Aboriginal and Torres Strait Islander. By virtue of their participation in the ParentsNext program, parents are experiencing disadvantage while caring for at least one young child (and likely as a single mother). An automated system of financial punishments that can result in the withholding or cancelling of payments – without regard to the financial hardship being endured by the parent – is unjust and results in an unreasonable restriction of rights.

³³ Parliamentary Joint Committee on Human Rights, Parliament of Australia, Human Rights Scrutiny Report: Report 10 of 2018 (18 September 2018) [1.25].

³⁴ *Ibid* [1.14]-[1.60].

³⁵ Australian Government, Social Security Guide, Description of Zones (2 July 2018) <<http://guides.dss.gov.au/guide-social-security-law/3/5/1/167>>. The rules relating to these administrative mechanisms are set out in the Social Security (Administration) (Non-compliance) Determination 2018 (No 1).

5. Conclusion

Empowering people and communities works

65. Imposing conditions, along with the threat of punitive action, on access to vital parenting payments is a continuation of colonial practice and will not result in positive outcomes.³⁶ The ParentsNext program is another demonstration of the Federal Government's unwillingness to relinquish the power and control that it holds over the lives of Aboriginal and Torres Strait Islander people, particularly in this case, women who are single mothers. This power dynamic needs to change and can only occur through the equal participation of Aboriginal and Torres Strait Islander peoples in decisions that affect them.³⁷
66. Similar critiques have been made in the context of other mandatory social security programs that have targeted and tried to change the behaviour of Aboriginal and Torres Strait Islander people, like compulsory income management and CDP.³⁸
67. Rather, a response is needed that recognises different ways of parenting and values unpaid care work as labour and as a significant contribution to the nation's prosperity. The Federal Government should work in partnership with Aboriginal and Torres Strait Islander organisations and communities to self-identify ways to value good parenting, address barriers to employment and create solutions tailored to meet their needs.

³⁶ Shelley Bielefeld, *Income Management and Indigenous Women – A New Chapter of Patriarchal Colonial Governance?* 39 *University of New South Wales Law Journal* (2016) 843.

³⁷ Australian Human Rights Commission, *Social Justice Report 2001*, ch 2.

³⁸ See, eg, concerns raised by the Committee on Economic, Social and Cultural Rights, *Concluding observations UN Doc E/C.12/AUS/CO/5/ (2017)* 6.