



Parliamentary Joint Committee on Human Rights

Inquiry report

ParentsNext: examination of Social Security (Parenting
payment participation requirements—class of persons)
Instrument 2021

4 August 2021

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Recommendations

Recommendation 1

4.91 The committee considers that if participation in ParentsNext were voluntary this could promote a range of human rights and no human rights would be limited. As such, the committee considers that the human rights compatibility of the measure would be addressed if an individual's qualification for parenting payment was not linked to the person meeting participation requirements (such as compulsory participation in ParentsNext). As such, the committee recommends that a class of persons not be prescribed for the purposes of paragraph 500(1)(ca) of the *Social Security Act 1991*.

Recommendation 2

4.92 If participation in ParentsNext remains compulsory, the committee recommends the following changes be made to assist with the proportionality of the measure:

- (a)** that a parent is only required to enter into a Parenting Payment Employment Pathway Plan after an assessment of their individual circumstances, including consideration of the best interests of any child as a primary consideration;
- (b)** that payment suspensions are only applied once a ParentsNext provider has successfully contacted the parent and established why they have not met their participation requirements, and made an assessment that the suspension would not result in the parent and any children being unable to meet their immediate basic needs;
- (c)** that payment reductions and cancellations are only applied after an assessment has been made that to do so would not result in the parent and any children being unable to meet their immediate basic needs; and
- (d)** that further consultation be undertaken with Indigenous-led organisations, and affected Indigenous communities, to obtain their free, prior and informed consent to participate in ParentsNext.

Chapter 1

Background

Overview of the legislative instrument

1.1 The Social Security (Parenting payment participation requirements - class of persons) Instrument 2021 (the instrument) was registered on 22 January 2021. Its provisions came into force on 1 July 2021.

1.2 The instrument specifies the class of persons subject to compulsory participation in the ParentsNext program and merges two existing streams as to how the program is delivered to people into one stream. The ParentsNext program may require that a person: attend playgroups; complete further education and training; or address non-vocational barriers to employment such as through counselling or health appointments. A failure to attend these appointments without a reasonable excuse can result in the person's parenting payments being suspended and, if there is a persistent failure, reduced or cancelled.

1.3 Providing access to a program which is intended to provide early support to young parents with a lower level of educational attainment to help them plan and prepare for employment before their youngest child starts school, including by participating in educational activities or activities with their children, may promote the rights to work, education, and the rights of the child. However, by making such participation compulsory, and providing that a person who fails to participate may have their parenting payment reduced, suspended or cancelled, this measure also engages and may limit several other human rights including the rights to: social security; an adequate standard of living; a private life; equality and non-discrimination; and the rights of the child.

Initiation of inquiry

1.4 The mandate of the Parliamentary Joint Committee on Human Rights (the committee) under paragraph 7(a) of the *Human Rights (Parliamentary Scrutiny) Act 2011* is to examine all bills and legislative instruments that come before either House of the Parliament for compatibility with human rights¹ and to report to both

1 'Human rights' is defined in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* to mean the rights and freedoms recognised or declared by seven international instruments: International Convention on the Elimination of all Forms of Racial Discrimination; International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights; Convention on the Elimination of All Forms of Discrimination Against Women; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Rights of the Child; and Convention on the Rights of Persons with Disabilities.

Houses of the Parliament on that issue. As such, the committee is required to examine the instrument as part of its scrutiny of legislative instruments.

1.5 The committee tabled its initial consideration of this instrument in its *Report 2 of 2021* on 24 February 2021, seeking a response from the minister.² The minister provided the committee with further information on 11 March 2021, including advising the committee that 18 per cent of participants in the ParentsNext program are Indigenous, one-third of all participants have had their parenting payments suspended for an average of five days, and 1,072 participants have had their payments cancelled.

1.6 Following receipt of this information, on 31 March 2021, the committee resolved to undertake a short, targeted inquiry into the instrument as part of its function of examining legislative instruments for compatibility with human rights. The committee sought evidence from key stakeholders on the human rights implications of the instrument, and in particular, evidence in relation to the following issues:

- (a) whether and how it has been demonstrated that participants in the ParentsNext program who have had their parenting payment reduced, suspended or cancelled for non-compliance are able to meet their basic needs (and those of their children) in practice, such that they have an adequate standard of living, and whether and how this is assessed before payments may be affected;
- (b) the extent to which the ParentsNext program operates flexibly in practice, such that it treats different cases differently (including for parents in regional areas and Indigenous parents);
- (c) the extent to which participation in the ParentsNext program meets its stated objectives of effectively addressing barriers to education and employment for young parents in practice, and whether making participation compulsory is effective to achieve those objectives;
- (d) what consultation has there been with Indigenous groups in relation to the compulsory participation of Indigenous peoples in the ParentsNext program;
- (e) whether, and based on what evidence, it has been demonstrated that less rights restrictive alternatives to compulsory participation (such as voluntary or incentivised participation) would not be as effective to achieve the stated objectives of this scheme; and
- (f) the extent to which linking welfare payments to the performance of certain activities by the welfare recipient is consistent with

2 Parliamentary Joint Committee on Human Rights, *Report 2 of 2021* (24 February 2021) pp. 58–66.

international human rights law, particularly the rights to social security, an adequate standard of living, equality and non-discrimination, a private life, and the rights of the child.

Conduct of the inquiry

1.7 The committee wrote to 68 relevant stakeholders inviting them to make a submission to the inquiry by 4 May 2021, and advertised the inquiry on its website.

1.8 The committee received 37 public submissions, which were published on the committee website, and two confidential submissions. A list of submissions received is included at Appendix 1.

1.9 In order to extend the period by which the instrument was subject to parliamentary control, Senator Dodson, on behalf of the committee, placed a protective notice of motion to disallow the instrument in the Senate on 11 May 2021. This extended the period by which the instrument was subject to disallowance by a further 15 sitting days (to 11 August 2021). The disallowance procedure is the primary mechanism by which the Parliament may exercise control over delegated legislation. The placing of the protective notice of motion to disallow ensured continued parliamentary control over the instrument pending completion of the committee's inquiry.

1.10 A public hearing for the inquiry was held on 25 June 2021. The committee heard evidence from a range of community organisations, peak bodies, academics and the Department of Education, Skills and Employment. A list of witnesses is included at Appendix 2, and the Hansard transcript is available on the committee website.³

Structure of the report

1.11 The report contains four chapters, as follows:

- Chapter 1 sets out the introduction and background to the inquiry;
- Chapter 2 discusses the instrument and the legal context;
- Chapter 3 discusses the issues raised by submitters and witnesses to the inquiry; and
- Chapter 4 sets out the relevant international human rights law, and the committee's findings and recommendations.

Acknowledgements

1.12 The committee acknowledges and thanks the organisations and individuals who assisted with and contributed to the inquiry by making submissions, giving evidence at the public hearing and providing additional information.

3 In this report, references to the *Hansard* are to the proof transcript. Page numbers may vary between proof and official transcripts.

Chapter 2

Background

2.1 The Social Security (Parenting payment participation requirements – class of persons) Instrument 2021 (the instrument) was registered on the Federal Register of Legislation on 22 January 2021 and tabled in the House of Representatives and Senate on 2 February 2021. The instrument came into force on 1 July 2021.

Legislative framework

2.2 Section 500 of the *Social Security Act 1991* sets out the qualification requirements for receipt of parenting payment. Subsection 500(2) provides that a person who falls within a class of persons specified by a legislative instrument will only qualify for parenting payment where they meet any specified participation requirements.¹ This means that in the absence of such a specification by legislative instrument, a person's eligibility for parenting payment would be assessed according to the other qualification provisions set out in section 500.²

2.3 Schedule 1 of the instrument specifies the class of persons who qualify for parenting payment. In effect, this sets out the persons in relation to whom participation in the ParentsNext program becomes a compulsory requirement for qualification for parenting payment. Schedule 2 repeals the existing legislative instrument which specified a different class of persons.³

2.4 Schedule 1 specifies that, from 1 July 2021, the relevant class of persons are those who:

- (a) reside in a 'jobactive employment region';⁴
- (b) have been receiving parenting payment for a continuous period of at least 6 months prior to 1 July 2021;

1 *Social Security Act 1991*, paragraph 500(1)(ca).

2 That is, if no legislative instrument specified a class of persons in relation to whom participation in ParentsNext was a compulsory requirement, members of that class of persons would not have any participation requirements in order to qualify for parenting payment under section 500. Pursuant to paragraph 500(1)(c), participation requirements would only relate to a parent where their child (or children) were aged six and above.

3 Social Security (Parenting payment participation requirements – classes of persons) Instrument 2018 (No. 1) [F2018L00238].

4 The term 'jobactive employment region' is defined in section 4 of the instrument to mean a geographical region in which employment services were delivered by one or more jobactive employment service providers on 1 December 2020. These areas are identified and displayed at www.lmip.gov.au, as varied by the department from time to time.

- (c) have a youngest child aged at least nine months and under six years of age;
- (d) have not engaged in work in the six months prior to 1 July 2021;
- (e) are aged under 55 years; and
- (f) are:
 - (i) aged under 22 years and have not completed their final year of secondary school (an 'early school leaver'); or
 - (ii) aged at least 22 years and have not completed their final year of school and have been receiving an income support payment for a continuous period of at least two years; or
 - (iii) aged up to 55 years and have completed the final year of school and have been receiving an income support payment for a continuous period of four years or more prior to 1 July 2021.

2.5 As at 31 March 2021, 17.6 per cent of participants were parents aged under 25 years,⁵ meaning over 82 per cent of participants are aged over 25 years. Parenting payment is the primary income support payment available for parents while they are a young child's main carer.⁶ The rate at which parenting payment is paid depends on the circumstances of the individual. From 1 April 2021, a single parent may receive a maximum payment of \$850.20 per fortnight (being parenting payment plus the pension supplement), and a partnered parent may receive a maximum payment of \$565.40 per fortnight.⁷ Parents in receipt of parenting payment are subject to income and assets test, which vary depending on whether they are single or partnered and how many children they have.⁸ Recipients of parenting payment may be eligible for further supplementary assistance payments,⁹ however, parenting payment is intended to be their primary income support payment.

5 Department of Education, Skills and Employment, answer to question on notice IQ21-000076, 16 June 2021 (received 20 July 2021).

6 See, *Social Security Act 1991*, Part 2.10.

7 <https://www.servicessaustralia.gov.au/individuals/services/centrelink/parenting-payment/how-much-you-can-get> [Accessed 21 July 2021]. Individuals may also be eligible for other payments and supplements, such as rent assistance and the energy supplement.

8 For example, a single parent of two children may earn up to \$219.20 gross per fortnight to remain eligible for their full payment. A single non-homeowner may have up to \$487,000 in assets. See, <https://www.servicessaustralia.gov.au/individuals/services/centrelink/parenting-payment/who-can-get-it/income-and-assets-tests> [Accessed 21 July 2021].

9 These may include: Family Tax Benefit; the child care subsidy (a payment made directly to child care providers to reduce the cost of childcare); rent assistance (a supplementary payment for people renting a private property or community housing property); and an energy supplement.

2.6 For certain classes of persons, qualification for parenting payment is, and has previously been, accompanied by participation requirements. In 2012, teenage parents and 'jobless families' in ten trial locations were required to meet participation requirements in order to qualify for parenting payment.¹⁰ In 2016, a further legislative instrument required that a class of persons in those ten trial locations participate in ParentsNext in order to qualify. ParentsNext was introduced as a trial pre-employment program through contracted project providers to provide early intervention assistance to parents with young children. The local government areas in which the trial ran were selected based on an assessment of socio-economic disadvantage indicators.¹¹

2.7 A formal evaluation of the trial was conducted, examining its operation from April 2016 to June 2017.¹² On 1 July 2018, ParentsNext was rolled-out nationally,¹³ including, in part, to support the 'Closing the Gap' employment target.¹⁴ This national expansion established two streams: intensive (for Indigenous participants), and targeted (for disadvantaged parents of young children in non-remote locations). The scheme operated in the original 10 trial locations and in a further 20 locations, which were selected for their higher proportion of Indigenous parenting payment recipients.¹⁵ The 2021 instrument under consideration does not specify the locations which it applies to – rather it states it applies to all geographical regions in Australia where employment services were delivered on 1 December 2020.¹⁶

10 Social Security (Parenting payment participation requirements – classes of persons) (DEEWR) Specification 2011 (No. 1) [F2012C00548]. These trial locations were: Logan, Rockhampton, Playford, Bankstown, Wyong, Shellharbour, Greater Shepparton, Hume, Burnie and Kwinana.

11 See, Department of Jobs and Small Business, *ParentsNext Evaluation Report* (2018) p. 24.

12 This evaluation was published in September 2018. See, Department of Jobs and Small Business, *ParentsNext Evaluation Report* (2018), <https://www.dese.gov.au/parentsnext/resources/parentsnext-evaluation-report> [Accessed 21 July 2021].

13 Pursuant to the Social Security (Parenting payment participation requirements – classes of persons) Instrument 2018 (No. 1) [F2018L00238].

14 See, Department of Employment, *ParentsNext Discussion Paper: ParentsNext National Expansion* (2017), p. 12; and Social Security (Parenting payment participation requirements – classes of persons) Instrument 2018 (No. 1) [F2018L00238], explanatory statement.

15 These were: Dubbo; Sydney-Central; Mid Coast; Orange; North Coast; Tamworth; Darwin-Palmerston; Alice Springs; Port Adelaide; Port Augusta; Whyalla; Cairns; Toowoomba; Mackay; Townsville; Perth-South and East; Geraldton; Broome; Brighton; and Mildura. See, Department of Employment, *ParentsNext Discussion Paper: ParentsNext National Expansion* (2017) Appendix A.

16 There are currently 51 jobactive employment regions, which are displayed at www.lmip.gov.au. See, Department of Education, Skills and Employment, answer to question on notice SQ21-000074, 16 June 2021 (received 20 July 2021).

2.8 While this instrument represents a continuation of an existing policy, it repeals and separately specifies the class of persons in relation to whom engagement in ParentsNext is a compulsory requirement for receipt of parenting payment. In particular, it removes the two streams of participants and consolidates this into one stream, while adjusting the qualification requirements (such that some parents who may previously have been required to participate are no longer required, and ensuring that some parents who were not previously required to participate are now required to do so).

The ParentsNext Program

2.9 A person in the relevant class of persons only remains qualified for parenting payment if they meet the participation requirements set out in section 500A of the *Social Security Act 1991*. That provision states that the participation requirements are that a person must enter into a Parenting Payment Employment Pathway Plan, and must comply with any requirements in the plan. In practice, those parents who are in the class of persons specified in the instrument are required to participate in a program known as ParentsNext. The stated objective of the ParentsNext program is to help eligible parents to plan and prepare for employment by the time their youngest child reaches school age by: identifying education and employment related goals; agreeing on (and actively engaging in) activities to help them progress towards these goals; and subsequently progressing towards those goals.¹⁷

2.10 The requirements associated with participation plans and activities are set out in the *ParentsNext Guidelines*.¹⁸ These guidelines state that a parent who has been identified for participation in ParentsNext is instructed to attend an initial appointment with their service provider. At this first appointment, participants are given detailed information about the program, and over the following month they discuss their employment and work goals with their provider and develop a pathway towards meeting those goals. The guidelines state that the provider is required to give the parent a participation plan within 20 business days of the initial appointment, and the parent has 10 days in which to consider the plan and agree to it. The parent may also seek to have the plan updated prior to agreement, or at any time after agreement if it no longer suits their circumstances. If the provider does not agree to update a plan, the parent can seek internal review of the decision or contact the department. Participants then undertake catch-up appointments with the provider to review their personal and family circumstances, update their participation plan, evaluate progress and identify suitable services and activities to meet their needs. These catch-up appointments must take place each quarter, at a minimum.

17 See, Department of Jobs and Small Business, *ParentsNext Evaluation Report* (2018) p. 16.

18 ParentsNext Guidelines: participation plans and activities (February 2021).

2.11 Activities which participants may undertake may be non-vocational or pre-vocational (such as career counselling; financial management; personal development or presentation skills courses; counselling and mental health services; or assistance with resume and job search skills).¹⁹ They may also be vocational activities, including education or training. A participation plan must include at least one activity, and participants are expected to participate in at least one activity consistently between appointments with their provider.

2.12 Participants may also have access to funds under the participation fund for use on some expenses associated with participation. The participation fund is provided to ParentsNext providers, at the value of \$1,200 per participant. Those credits are not quarantined to individual participants and can be used flexibly to provide services to any participant.²⁰

Compulsory participation

2.13 Compulsory participation in the ParentsNext program is established because a person in the relevant class of persons only remains qualified for parenting payment if they meet the specified participation requirements.²¹ How this operates is set out via what is known as the Targeted Compliance Framework, which is established by the *Social Security (Administration) Act 1999*.²² This has the effect that where a person fails to comply with their ParentsNext participation plan, their payments may be suspended (known as a 'mutual obligation failure').²³ If they are deemed to have committed a mutual obligation failure without a reasonable excuse, and accrue a 'demerit' for that failure, their parenting payment may be suspended, reduced and/or cancelled.

Mutual obligation failures

2.14 A 'mutual obligation failure' broadly means a failure to do something required of a participant.²⁴ It includes a failure to attend (or be punctual for) an appointment the person is required to attend, or acting in an 'inappropriate manner' during an appointment or activity. In determining whether a person has a reasonable

19 ParentsNext Guidelines: participation plans and activities (February 2021) p. 10.

20 See, Department of Employment, *ParentsNext Frequently Asked Questions, Request for Tender for ParentsNext 2018-2021*, p. 21. The department noted that at March 2021, \$15.6 million had been expended from the ParentsNext participation fund (see, Department of Education, Skills and Employment, *Submission 8*, p. 5).

21 *Social Security Act 1991*, sections 500 and 500A.

22 *Social Security (Administration) Act 1999*, Part 3, Division 3AA.

23 While the *Social Security (Administration) Act 1999* currently requires that the Secretary 'must' suspend a person's participation payment in the event of non-compliance, this is proposed to be amended such that they 'may' do so. See, Social Security Legislation Amendment (Streamlined Participation Requirements and Other Measures) Bill 2021, Schedule 3.

24 *Social Security (Administration) Act 1999*, section 42AC.

excuse with respect to a mutual obligation failure, the Secretary must take into account: the fact that a person did not have access to safe housing; an illness, injury, cognitive or mental illness; unforeseen family or caring responsibilities; or the fact that the person was undertaking paid work or attending a job interview at the time of the failure.²⁵ The question of whether a mutual obligation failure is due to a person's alcohol or drug dependency may be relevant,²⁶ however whether it must be taken into consideration is subject to restrictions.²⁷ The Secretary is not required to take into account any such matter if they are not satisfied that the matter directly prevented the person from meeting the relevant requirement.²⁸ Further, it does not appear that the Secretary is obligated to take steps to establish whether a reasonable excuse exists (if a participant has failed to attend an appointment, for example). Rather, the participant must advise of the excuse being offered, unless the Secretary is satisfied that there are circumstances in which it is not reasonable to expect the person to give the notification.²⁹

Demerits and penalties

2.15 The Targeted Compliance Framework is the mechanism by which a participant's income support payments may be suspended or cancelled, and participation in ParentsNext is monitored. It is administered through an electronic system, and some elements of it are automated.³⁰ For example, the guidelines note that ParentsNext providers must record a person's participation in an activity by close of business, and if they fail to do so the department's IT systems will automatically suspend the person's income support payment (noting that since December 2020, a two-day grace period has been introduced during which time a participant can resolve a matter without their payment being suspended).³¹ Where a participant (or

25 Social Security (Administration) (Reasonable Excuse—Participation Payments) Determination 2018 [F2018L00779], subsection 5(2).

26 Social Security (Administration) (Reasonable Excuse—Participation Payments) Determination 2018 [F2018L00779], subsection 5(2)(e).

27 Pursuant to subsection 6(4) of the Social Security (Administration) (Reasonable Excuse—Participation Payments) Determination 2018 [F2018L00779], a drug or alcohol misuse may not be considered if that reason has been provided in relation to a previous failure.

28 Social Security (Administration) (Reasonable Excuse—Participation Payments) Determination 2018 [F2018L00779], subsection 6(3).

29 *Social Security (Administration) Act 1999*, section 42AJ.

30 For example, the ParentsNext Targeted Compliance Framework Guidelines note that, 'The Department's IT Systems will determine whether the Participant will remain in the Warning Zone or go back to the Green Zone with their Demerits reset to zero. This is based on the information that the Provider records in the Department's IT Systems regarding the outcome of the Capability Interview'. See, ParentsNext Guidelines: Targeted Compliance Framework: Mutual Obligation Failure (September 2020) p. 7.

31 ParentsNext Guidelines: Targeted Compliance Framework: Mutual Obligation Failure (September 2020) p. 10.

their service provider) fails to record a participant's attendance at a compulsory activity required under their participation plan, their parenting payment will automatically be suspended (if the failure has not been resolved within the two day grace period provided).³² Since 1 July 2018 (when ParentsNext was rolled out nationally), over 55,000 parents received 159,000 suspensions lasting an average of five days on each occasion.³³ The suspension will be lifted once the participant resolves the issue, such as by re-connecting with their provider.

2.16 Where a person does not meet their 'reconnection requirement' within 28 days (for example, by scheduling and attending an appointment with their provider) the department will usually cancel their income support payment, and the participant will be required to wait four weeks before they can re-apply.³⁴ From 1 July 2018 to 31 May 2021, 1,223 participants had their payments cancelled on this basis, and 455 subsequently reapplied for the payment.³⁵

2.17 The Targeted Compliance Framework comprises three zones.³⁶ A participant will begin in the default 'green zone'. If they commit a mutual obligation without a reasonable excuse (and consequently accrue a demerit), they will move to the 'warning zone'. A demerit has a lifespan of six months. If a participant in this warning zone receives three demerits within a six month period, they must (within two business days of incurring the most recent demerit) attend a capability interview with their ParentsNext provider.³⁷ If the provider determines that their participation plan is suitable for them, they will remain in the warning zone. If the person accrues a total of five demerit points in six months, they will then be referred for a 'capability assessment' with the department. If this assessment determines that the requirements imposed on the parent are appropriate, the participant will be moved into the 'penalty zone'. Once in the penalty zone, a participant will receive financial penalties for each mutual obligation failure without a reasonable excuse. These are: the loss of one week's income support payment for a first failure (that is, a 50 per cent reduction); the loss of two week's payment for the second failure (that is, a 100

32 ParentsNext Guidelines: Targeted Compliance Framework: Mutual Obligation Failure (September 2020) p. 23.

33 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard* (25 June 2021) p. 49. See also, minister's response (received 12 March 2021).

34 ParentsNext Deed 2018–2021, p. 78.

35 Department of Education, Skills and Employment, answer to question on notice IQ21-000088, 16 June 2021 (received 20 July 2021).

36 A general visual guide to the application of the Targeted Compliance Framework is available on the Department of Education, Skills and Employment website. See, <https://www.dese.gov.au/parentsnext/resources/targeted-compliance-framework-parentsnext-participants> [Accessed 5 May 2021].

37 ParentsNext Guidelines: Targeted Compliance Framework: Mutual Obligation Failure (September 2020) p. 7. See also ParentsNext Deed 2018–2021, p. 86.

per cent reduction); and ultimately the cancellation of the payment and service of a four-week preclusion period before being able to re-apply for a payment in the case of a third failure. If a person has had their income support payment cancelled, and they return to payment within three active months of cancellation, they will return to the beginning of the penalty zone (meaning that a further mutual obligation failure within three active months after cancellation would result in another loss of one week's payment).³⁸ If they commit no further mutual obligation failures within that three month period, they would return to the green zone.

2.18 From 1 July 2018 to 31 May 2021, 14,194 participants have accrued a demerit.³⁹ There have been: 10 instances in which a person was penalised one weeks' payment for a first mutual obligation failure in the penalty zone; less than five instances in which a person was penalised two weeks' payment for a second mutual obligation failure; and less than five instances in which a participant subsequently had their payment cancelled for a third mutual obligation failure in the penalty zone.⁴⁰

Exemptions

2.19 A person may be exempted from their compulsory participation requirements in a range of circumstances.⁴¹ Exemptions may be granted by individual providers, or by Services Australia (although only Services Australia can grant an exemption for an approved overseas absence).⁴² Some exemptions must be automatically granted (once they have been applied for with the required evidence), while others are assessed on a case-by-case basis. The circumstances include: temporary medical incapacity (not including one which is wholly or predominantly due to drug or alcohol misuse); serious illness; caring responsibilities of children or other family members, or foster care; provision of home schooling or distance education; temporary confinement due to pregnancy; family or personal circumstances (including death of a family member); compliance with a community service order; domestic violence or relationship breakdown; natural disaster or other major personal disruption; volunteering during a state or national emergency; major personal crisis (including homelessness); or participation in Indigenous cultural business.⁴³ Exemptions may only be granted by a ParentsNext provider (or Services

38 ParentsNext Guidelines: Targeted Compliance Framework: Mutual Obligation Failure (September 2020) p. 9

39 Department of Education, Skills and Employment, answer to question on notice IQ21-000071, 16 June 2021 (received 20 July 2021).

40 Department of Education, Skills and Employment, answer to question on notice IQ21-000087, 16 June 2021 (received 20 July 2021).

41 *Social Security Act 1991*, Part 2.10, Division 3A. See also, ParentsNext – Delivering ParentsNext Guidelines (effective from 1 July 2021).

42 ParentsNext – Delivering ParentsNext Guidelines (effective from 1 July 2021), p. 48.

43 ParentsNext – Delivering ParentsNext Guidelines (effective from 1 July 2021), p. 48.

Australia) for the period of time which they consider that a person's circumstances are expected to warrant that exemption, or for the maximum period of time allowed by the exemption.⁴⁴ For example, an exemption for temporary medical incapacity may be granted for a maximum of 13 weeks.⁴⁵ By comparison, where a participant has experienced domestic violence in the 26 weeks prior, they must receive an automatic 16 week exemption, and may be eligible for a further exemption as assessed on a case-by-case basis for up to another 16 weeks.⁴⁶ A participant is required to provide evidence with respect to any exemption on which they may rely, and in most cases the guidelines state that the provider should use their judgment about appropriate evidence required.⁴⁷

Exit provisions

2.20 A person will not be required to participate in the ParentsNext program if they cease to reside in a jobactive employment region; no longer have a youngest child aged between 9 months and six years of age; or is no longer under 55 years of age.⁴⁸ Participants may be manually exited by a provider where they have achieved stable employment (including casual or part-time work averaging 15 hours per week for at least 12 weeks, and expected to be ongoing).⁴⁹

Departmental oversight of ParentsNext providers

2.21 ParentsNext providers are engaged subject to the ParentsNext Deed 2018–2021.⁵⁰ This sets out rules about the provision of services, performance assessment, and records management. The Deed states that providers must ensure that their own personnel and sub-contractors are aware of, and receive training on, any powers and functions that they may be delegated to perform under social security law, and that they comply with that law.⁵¹ Providers are also subject to a Performance Guideline,⁵² which sets out the key performance indicators, the service

44 ParentsNext – Delivering ParentsNext Guidelines (effective from 1 July 2021), p. 51.

45 *Social Security Act 1991*, sections 502H–502K.

46 *Social Security Act 1991*, section 502C.

47 For example, a provider is required to use their judgment as to appropriate evidence that a participant has experienced domestic violence. See ParentsNext – Delivering ParentsNext Guidelines (effective from 1 July 2021), p. 57.

48 Social Security (Parenting payment participation requirements – class of persons) Instrument 2021, subsection 6(2).

49 ParentsNext – Transfers and Exits Guidelines, p. 7.

50 <https://www.dese.gov.au/parentsnext/resources/parentsnext-deed-2018-2021> [Accessed 10 June 2021].

51 ParentsNext Deed 2018–2021, clause 99.

52 ParentsNext Performance Guideline, <https://www.dese.gov.au/parentsnext/resources/parentsnext-performance-guideline> [Accessed 10 June 2021].

guarantees related to the delivery of ParentsNext, and the department's formal performance feedback to providers every 12 months. In this regard, providers are assessed according to:

- the proportion of participants who: attended appointments with the provider at least once every three months; are participating in a current activity; and were commenced within 14 days of their first scheduled initial appointment;
- the proportion of participants who were referred as early school leavers who are participating in, or who have completed, education; and
- the department's assessment of the quality of services (which may include complaints made by customers).⁵³

2.22 The department may conduct both announced and unannounced site visits by account and contract managers,⁵⁴ and states that it expects that providers are all familiar with the arrangements in place that cover the program, and that unannounced site visits are conducted using a range of risk factors to determine whether an unannounced site visit is warranted.⁵⁵ The Performance Guidelines state that where performance concerns exist, the department will work proactively with providers to address the issues, however, providers 'are ultimately responsible for improving their own performance'.⁵⁶

53 ParentsNext Performance Guideline, pp. 3–4.

54 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 53.

55 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, and Ms Robyn Shannon, First Assistant Secretary, Procurement, Quality and Deeds Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 53.

56 ParentsNext Performance Guideline, p. 6.

Chapter 3

Key issues raised

3.1 This chapter outlines the key issues raised by submitters and witnesses during the inquiry. It is noted that some of the evidence provided to the committee went beyond the terms of the instrument under consideration, and reflected on the broader merits of the ParentsNext program. This chapter outlines the key issues raised by submitters and witnesses, while Chapter 4 sets out the legal analysis as to the international human rights compatibility of the instrument under consideration.

3.2 The committee received evidence from community groups, peak bodies, ParentsNext providers, affected individuals, academics, and the Department of Education, Skills and Employment (the department). Submitters to the inquiry, and witnesses at the public hearing, raised a range of concerns about the human rights implications of this legislative instrument, and the effects of the ParentsNext program in practice.

3.3 The issues raised can be loosely grouped into the following categories:

- results arising out of participation in various activities under ParentsNext;
- questions as to whether ParentsNext needs to be compulsory in order to succeed, and suggestions as to less rights restrictive alternatives;
- the inflexibility of the Targeted Compliance Framework and the ParentsNext program design, as well as a practical absence of flexibility in the administration of the program;
- the absence of key supports to help participants engage in ParentsNext, and the hidden costs associated with participation;
- harm caused to parents and children by the application of the Targeted Compliance Framework, including undermining the intended positive impacts of ParentsNext;
- an inability by participants to meet their basic needs, or those of their children, where their payments had been cut off (and the absence of a process by which to assess the risk of this occurring);
- the particular risks of harm to women and children who have experienced family violence;
- the disproportionate impact on Indigenous women generally, particularly where financial penalties were being applied for non-compliance with mutual obligations, and a lack of consultation; and

- the incompatibility of the program with Australia's international human rights legal obligations.¹

3.4 Submitters and witnesses primarily submitted that the ParentsNext program should either cease, or if it were to continue that the Targeted Compliance Framework should no longer be applied to it, and participation should be voluntary.

Impact of participation in ParentsNext

Reports of positive outcomes for parents

3.5 The department provided information about the extent to which participation in the ParentsNext program effectively address barriers to education and employment for young parents in practice, and how this is measured.

3.6 The department stated that the program has assisted more than 160,000 parents to work towards their education and employment goals, including helping more than 72,000 parents to commence education and 38,500 to start employment.² It stated that at 31 May 2021, 39,929 participants had commenced employment after having participated in the program³ (however it is not clear if this employment was secured as a result of participation in ParentsNext). The department advised that a 2018 evaluation of ParentsNext showed participants had significantly higher rates of wellbeing, more positive views about work, and higher rates of work, study and child care usage.⁴ The department also stated it regularly receives positive stories from providers and participants about how the ParentsNext program has helped parents to achieve their educational and employment goals.⁵

3.7 The department also advised that the effect of the program in addressing barriers to education and employment was measured by comparing participant outcomes with matched non-participant outcomes during two periods: from 2 October 2018 (prior to COVID-19) and from 2 October 2019 (during COVID-19). It stated that the analysis indicated that ParentsNext had 'an overall positive impact on education outcomes for both periods'.⁶ It further stated that despite being a pre-employment program, ParentsNext had an overall positive impact on employment outcomes during the COVID-19 period:

While there was overall drop in achievement of employment outcomes during the COVID-19 analysis period, this reduction was smaller for

1 The international human rights legal analysis is set out in full at Chapter 4.

2 Department of Education, Skills and Employment, *Submission 8*, p. 5.

3 Department of Education, Skills and Employment, answer to question on notice IQ21-000100, 30 June 2021 (received 20 July 2021).

4 Department of Education, Skills and Employment, *Submission 8*, p. 5.

5 Department of Education, Skills and Employment, *Submission 8*, p. 6.

6 Department of Education, Skills and Employment, answer to question on notice IQ21-000076, 16 June 2021 (received 20 July 2021).

ParentsNext participants than the comparison non-participant group. For the analysis period before COVID-19, the strongest employment outcome impact measured was for participants with a youngest child aged 5.⁷

3.8 Some submitters noted the successes arising out of participation in ParentsNext. For example, Metro Assist (a small community-based ParentsNext provider in Sydney) noted that of its caseload of 600 participants, approximately 50 per cent were engaged in education or employment related activities.⁸ Ms April Pan, the Manager of Settlement and Employment Services, stated that the program was flexible enough for Metro Assist to work with each client at their own pace, and to implement a 'work-ready ladder', with non-education employment related intervention activities at the bottom, and then classes, courses and job searches at the top.⁹ She further explained that her staff were all qualified in community services, social science or social work, as well as being bi or trilingual with a background of supporting vulnerable clients.¹⁰ Metro Assist also stated that the program could assist some participants who had no connection in Australia other than their immediate family to, for example, obtain a driver's licence and complete vocational education courses.¹¹ The National Council of Single Mothers and Their Children advised that where women had passed positive feedback onto them about their experiences of ParentsNext those women had engaged with a small and welcoming ParentsNext provider, not one which was the arm of a job services provider.¹²

3.9 Several submitters and witnesses highlighted that the provision of money to participants through the ParentsNext participation fund is a key driver of any success.¹³ The department noted that at March 2021 there were 83,385 parents in the program and that \$15.6 million had been expended from the ParentsNext participation fund to assist parents in paying for costs associated with achieving their participation plan goals.¹⁴ In addition, it highlighted that from 1 July 2021, this pool

7 Department of Education, Skills and Employment, answer to question on notice IQ21-000076, 16 June 2021 (received 20 July 2021).

8 Metro Assist, *Submission 21*, p. 3.

9 Ms April Pan, Manager, Settlement and Employment Support Services, Metro Assist Ltd, *Hansard*, 25 June 2021, p. 24. See also, Metro Assist, *Submission 21*, p. 3.

10 Ms April Pan, Manager, Settlement and Employment Support Services, Metro Assist Ltd, *Hansard*, 25 June 2021, p. 25.

11 Metro Assist, *Submission 21*, p. 3.

12 Ms Terese Edwards, Chief Executive Officer, National Council of Single Mothers and Their Children, *Hansard*, 25 June 2021, p. 8.

13 See, for example, Dr Katherine Curchin, Senior Lecturer in Public Policy, the Australian National University, *Hansard*, 25 June 2021, p. 39.

14 Department of Education, Skills and Employment, *Submission 8*, p. 5.

of funds would be available to all participants.¹⁵ For example, the department noted that if a participant did not have enough money to purchase data on their phone, that may be something for which funding could be granted.¹⁶ Ms Terese Edwards, Chief Executive Officer of the National Council of Single Mothers and Their Children stated that ParentsNext only succeeds where financial assistance is given to participants, but simultaneously raised concerns that participants only seem to be able to access this funding where they have the confidence and the knowledge to self-advocate.¹⁷

Concerns regarding impact of participation in ParentsNext

Mixed success of ParentsNext in assisting participants to gain employment or educational outcomes

3.10 Several submitters raised concerns about the small number of ParentsNext participants who have exited the program into employment. Economic Justice Australia noted that of the more than 150,000 parents who have participated in ParentsNext between 1 July 2018 and 31 December 2021, just 4,500 (or 3 per cent) have exited the program as a result of finding stable employment.¹⁸ The Feminist Legal Clinic likewise questioned the value of measuring the number of participants who have 'commenced education' and/or 'commenced employment', arguing that these have little value without knowing whether that education or employment was sustained for a period of time and whether it had in fact met the individuals' own participation plan goals.¹⁹ Conversely, the Australian Human Rights Commission argued that, being a pre-employment program, you would not necessarily expect to achieve jobs at the end of it.²⁰

3.11 The department advised that as at 31 May 2021, 97,788 participants had exited the ParentsNext program.²¹ Of those, the vast majority (52,391 people) exited the program on the basis that their youngest child had turned 6 years of age, and 10,420 exited on the basis that they had a new child in their care. The department also noted that 10,430 people had exited on the basis that their parenting payment

15 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 47.

16 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 49.

17 Ms Terese Edwards, Chief Executive Officer, National Council of Single Mothers and Their Children, *Hansard*, 25 June 2021, p. 9.

18 Economic Justice Australia, *Submission 11*, p. 6.

19 Feminist Legal Clinic, *Submission 12*, p. 2.

20 Mr Graeme Edgerton, Deputy General Counsel, Australian Human Rights Commission, *Hansard*, 25 June 2021, p. 30.

21 Department of Education, Skills and Employment, answer to question on notice IQ21-000084, 16 June 2021 (received 20 July 2021).

was cancelled (but noted that this captured all forms of cancellation, not merely cancellation due to non-compliance with a mutual obligation).²²

3.12 Several submitters questioned the kind and quality of employment opportunities which participants undertake on exiting or otherwise ceasing participation in ParentsNext. For example, the Human Rights Law Centre and National Family Violence Prevention Legal Services Forum highlighted that the 2019 Senate Standing Committee on Community Affairs References Committee found that ParentsNext appears to push parents into insecure, low-paying work rather than developing their ability to secure long-term employment.²³ In this regard, these organisations highlighted that a ParentsNext provider will receive an outcome payment where a participant achieves 'sustainable employment', which is defined as a minimum of 15 hours of paid work per week for at least 12 weeks.²⁴ They argued that this incentivises provider to push women towards employment regardless of their circumstances, and argued that such employment outcomes run counter to the program's stated objectives (that is, to assist parents to achieve their education and employment goals').²⁵ The Council for Single Mothers and Their Children likewise argued that casual, insecure and low-paid jobs will continue to position women and children within the existing cycles of intergenerational disadvantage, propelling already disadvantaged parents into employment that holds little career development possibilities.²⁶

Activities required of participants in ParentsNext

3.13 Numerous submitters raised concerns that some participants are required to undertake activities that they were already undertaking (or planning to undertake), and so mandating their participation in ParentsNext had no practical effect on them, or that they were required to undertake activities that appear to have no connection to improving their employability. The Council for Single Mothers and Their Children conducted a survey of 200 ParentsNext participants in 2019 in which 72 per cent of respondents indicated that the program had not introduced their child to activities

22 Department of Education, Skills and Employment, answer to question on notice IQ21-000084, 16 June 2021 (received 20 July 2021). This data further noted that of those people who had exited the program due to their Parenting Payment being cancelled, 13.3 per cent were Indigenous and 15.6 per cent identified as having a disability.

23 Human Rights Law Centre and National Family Violence Prevention Legal Services Forum (NFVPLSF), *Submission 38*, p. 8. See also Senate Standing Committee on Community Affairs References Committee, *ParentsNext, including its trial and subsequent broader rollout* (March 2019).

24 Human Rights Law Centre and National Family Violence Prevention Legal Services Forum (NFVPLSF), *Submission 38*, p. 8.

25 Human Rights Law Centre and National Family Violence Prevention Legal Services Forum (NFVPLSF), *Submission 38*, p. 8. See also, explanatory memorandum, p. 9.

26 Council of Single Mothers and Their Children, and Community Information and Support VIC, *Submission 23*, pp. 10–11.

which they were not already attending or planning to attend.²⁷ The Brotherhood of St Laurence (itself a ParentsNext provider) highlighted the case of a participant who was required to attend the gym three times per week as part of her participation plan and sign off on the ParentsNext app each time she had completed the activity, in order to meet her mutual obligation requirements.²⁸

3.14 Dr Elise Klein OAM stated that she had conducted a research project examining the effects of ParentsNext and found that the activities often enforced on women were either superfluous (because they were already doing the activities themselves) or ineffectual (because the providers did not have activities suiting the parent's career or life goals).²⁹ Dr Klein highlighted instances of women who were required to take their child to a library group, or who were already studying for degrees and then that existing activity was simply placed on their participation plan.³⁰ The Australian Council of Social Service likewise raised concern at reports of ParentsNext providers referring participants to their own training programs for employability skills.³¹

3.15 Dr Eve Vincent also conducted an interview-based research project examining the lives of women on ParentsNext, and reported finding respondents frustrated at the disconnect between their own articulated requests for financial support to realise their aspirations, and the program's emphasis on participation in mandated activities.³² For example, one participant who volunteered with three community groups before she was required to participate in ParentsNext, was signed up to a participation plan that required her to continue to do that volunteering.³³ Dr Vincent stated that the woman subsequently felt unhappy and expressed worry that other volunteers would think she was only doing the volunteering because she was required to.³⁴ Another participant in similar circumstances described feeling insulted and degraded, and having the joy drained out of attending the local playgroup, which she had been doing before she was compelled to.³⁵ In addition, Dr Vincent stated:

27 Council of Single Mothers and Their Children, and Community Information and Support VIC, *Supplementary Submission 23*, p. 6.

28 Brotherhood of St Laurence, *Submission 16*, p. 3.

29 Dr Elise Klein OAM, *Submission 14*, p. 3.

30 Dr Elise Klein OAM, *Submission 14*, p. 3.

31 Australian Council of Social Service (ACOSS), *Submission 22*, p. 10.

32 Dr Eve Vincent, *Submission 17*, p. 1. See also Ms Jenny Davidson, CEO of Council of Single Mothers and Their Children, *Hansard*, p. 9.

33 Dr Eve Vincent, *Submission 17*, p. 4.

34 Dr Eve Vincent, *Submission 17*, p. 4.

35 Dr Eve Vincent, *Submission 17*, p. 5.

I interviewed women who approached their first meeting with a provider with trepidation but also hope and a clear goal that they wish to get some support for; getting their licence, for example. They often left these appointments dispirited because their own goals had been redirected into often absurd arrangements. People signed participation plans in which they agreed that they would keep going to a playgroup that they regularly attended already. In effect, all that happened was that a layer of surveillance was added to their lives. One of my interviewees was a teacher at a regional TAFE in northern New South Wales. She agreed upon a long-term goal to keep her job. She was, clearly, when I interviewed her, a highly skilled educator. She was in a deeply rewarding role. She was caring for a special-needs toddler. Of course she planned to keep her job.³⁶

3.16 Economic Justice Australia likewise raised concerns that activities such as parenting classes lead to unnecessary 'busy work' rather than actually focusing on employment goals.³⁷ ACOSS also raised concerns that activities required under a plan are not necessarily beneficial and do not necessarily improve economic security.³⁸

3.17 Some submitters noted that other participants have reported undertaking their own study and employment activities, but which are not being recognised under ParentsNext. For example, Economic Justice Australia highlighted the case of a parent who was studying and interning of her own volition, but these activities were not recognised under her program, and she became so stressed that she had ceased her interning and sought extensions for her personal studies.³⁹ It also noted a further case of a single mother of a large family who had been undertaking part-time studies, but because her participation plan did not take that into account she dropped out of her self-initiated tertiary education.⁴⁰

3.18 The department stated that parents who are already studying or are on extended leave with a job to return to will be exempted from referral to the program.⁴¹ However, other evidence suggests that this is not consistently taking place in practice. For example, several submitters raised the issue of participants being referred to ParentsNext, although those parents did not appear to require any assistance under the program. Economic Justice Australia noted that its member services had reported providers telling them that they had compulsory participants who had senior jobs or tertiary education and they did not know how to assist

36 Dr Eve Vincent, *Hansard*, 25 June 2021, p. 34.

37 Economic Justice Australia, *Submission 11*, p. 7.

38 Australian Council of Social Service (ACOSS), *Submission 22*, p. 2.

39 Economic Justice Australia, *Submission 11*, p. 7.

40 Economic Justice Australia, *Submission 11*, p. 7.

41 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 47.

them.⁴² Dr Elise Klein likewise stated that, based on her research, many women on ParentsNext already have tertiary or vocational qualifications, or have worked in skilled professions, and are merely taking time off to raise their children.⁴³ In such cases, she argued, these women use parenting payment to allow them to carry out their unpaid caring work and intend to go back to work when their children are at school.⁴⁴

3.19 The department stated that the ParentsNext requirements are not onerous, noting that participants are required to attend one appointment per quarter, and agree to a participation plan including at least one activity.⁴⁵ It further advised that between 1 July 2018 and 31 May 2021, the average time a participant spent in the ParentsNext program was 13 months, and that participants have had an average of five activities in their participation plan over the course of their participation.⁴⁶

Participation funds

3.20 While some submitters considered the availability of participation funds to be a positive element of ParentsNext, others raised concerns about the extent to which those funds are accessed. Zoe Support Australia (a community organisation in Mildura) raised concerns that the way in which participant funds are managed is a problem:

[T]he way the finances are delivered makes it very challenging. I had one young mum who really wanted to get her drivers licence. The ParentsNext program said they were happy to fund her to do that but she needed to pay for it up-front and then submit receipts to get a reimbursement. She didn't have the extra money to pay for it up-front, so she just never did it. She's the one that's missing out. The support for her to be able to gain her drivers licence would be a huge benefit to her and her family.⁴⁷

3.21 These concerns were also echoed by Ms Jenny Davidson, CEO of the Council of Single Mothers and Their Children:

[W]e do hear from participants that they have specific requests that aren't funded. They are simple things. It might be a driver's licence to take them to child care; it's so frequent that the participation fund is insufficient to cover the cost of study; or it's not flexible enough to cover the costs of,

42 Economic Justice Australia, *Submission 11*, p. 4.

43 Dr Elise Klein OAM, *Submission 14*, p. 5.

44 Dr Elise Klein OAM, *Submission 14*, p. 5.

45 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 47.

46 Department of Education, Skills and Employment, answer to question on notice IQ21-000112, 25 June 2021 (received 20 July 2021).

47 Ms Cindy Cavanagh-Knez, Team Leader – Integrated Family Services, Zoe Support Australia, *Hansard*, 25 June 2021, p. 7.

say, textbooks and child care while studying. Many of these are people who realise that if they could complete any kind of qualification from a Certificate III or IV up they could improve the long-term financial wellbeing of their family. They are driven by the needs of their family, but the program isn't meeting them where they're at. The program has a set idea—get early school leavers to complete a Year 12 equivalent and things like that—and it just doesn't provide the flexibility required to allow families to adapt their lives and their dreams to their local context.⁴⁸

Views as to policy design of ParentsNext and structural barriers to participation

3.22 Several submitters expressed strong views as to why ParentsNext is failing to meet its stated objectives of effectively addressing barriers to education and employment for young parents in practice. A number of submitters (including current participants) argued that ParentsNext unfairly devalues the role of parenting and unpaid caring responsibilities, and stigmatises mothers.⁴⁹ In this regard, the department advised that of the 633 complaints it had received about ParentsNext, 189 related to the policy.⁵⁰ Ms Leanne Ho, Executive Officer of Economic Justice Australia, stated:

Prior to 2005, we note that the parenting payment was paid at a pension rate with no mutual obligation and no expectation that the parents in receipt of the payment would be required to work. This was in recognition of caring responsibilities and to allow parents to meet the needs of their children. The way we now view mothers of young children as unemployed workers is problematic.⁵¹

3.23 Dr Elise Klein similarly argued that ParentsNext is structured to overlook and undervalue the gendered division of labour resulting in discarding the amount of labour engaged in by single mothers each day and instead deeming them to be unemployed and not working.⁵² She argued that many of the negative impacts caused to participants are because of the assumption underlying participation in the program, namely, that people put on ParentsNext have an issue with welfare dependency and they are not working and they need to get ready to work. She stated:

48 Ms Jenny Davidson, CEO, Council of Single Mothers and Their Children, *Hansard*, 25 June 2021 p. 9.

49 See for example, Equality Rights Alliance, *Submission 1*, p. 4; Australian Association of Social Workers, *Submission 3*, p. 6; Economic Justice Australia, *Submission 11*, p. 9; Centre for Excellence in Child and Family Welfare, *Submission 7*, Attachment 1, p. 7; Dr Elise Klein OAM, *Submission 14*, p. 2; and Name withheld, *Submission 25*. See also Ms Meena Singh, Legal Director, Human Rights Law Centre, *Hansard*, 25 June 2021, p 12.

50 Department of Education, Skills and Employment, answer to question on notice IQ21-000069, 16 June 2021 (received 20 July 2021).

51 Ms Leanne Ho Executive Officer, Economic Justice Australia, *Hansard*, 25 June 2021, p. 3.

52 Dr Elise Klein OAM, *Submission 14*, p. 2.

My interviewees worked 18 to 24 hours a day. All were female sole parents, which is largely the cohort of those put on ParentsNext. This work is extremely important and crucial. It is the work of raising the next generation on which the economy and society will depend. As one Indigenous interviewee said: 'We are looking after human beings. We do this for our little people. It's crucial because we're shaping the next generation. So, when people sit there and say, "You just sit there at home with your kid all day," no, I'm teaching my baby. My baby knows her colours, she knows her numbers, she knows her alphabet, she knows her songs, she can speak. I'm creating a little human being that is going to go out—she's probably going to go out into the world and do more in her life than you will.'⁵³

3.24 Economic Justice Australia likewise argued that, in its compulsory form, ParentsNext punishes parents for undertaking the unpaid care work involved in raising children.⁵⁴ One ParentsNext participant agreed, submitting that children need a parent to be present in their lives to care for them, and stating that being a parent is work.⁵⁵

3.25 Numerous submitters highlighted the presence of structural barriers that disadvantage women in engaging in education and employment, and which are not factored into the design of ParentsNext, or its rationale. Professor Beth Goldblatt, of the University of Technology Sydney, argued that locating the causes of poverty at the individual level with the poor rather than acknowledging structural determinants within the market and society as a whole leads to an inappropriate response.⁵⁶ The Australian Association of Social Workers submitted that the problem of underemployment and unemployment in Australia is not one of individual discretion, but is due to a higher number of people applying for a limited number of jobs.⁵⁷ It argued that in this environment women are at a further disadvantage because structural disincentives such as limited family friendly workplaces, the predominance of casual work, and the high cost of child care make it harder for women to take up jobs.⁵⁸ Economic Justice Australia echoed these concerns, noting that these and other barriers (including a lack of affordable transport) are well-documented barriers

53 Dr Elise Klein OAM, *Hansard*, 25 June 2021, p. 33.

54 Economic Justice Australia, *Submission 11*, p. 9.

55 Name withheld, *Submission 25*, p. 1.

56 Professor Beth Goldblatt, *Submission 15*, p. 4. She also highlighted the particular issue of child and single-parent poverty being an underlying problem in this context. See, *Hansard*, 25 June 2021, p. 43.

57 Australian Association of Social Workers, *Submission 3*, p. 6.

58 Australian Association of Social Workers, *Submission 3*, p. 6.

to education and employment.⁵⁹ Anglicare Australia also reflected these views, submitting that:

ParentsNext does not address the most significant barriers that Parenting Payment recipients face: a payment that is below the poverty line, lack of access to childcare to facilitate work and study, and high effective marginal tax rates that provide a disincentive to re-enter the workforce by taking on part-time paid work.⁶⁰

3.26 Dr Shelly Bielefeld, Senior Lecturer at Griffith Law School, similarly argued that the government must take on board the views that people are expressing about their experience of the program, and 'move away from the idea that if people are ever more threatened with hunger and homelessness and housing crises, with all of these different ways that their income can be removed, all of the multiple opportunities for them to fail to jump through the behavioural hoops, that somehow that is going to make people more job ready and more employable'.⁶¹

3.27 The Centre for Excellence in Child and Family Welfare submitted that the design of ParentsNext ignores structural barriers such as family breakdown or engagement with the child support system, and assumes that individual behaviour is the source of a family's often complex problems.⁶² The Human Rights Law Centre and National Family Violence Prevention and Legal Services Forum likewise submitted that ParentsNext ignores structural barriers often faced by Indigenous women, including unaffordable and unavailable child care, discrimination, the casualisation of the workforce, and limited jobs in rural communities.⁶³ Likewise, Mission Australia noted that parents in regional areas can face barriers including lack of reliable internet connections, lack of affordable transport, as well as limited access to transport options to attend activities.⁶⁴

3.28 Zoe Support Australia (a small non-profit community organisation in Mildura) echoed these concerns, stating that while ParentsNext seems to be a good starting point for young mothers to engage in education or their community, there does not seem to be ongoing support to remain engaged, as well as an absence of specialised and intensive support.⁶⁵ Ms Cindy Cavanagh-Knez, Team Leader of Zoe Support's Integrated Family Services, advised that:

59 Economic Justice Australia, *Submission 11*, p. 6.

60 Anglicare Australia, *Submission 4*, p. 7.

61 Dr Shelley Bielefeld, Senior Lecturer, Griffith Law School and Law Futures Centre, Griffith University, *Hansard*, 25 June 2021, p. 40.

62 Centre for Excellence in Child and Family Welfare, *Submission 7*, Attachment 1, p. 5.

63 Human Rights Law Centre and NFVPLSF, *Submission 38*, p. 8

64 Mission Australia, *Submission 34*, p. 9.

65 Zoe Support Australia, *Submission 2*, p. 2.

[T]here are mandated booked appointments, without the option for the clients to change these times to suit their daily routines; the offices aren't child friendly; there is no transport offered to attend appointments, and in such a rural town it's very difficult by public transport, especially when you've got young children to take with you; they don't tailor the appointments to the clients' needs, especially with young people that have anxiety or mental health issues; there are no home visits; they don't advocate for the clients; and they don't run any other programs that could be beneficial for the clients.⁶⁶

3.29 The department likewise noted that in qualitative research conducted from April to June 2019, 47 randomly-selected participants raised similar concerns about barriers to compliance:

[P]articipants reported a range of barriers to engaging in work, study and/or community activities that they were working to address with their ParentsNext provider. These included childcare responsibilities, physical and mental health, family and domestic violence, lack of employment flexibility, study costs, transport and job market competitiveness. In provider surveys conducted in 2019 and 2020, providers reported similar barriers citing access to affordable training or education as a common barrier.⁶⁷

3.30 However, the department also reported that post-program monitoring conducted in 2020 indicated that 81 per cent of surveyed participants were satisfied or very satisfied with the assistance they had received from their provider, and that 74 per cent reported an improvement in their motivation to achieve work or study goals.⁶⁸

Whether compulsory participation in ParentsNext is required for its success

3.31 The department stated that both the ParentsNext trial evaluation and evidence from earlier similar pilots (Helping Young Families and Supporting Jobless Families) showed significantly better results when activities were compulsory.⁶⁹ It stated that Supporting Jobless Families (a voluntary program) only saw an increase of three per cent in 'the chance of' a person attaining a Year 12 or equivalent qualification, whereas in the case of Helping Young Families (which was compulsory) this chance was increased by 14 per cent. However, the Australia Human Rights Commission questioned the validity of comparing those two earlier programs to illustrate that compulsion is required. Mr Graeme Edgerton, Deputy General Counsel,

66 Ms Cindy Kavanagh-Knez, Team Leader – Integrated Family Services, Zoe Support Australia, *Hansard*, 25 June 2021, p. 4.

67 Department of Education, Skills and Employment, answer to question on notice IQ21-000076, 16 June 2021 (received 20 July 2021).

68 Department of Education, Skills and Employment, *Submission 8*, p. 5.

69 Department of Education, Skills and Employment, *Submission 8*, p. 10.

argued that those two earlier programs were, themselves, very different, and could not be validly compared:

The measure that they're looking at is how many people completed year 12. If you look at the Helping Young Parents program, it was focused on teenage parents, so you had to be under 19 years of age. The program was specifically focused on getting those kids to finish year 12, and it ran for more than two full school years...[I]t's unsurprising that that program was better at getting people to finish year 12 than the Supporting Jobless Families program. In the second program, the age requirement was that you had to be under 23—rather than being a teenage parent, you'd be a young parent in your 20s. The second program wasn't specifically focused on getting people to finish year 12. It had a different focus; it was pre-employment. And the second program ran for only 12 months, starting halfway through the year, so it didn't even run for a full school year...[A]ll of those factors would be very significant in the difference between year 12 completion rates. Bear in mind, this is the key piece of evidence the department's put forward to say, 'This program needs to be compulsory.' In our view, there are a lot of other reasons why one program was better than the other at getting people to finish year 12.⁷⁰

3.32 Emeritus Professor Rosalind Croucher AM, President of the Australian Human Rights Commission, likewise expressed concern at the methodology used to reach the conclusion that a compulsory lever was required to achieve the outcomes of ParentsNext:

[T]he query we have, really, is whether the lever of compulsion is necessary to achieve that goal. If the evidence is being used to say, 'We have to have this compulsion, otherwise we can't achieve those goals,' and if there are queries as to how that evidence is being provided and the methodology...then that evidence for supporting the argument for compulsion really deserves to be interrogated more closely, as does the impact that it is having on an extremely vulnerable group.⁷¹

3.33 The department also stated that Australian evidence finds that service providers can find it challenging to voluntarily engage disadvantaged families, even using flexible, multi-method strategies, and finds that parents who are unwilling to engage with services, are often those with the greatest need of support.⁷² However,

70 Mr Graeme Edgerton, Deputy General Counsel, Australian Human Rights Commission, *Hansard*, 25 June 2021, pp. 29–30.

71 Emeritus Professor Rosalind Croucher AM, President, Australian Human Rights Commission, *Hansard*, 25 June 2021, p. 31.

72 Department of Education, Skills and Employment, answer to question on notice IQ21-000077, 16 June 2021 (received 20 July 2021). In reference to: Communities and Families Clearinghouse Australia, 'Are disadvantaged families 'hard to reach'? engaging disadvantaged families in child and family services' Practice Sheet (September 2010); and Department of Social Services, 'Engaging hard-to-reach families and children' Occasional Paper No. 26 (June 2009).

it is noted that the evidence did not state that services need to be compulsory, but rather it set out strategies for engaging vulnerable groups effectively, including: attending outreaches, promoting strategies, providing food and other incentives, and building up relationships.⁷³

3.34 Ms April Pan, Manager of Settlement and Employment Support Services with Metro Assist argued that without a certain level of compulsory requirement, some clients would never have the opportunities to engage and be supported, and posited that this compulsion also provided the opportunity for vulnerable participants, experiencing domestic violence, and culturally and linguistically diverse backgrounds, to come forward and receive support which they otherwise have no chance to access.⁷⁴ However, equally, she noted that participants were not grateful that they were forced to comply, merely that some had the 'opportunity to be compelled to get around [their] partner's control'. She further noted that 80 per cent of Metro Assist's participants had still voluntarily engaged with the organisation while mutual obligations were suspended.⁷⁵

3.35 Mr Stephen Vines, the Queensland State Director of Mission Australia (another ParentsNext provider), likewise noted the potential for ParentsNext to increase participants confidence and their ability to achieve long-term employment and study goals, address their social isolation, increase their access to supports and provide opportunities for early intervention, collaboration and cross-referrals for non-vocational support needs.⁷⁶ However, Mission Australia equally noted that, despite fear among participants during the COVID-19 pandemic,⁷⁷ it maintained a 71.7 per cent appointment attendance rate among ParentsNext participants while mutual obligations were paused.⁷⁸ The department likewise noted that when mutual obligations were suspended (between 1 March and 28 September 2020), 75 per cent of activities and appointments were attended (as compared with 86 per cent when mutual obligations were in place).⁷⁹

73 See, for example, Department of Social Services, *'Engaging hard-to-reach families and children'* Occasional Paper No. 26 (June 2009), pp. 19–25.

74 Ms April Pan, Manager, Settlement and Employment Support Services, Metro Assist, *Hansard*, 25 June 2021, p. 24.

75 Ms April Pan, Manager, Settlement and Employment Support Services, Metro Assist, *Hansard*, 25 June 2021, pp. 24–25.

76 Mr Stephen Vines, State Director, Queensland, Mission Australia, *Hansard*, 25 June 2021, p. 23.

77 Mr Paul Rennie, Regional Leader, Queensland, Mission Australia, *Hansard*, 25 June 2021, p. 27

78 Mission Australia, Answers to Questions on Notice, received 5 July 2021.

79 Department of Education, Skills and Employment, answer to question on notice IQ21-000075, 16 June 2021 (received 20 July 2021).

3.36 In addition, numerous submitters and witnesses expressed strong opposition to ParentsNext as a compulsory program, arguing that the disadvantages of compulsory participation outweighed any potential benefits associated with it. Mr Vines from Mission Australia cautioned that the application of the Targeted Compliance Framework (that is, compulsory participation) is overly restrictive, reduces engagement by participants, and can negatively impact the mental health of participants brought about by a sense of loss of power through compulsory participation and restrictive requirements.⁸⁰ Mission Australia highlighted one case in which a young participant had extreme anxiety preventing them from attending appointments, and which the worker needed to identify and manage. It stated that in this case it was only because of the flexibility provided to the client, and the trust and rapport developed, that enabled the client to engage, whereas an underlying fear that her payment would have been suspended would not have ensured that she would attend her mutual obligations.⁸¹

3.37 Some submitters also raised concerns that compulsory participation in the program, and in individual activities, was itself inconsistent with (and undermined) the intended goals of the program. For example, Mission Australia argued that the imposition of compliance requirements on a pre-employment program (where they are normally applied to a mainstream employment program) is inconsistent with the purpose of the pre-program.⁸² Likewise, Jobs Australia, the national organisation supporting a network of non-profit employment services, stated that some of its members considered the rigid application of the Targeted Compliance Framework to be at odds with the incremental steps which would be taken to respond to staff issues in a real employment context.⁸³ In addition, the Council of Single Mothers and their Children noted that prior to the application of the Targeted Compliance Framework, participation rates in ParentsNext were approximately 60 per cent, arguing that this suggests the program can work without being compulsory.⁸⁴ The National Council of Single Mothers agreed, stating that in their experience if you design a good program that is connected with the community and offers support, people will come.⁸⁵

3.38 Dr Elise Klein OAM highlighted a recent study she had conducted examining how people had used their time while their mutual obligations were suspended

80 Mr Stephen Vines, State Director, Queensland, Mission Australia, *Hansard*, 25 June 2021, p. 23. See also, Mission Australia, *Submission 34*, p. 12.

81 Mission Australia, *Submission 34*, p. 6.

82 Mission Australia, *Submission 34*, p. 8.

83 Jobs Australia, *Submission 9*, p. 3.

84 Council of Single Mothers and Their Children, and Community Information and Support VIC, *Supplementary Submission 23*, p. 12.

85 Ms Terese Edwards, Chief Executive Officer, National Council of Single Mothers and Their Children, *Hansard*, 25 June 2021, p. 6.

during the COVID-19 pandemic in 2020, coupled with the addition of the temporary COVID-19 \$550 supplement.⁸⁶ Dr Klein stated that this study indicated that in addition to this supplement being used to meet basic needs and strategic expenditures to improve livelihoods, the suspension of mutual obligations had increased respondents' engagement in the labour market and other economic activities. In that study, 67 per cent of respondents either started work, increased their hours of work, or had no change to the time that they dedicated to look for work.⁸⁷ One respondent stated that mutual obligations had in fact prevented her from being able to start a new business or re-enter the workforce as an employee.⁸⁸ In addition, Dr Klein stated that this study demonstrated that:

The Supplement and suspension of mutual obligations also allowed people to better engage in many forms of unpaid productive work, including care work and community support. For example, one single mother who had ParentsNext suspended said that one positive from the suspension was she “Was able to focus 100% on remote learning for 6yo twins during lockdown as well as my own mental health and wellbeing”.⁸⁹

3.39 Dr Klein stated that this suspension of mutual obligations improved respondents' physical and mental health and contributed to their overall wellbeing. These dramatic changes enabled people to 'turn their attention away from day-to-day survival and towards envisioning and working towards a more economically secure future for themselves and their dependents'.⁹⁰

3.40 Dr Ann Nevile and Dr Katherine Curchin, of the Australian National University Centre for Social Research and Methods, similarly submitted that having regard to the nature of the cohort of persons who are required to participate in ParentsNext, it would need to be delivered in a trauma-informed way in order for it to be effective, but this cannot take place while the program is also compulsory.⁹¹ They stated that lone mothers receiving income support are more likely to have experienced physical

86 Dr Elise Klein OAM, *Submission 14*, p. 6. In reference to Dr Elise Klein, Professor Kay Cook, Susan Maury and Kelly Bowey, *Social security and time use during COVID-19*, Swinburne University of Technology & Centre for Excellence in Child and Family Welfare (2021).

87 Dr Elise Klein, Professor Kay Cook, Susan Maury and Kelly Bowey, *Social security and time use during COVID-19*, Swinburne University of Technology & Centre for Excellence in Child and Family Welfare (2021), p. 20.

88 Dr Elise Klein, Professor Kay Cook, Susan Maury and Kelly Bowey, *Social security and time use during COVID-19*, Swinburne University of Technology & Centre for Excellence in Child and Family Welfare (2021), p. 20.

89 Dr Elise Klein OAM, *Submission 14*, p. 6. Dr Cassandra Goldie, CEO of the Australian Council of Social Service, likewise submitted that the introduction of the COVID supplement served as a protective measure for mental health and reduced acute distress associated with poverty. See, *Hansard*, 256 June 2021, p. 18.

90 Dr Elise Klein OAM, *Submission 14*, p. 6.

91 Dr Ann Nevile and Dr Katherine Curchin, *Submission 13*.

and sexual violence and much higher rate of mental illness, and that Indigenous mothers experience disproportionately high rates of Post-Traumatic Stress Disorder.⁹² They further noted that some ParentsNext providers report that 80 per cent of clients were affected by domestic violence.⁹³ Dr Nevile and Dr Curchin highlighted that trauma-informed services aim to give clients choices and to collaborate – to do things with clients rather than to them.⁹⁴ They argued that, as such, the application of the Targeted Compliance Framework undermines the capacity of ParentsNext to succeed:

Adding this coercive element to a program specifically aimed at a vulnerable group of (overwhelmingly) young women, many of whom have experienced feelings of helplessness and disempowerment in their personal lives, significantly reduces the likelihood of the program achieving its stated goals.⁹⁵

3.41 In addition, the Centre for Excellence in Child and Family Welfare pointed to a growing body of evidence that making participation in a program such as ParentsNext a condition on which to receive a welfare payment (that is, a welfare conditionality) results in poorer outcomes for children, is excessively costly to administer, creating greater inefficiencies with few benefits.⁹⁶ It stated that studies of welfare conditionality internationally find that in the rare cases where welfare conditionality does result in positive employment outcomes, this is attributed to the quality of the support provided, not the mandatory or punitive aspects.⁹⁷

International evidence referenced by witnesses and submitters

3.42 Both the department and several submitters referred to international evidence as to the efficacy (or otherwise) of mutual obligations in achieving certain objectives.

92 Dr Ann Nevile and Dr Katherine Curchin, *Submission 13*, p. 3.

93 Dr Ann Nevile and Dr Katherine Curchin, *Submission 13*, p. 3.

94 Dr Ann Nevile and Dr Katherine Curchin, *Submission 13*, p. 3. See also Dr Katherine Curchin, *Hansard*, 25 June 2021, p. 37.

95 Dr Ann Nevile and Dr Katherine Curchin, *Submission 13*, p. 4.

96 Centre for Excellence in Child and Family Welfare, *Submission 7*, Attachment 1, p. 5. This view was echoed by Dr Katherine Curchin. See, Dr Katherine Curchin, *Hansard*, 25 June 2021, p. 38.

97 Centre for Excellence in Child and Family Welfare, *Submission 7*, Attachment 1, p. 5.

3.43 The department submitted that there is international evidence demonstrating that placing conditions requiring active participation on income support payments helps to prevent future welfare dependency.⁹⁸

3.44 The department also submitted that there is international evidence demonstrating that placing conditions requiring active participation on income support payments increases the likelihood that recipients will be able to support themselves in future.⁹⁹

3.45 Dr Katherine Curchin identified a Scottish program called 'Making it Work', which is similar to ParentsNext but operates on a voluntary basis. Dr Curchin noted that this program, which has operated since 2014, utilises a system of third-sector

98 Department of Education, Skills and Employment, *Submission 8*, p. 10. In reference to: Organisation for Economic Co-operation and Development, *Activating Jobseekers: how Australia does it* (2012); and Ann Green and Chris Hasluck, 'Action to reduce worklessness: What works?' *Local Economy*, vol. 24, no. 1, 2009, pp. 28–37. However, it is noted that the reports cited contain nuanced findings, and the cited research of Green and Hasluck does not appear to comment on the value of mutual obligations in preventing welfare dependency, but rather highlights general lessons for reducing worklessness.

99 Department of Education, Skills and Employment, *Submission 8*, p. 10. In reference to David Card, Jochen Kluge and Andrea Weber, 'What works? A meta analysis of recent active labour market program evaluations', *Journal of European Economic Association*, vol. 16, no. 3, 2018, p. 906. However, it is noted this study contained nuanced findings, concluded while that mutual obligation-style 'work first' job search programs did have stable impacts over time, programs which emphasised the provision of training to job seekers had a larger impact over the medium and long term, see, p. 928. See also: Ruud Gerards and Riccardo Welters, 'Liquidity Constraints, Unemployed Job Search and Labour Market Outcomes' *Oxford bulletin of economics and statistics*, vol. 82, 2020, p. 625; Gerard Van Den Berg and Bas Van der Klaauw 'Counseling and Monitoring of Unemployed Workers: Theory and Evidence from a controlled Social Experiment', *International Economic Review*, vol. 47, no. 3, 2006, pp. 895–936; Gerard Van den Berg and Johan Vikström, 'Monitoring Job Offer Decisions, Punishments, Exit to Work, and Job Quality', *Scandinavian Journal of Economics*, vol. 116, no. 2, 2014, pp. 284–334; Patrick Arni, Rafael Lalive and Jan van Ours, 'How Effective Are Unemployment Benefit Sanctions? Looking Beyond Unemployment Exit', *Journal of Applied Econometrics*, vol. 28, 2013, pp. 1153–1178; Joshua Rowntree Foundation, *Sanctions within conditional benefits systems: a review of evidence*, 2010; John David Jordan, 'Welfare grunterners or workfare monsters? An empirical review of the operation of two UK 'work programme' centres', *Journal of Social Policy*, vol. 47, no. 3, 2017, pp. 583–601; and OECD, *Employment Outlook 2015 – Activation policies for more inclusive labour markets*, 2015.

organisations collaborating in their local area, is funded through upfront grants rather than outcomes-based funding, and includes funding for child care.¹⁰⁰

3.46 A number of witnesses also highlighted a longitudinal study examining welfare conditionality in the United Kingdom, which they argued raises questions as to the veracity of the evidence-base on which the department relies.¹⁰¹ This study found that: welfare conditions are largely ineffective to facilitate entry into and progression within the labour market; it is routine for persons to secure insecure jobs interspersed with periods of unemployment; for a substantial minority of participants, welfare conditionality could lead to increased poverty and disengagement from the social security system; and sanctions do not enhance motivation to seek work, whereas the provision of meaningful support is pivotal in triggering and sustaining paid employment.¹⁰²

Evidence as to less rights restrictive alternatives

3.47 In its answer to a question taken on notice, as to whether less rights restrictive alternatives to compulsory participation had been trialled, the department stated it had, but provided no further detail.¹⁰³ The department argued that the low rates of voluntary participation in ParentsNext indicate that disadvantaged parents are less likely to seek support, and there are low rates of voluntary engagement with ParentsNext.¹⁰⁴ However, Professor Beth Goldblatt argued that an apparent lack of

100 Dr Katherine Curchin, Senior Lecturer in Social Policy, Australian National University, *Hansard*, 25 June 2021, p. 39. See, Colin Lindsay, Sarah Pearson, Elaine Batty, Anne Marie Cullen and Will Eadson, 'Empowering Lone Parents to Progress towards Employability', *Journal of Social Policy*, 2021, pp. 1–20. This research considered that there was a disconnect between the complexity of challenges faced by vulnerable single parents and a 'simplistic' analysis informing welfare conditionality and work-first activation agendas in the United Kingdom. It found that multi-agency service delivery, collaborative governance and a clear role for user voice in programme design were important facilitators of positive experiences, and that services empowering lone parents to make choices to progress towards employment while supporting family life were required.

101 See, Dr Elise Klein OAM, *Hansard*, 25 June 2021, p. 35; Centre for Excellence in Child and Family Welfare, *Submission 7*, Attachment 1; and Dr Ann Nevile and Dr Katherine Curchin, *Submission 13*. In reference to, University of York, *Welfare Conditionality Project 2013–2018*, Final Report.

102 University of York, *Welfare Conditionality Project 2013–2018*, Final Report, Key Findings, p. 4.

103 Department of Education, Skills and Employment, answer to question on notice IQ21-000078, 16 June 2021 (received 20 July 2021).

104 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 48. See also, Department of Education, Skills and Employment, answer to question on notice IQ21-000077, 16 June 2021 (received 20 July 2021).

awareness as to the program would imply that improved promotion of the program would be a less rights-intrusive response than would enforced participation.¹⁰⁵

3.48 Several participants considered that no convincing evidence had been adduced to demonstrate that there was no less rights restrictive alternatives to compulsory participation, which would not be as effective to achieve the stated objectives of ParentsNext.¹⁰⁶ The Centre for Excellence in Child and Family Welfare stated that the evidence relied on to demonstrate that compulsory participation is necessary is problematic, stating that not only did the department's 2018 ParentsNext evaluation not analyse whether the program is the most suitable intervention, but that the methodology used in the evaluation itself raised questions as to the rigour of the evidence.¹⁰⁷ It considered that it had not been demonstrated that incentivised participation would be less effective than compulsion, as no evidence had been adduced to that effect.¹⁰⁸ In addition, Ms Kelly Bowey, Senior Policy and Research Officer at the Centre, stated that they were not aware of a comprehensive cost-benefit analysis having been completed in relation to ParentsNext.¹⁰⁹ Likewise, several submitters pointed to previous similar programs (such as the early iteration of the Jobs, Education and Training program, and the Transition to Work program) as being evidence that voluntary programs could be equally as effective.¹¹⁰

3.49 Several submitters suggested that the program should incentivise parents to participate, including by providing greater money through the participation fund (itself, a form of incentive); payment of incentive payments; offering free child care and counselling services; and affordable housing and transport.¹¹¹ Jobs Australia suggested that consideration be given to establishing a voluntary-only ParentsNext trial, and observing the outcome.¹¹² Further, Ms Meena Singh, Legal Director at the the Human Rights Law Centre argued that greater funding should be provided to

105 Professor Beth Goldblatt, *Submission 15*, p. 6.

106 See, for example, Professor Beth Goldblatt, *Submission 15*, pp. 5–6.

107 Centre for Excellence in Child and Family Welfare, *Submission 7*, p. 2.

108 Centre for Excellence in Child and Family Welfare, *Submission 7*, p. 3.

109 Ms Kelly Bowey, Senior Policy and Research Officer, Centre for Excellence in Child and Family Welfare, *Hansard*, 25 June 2021, p. 19.

110 See, Brotherhood of St Laurence, *Submission 16*, p. 5 and Mission Australia, *Submission 34*, p. 9.

111 See, Dr Shelley Bielefeld, *Submission 20*, p. 2; Name withheld, *Submission 25*, p. 1; Brotherhood of St Laurence, *Submission 16*, p. 4; Anglicare Australia, *submission 4*, p. 9; Dr Eve Vincent, *Submission 17*, p. 2; and Council of Single Mothers and Their Children, *Supplementary submission 23*, p. 7. See also Ms Cindy Cavanagh-Knez, Team Leader – Integrated Family Services, Zoe Support Australia, *Hansard*, 25 June 2021, p. 7.

112 Jobs Australia, *Submission 9*, p. 14.

Aboriginal controlled community organisations that are entrenched in culture and can support women.¹¹³

3.50 Several submitters posited that the recent suspension of mutual obligations during the COVID-19 pandemic in 2020 served as a natural experiment for assessing the effectiveness of voluntary participation, and argued that the results of this demonstrated that ParentsNext could operate (and even obtain better results) on a voluntary basis, including because staff could devote their time to supporting parents and not engaging in mandated Targeted Compliance Framework procedures.¹¹⁴ Dr Elise Klein, for example, surveyed affected women who advised that:

[P]eople who had their mutual obligation suspended and then got the extra \$550 talked a lot about being able to engage in the labour market. People were not under the scrutiny of the punitive framework, and they felt better emotionally and psychologically. Their wellbeing improved. They were able to afford basic needs as a base to stand on. From that, they were able to use the time that was normally being taken up by being harassed by the mutual obligation framework. They were able to use that time not just in minutes but in terms of psychological time—the ability to think and plan for your life ahead. People were talking about engaging back with the labour market, looking for jobs, starting study and getting a bit of a plan together for their lives.¹¹⁵

3.51 In this regard, the department noted that from 1 July 2018 and 28 February 2020 (i.e. before the suspension of mutual obligations), 86 per cent of activities and appointments were attended, and between 1 March 2020 and 28 September 2020 (i.e. during the suspension period), 75 per cent of activities and appointments were attended.¹¹⁶ It also noted that attendance at activities and appointments during this more recent period would have been subject to local health advices and restrictions in place at various points in time,¹¹⁷ which appears to suggest that some of those

113 Ms Meena Singh, Legal Director, Human Rights Law Centre, *Hansard*, 25 June 2021, p. 14.

114 See, Dr Elise Klein, *Submission 14* p. 1; National Council of Single Mothers and Their Children, *Submission 18*, p. 1; and Mission Australia, *Submission 34*, p. 7; and Dr Ann Nevile, Honorary Associate Professor, Centre for Social Research and Methods, Australian National University, *Hansard*, 25 June 2021, p. 40. In addition, other submitted argued that the introduction of this supplement had numerous positive impacts on the mental health and lives of affected persons. See, for example, Dr Cassandra Goldie, CEO, Australian Council of Social Service, *Hansard*, 25 June 2021, p. 18.

115 Dr Elise Klein OAM, *Hansard*, 25 June 2021, pp. 35–36.

116 Department of Education, Skills and Employment, answer to question on notice IQ21-000075, 16 June 2021 (received 20 July 2021).

117 Department of Education, Skills and Employment, answer to question on notice IQ21-000075, 16 June 2021 (received 20 July 2021).

factors may have influenced a drop in participation rates. This also indicates a substantial level of attendance at ParentsNext appointments when the Targeted Compliance Framework is not applied.

3.52 In addition, a number of submitters suggested that there was scope to alter the parameters for participation in the program itself. For example, Zoe Support Australia stated that young mothers who are mandated to be engaged in ParentsNext from when their child is a young baby have not had the opportunity bond and support an ongoing routine.¹¹⁸ The Queensland Family and Child Commission and Mission Australia likewise suggested that the requirement to participate in ParentsNext should only be enlivened once the parent's youngest child is school aged.¹¹⁹

The extent to which ParentsNext operates flexibly

3.53 The committee heard mixed evidence as to the capacity for ParentsNext to operate flexibly and treat different cases differently, both by design and in practice.

Flexibility in the program design

3.54 Several submitters raised concerns about the blanket determination that a class of persons is required to participate in ParentsNext in order to qualify for parenting payment. The Australian Association of Social Workers noted that participation in ParentsNext is not based on an individualised assessment, but rather a blanket approach.¹²⁰ Financial Counselling Australia agreed, stating that:

The issue is that ParentsNext is a 'one size fits all' approach that can detrimentally affect people, generally women, at both ends of the spectrum: pointless interventions for parents who are caught up in red tape, and punitive interventions for people who are most vulnerable, and who actually require targeted, sensitive and strengths-based support.¹²¹

3.55 The Australian Council of Social Services highlighted the significant number of exemptions from the ParentsNext program since December 2018, arguing that they demonstrate the high level of error in initial referrals to the program.¹²² The department noted that from 2 July 2018 to 31 May 2021, 53,070 people referred to ParentsNext had requested an exemption from the program, and 52,785 had been granted an exemption.¹²³ From December 2018 to August 2019, during the first year

118 Zoe Support Australia, *Submission 2*, p. 2.

119 Queensland Family and Child Commission, *Submission 37*, p. 7; and Mission Australia, *Submission 34*, p. 12

120 Australian Association of Social Workers, *Submission 3*, p. 4.

121 Financial Counselling Australia, *Submission 5*, p. 2.

122 Australian Council of Social Service, *Submission 22*, p. 9.

123 Department of Education, Skills and Employment, answer to question on notice IQ21-000068, 16 June 2021 (received 20 July 2021).

of the national rollout of the program, an average of 25,647 temporary exemptions from ParentsNext were in place each month, with the actual number of temporary exemptions per month during that period having more than doubled by August 2019 (to 37,373 exemptions being in place in August 2019).¹²⁴ Of note, during that nine-month period, the number of monthly temporary exemptions on the basis that the person had a large family with four or more children increased from 5,567 exemptions in December 2018 to 11,102 such exemptions in August 2019.

3.56 Metro Assist (a community based organisation and ParentsNext provider in Sydney) stated that the ParentsNext program is flexible, having regard to the number of activity options which may be permitted under a plan.¹²⁵ However, Jobs Australia (a peak body for non-profit member organisations) appeared to argue that it is the quality of services provided by the provider themselves which are the crucial element – with individually tailored participation plans being a key component to participation success, and the application of mutual obligations and the Targeted Compliance Framework being used sparingly, carefully and in full consideration of the individual circumstances:

Members believe that when each provider delivers a true consultancy-based service to individual participants resulting in individual and tailored plans, the need for Compliance response to participation is significantly less than when the appropriate tailored care is absent.

“There is a reason why people do not participate. It is important to understand the reason. Applying a compliance response to non-participation without understanding the causation does not resolve underlying issues and almost certainly has impacts.”

*Reference: Jobs Australia Member feedback*¹²⁶

3.57 A number of submitters expressed concern about the Targeted Compliance Framework inhibiting the extent to which ParentsNext (and ParentsNext providers) may respond flexibly to different participants. In terms of the application of demerits, the department stated that most are manually applied by a person's ParentsNext provider, and the only time a demerit will be automatically applied (by the department's IT system) will be where the person fail to agree to their Participation Plan within the allocated timeframe.¹²⁷

3.58 Mission Australia (a current ParentsNext provider) submitted that strict mutual obligations are counter-productive, inefficient and unnecessary for

124 Senate Standing Committee on Education and Employment, Supplementary Budget Estimates 2019 – 2020, response to question on notice from Senator Rachel Siewert, SQ19-001236, p. 3.

125 Metro Assist, *Submission 21*, p. 2.

126 Jobs Australia, *Submission 9*, pp. 6–7.

127 Department of Education, Skills and Employment, answer to question on notice IQ21-000071, 16 June 2021 (received 20 July 2021).

pre-employment programs like ParentsNext which prepare people for *eventually* entering workforce, not immediately placing them in jobs.¹²⁸ It described the Targeted Compliance Framework as excessively burdensome and punitive, and defeating the objectives of the program itself, which is to prepare for employment.¹²⁹ Mr Paul Rennie, Regional Leader of Mission Australia in Queensland stated that 'taking away the TCF would make the system better...It's been modified to try and suit ParentsNext, and I think that's like trying to put a square peg into a round hole'.¹³⁰ Another provider, the Brotherhood of St Laurence, similarly stated that the punitive compliance measures are not working effectively, because 'the compulsory nature of the program, coupled with the overlay of compliance measures designed for jobactive, creates unintended consequences'.¹³¹ The Centre for Excellence in Child and Family Welfare likewise submitted that ParentsNext would need to provide for flexible, holistic and personalised supports in order to succeed, but that it does not allow for such flexibility.¹³²

3.59 Mr Simon Tracy, Acting Principal Solicitor of Basic Rights Queensland, raised concerns about the inflexible program design of ParentsNext leading to harms for individual clients his legal service had assisted:

...[O]ther clients that I've dealt with basically couldn't even meet the simplest of requirements and weren't granted the most basic tailoring to their program, so that they couldn't even care for their disabled child or provide the necessities of medications for that child when they became suspended. Further, this particular client took out a loan because she was so fearful of losing her payment after not being able to meet the initial participation plan requirements, but then, when she was granted an exemption by Centrelink from the actual ParentsNext program, it was not implemented correctly by Centrelink. Then the ParentsNext provider, as I was talking to before, weren't skilled enough to understand how this exemption from Centrelink worked. They applied the targeted compliance framework and the client, who herself was disabled and a vulnerable young single mother, was left in a position where she was so afraid of continuing to care for her child that she had to seek a loan, putting herself in a further detrimental position, such is the fear of some of the people we deal with in these situations. They're not alone. These aren't stories that are rare.¹³³

128 Mission Australia, *Submission 34*, p. 4.

129 Mission Australia, *Submission 34*, p. 4.

130 Mr Paul Rennie, Regional Leader, Queensland, Mission Australia, *Hansard*, 25 June 2021, p. 27.

131 Brotherhood of St Laurence, *Submission 16*, p. 1.

132 Centre for Excellence in Child and Family Welfare, *Submission 7*, Attachment 1, p. 5.

133 Mr Simon Tracy, Acting Principal Solicitor of Basic Rights Queensland, *Hansard*, 25 June 2021, p. 5.

3.60 The department stated that several safeguards are inbuilt into the Targeted Compliance Framework to ensure that financial penalties are only focused on those who 'persistently and willingly do not comply with requirements',¹³⁴ highlighting that from 2 July 2018 to 31 March 2021, 10 ParentsNext participants had received a total of 13 financial penalties.¹³⁵ It noted the introduction of a two business day resolution period (during which a participant can re-engage with their provider before their payment is suspended for non-compliance with a mutual obligation), and the possibility for two capability reviews to ensure that a participant's requirements are appropriate for their circumstances.¹³⁶ The first capability review is undertaken by the ParentsNext provider themselves (and only following after the participant has received three demerits under the Targeted Compliance Framework); and the capability review by Services Australia is undertaken only after the receipt of five demerits. The department stated that following the introduction of the two-day resolution time, 29 per cent of non-compliance events did not subsequently result in a payment suspension because the participant has given a valid reason for the failure, or otherwise re-engaged with their provider.¹³⁷

3.61 The department also noted that where a person has failed to meet a mutual obligation, they will not be penalised where they have a reasonable excuse.¹³⁸ However, Economic Justice Australia argued that establishing grounds for a reasonable excuse can be challenging.¹³⁹ In addition, the department noted that there are a range of exemptions for defined periods of time under the Targeted Compliance Framework.¹⁴⁰ However, some submitters raised concerns about the grounds for these exemptions, and the process around seeking one. For example, Domestic Violence Victoria and the Domestic Violence Resource Centre Victoria (DV Victoria) noted that the exemption for recent domestic violence (that is, within the

134 Department of Education, Skills and Employment, *Submission 8*, p. 8.

135 Department of Education, Skills and Employment, *Submission 8*, p. 9.

136 Department of Education, Skills and Employment, *Submission 8*, p. 8.

137 Department of Education, Skills and Employment, *Submission 8*, p. 8.

138 Department of Education, Skills and Employment, *Submission 8*, p. 8.

139 Economic Justice Australia, *Submission 11*, pp. 3–4.

140 Department of Education, Skills and Employment, *Submission 8*, p. 8. Some exemptions are automatic, while other are assessed on a case-by-case basis. The circumstances include: temporary medical incapacity (not including one which is wholly or predominantly due to drug or alcohol misuse); serious illness; caring responsibilities of children other family members, or foster care; provision of home schooling or distance education; temporary confinement due to pregnancy; family or personal circumstances (including death of a family member); compliance with a community service order; domestic violence or relationship breakdown; natural disaster or other major personal disruption; volunteering during a state or national emergency; major personal crisis (including homelessness); or participation in Indigenous cultural business. See, ParentsNext – Exemptions and Suspensions Guidelines, p. 6.

last 26 weeks) is limited to a maximum of 16 weeks.¹⁴¹ It argued that survivors of domestic violence who leave a violent relationship are most likely to be killed in the first two months of the separation, and submitted that an exemption period of 16 weeks is not sufficient to establish safety.¹⁴² The Centre for Women's Economic Safety likewise argued that the existing exemption is not workable because 'it places too great a burden on victims to reveal their situation to people who may not have a good understanding of the impacts of family violence', and fails to recognise the long-lasting and ongoing consequences of abuse.¹⁴³ A further discussion of the exemptions process is set out in Chapter 4.

Flexibility in practice

3.62 Numerous submitters raised concerns about the absence of flexibility in the way ParentsNext is administered in practice.

Genuineness of agreement to activities in participation plans

3.63 A number of submitters expressed concern that participation plans are not the result of genuine agreement and consultation with the participant. The Council for Single Mother and Their Children noted that in 2019, it surveyed participants to establish what percentage considered that their participation plan was mutually agreed and found that just 38 per cent agreed that this was the case.¹⁴⁴ This subsequently fell to 24 per cent of respondents considering that their plan was mutually agreed in a further survey in 2021.¹⁴⁵ Economic Justice Australia submitted that where a participant has experienced domestic violence, they may feel unable to disclose their experiences with a stranger, and argued that it is therefore not surprising that such participants feel pressured into signing agreements with requirements they know they are unlikely to be able to meet.¹⁴⁶ Economic Justice Australia noted one case of a woman who had refused to sign up to a participation plan because she knew that it did not take account of her and her son's disabilities, and her payment was subsequently cancelled because of that refusal.¹⁴⁷ The National Council of Single Mothers and Their Children also provided an account from a

141 Domestic Violence Victoria and the Domestic Violence Resource Centre Victoria, *Submission 36*, p. 10.

142 Domestic Violence Victoria and the Domestic Violence Resource Centre Victoria, *Submission 36*, p. 10.

143 Centre for Women's Economic Safety, *Submission 6*, p. 1.

144 Council of Single Mothers and Their Children, and Community Information and Support VIC, *Supplementary Submission 23*, p. 5.

145 Council of Single Mothers and Their Children, and Community Information and Support VIC, *Supplementary Submission 23*, p. 5.

146 Economic Justice Australia, *Submission 11*, p. 4.

147 Economic justice Australia, *Submission 11*, pp. 5–6.

participant who did not consider that their participant plans were the product of genuine agreement:

[t]ry having an ADHD autistic suspected child who has seen and watched multiple DV scenes, that now act irrationally at school and being a single mother.... they forced me into studying Cert III Disabilities because they think that is best for me because I have experience in it...but my son gets sent home from school at 11:30am everyday because he cannot handle school and lashes out! I have no support and now that the course has finished, I wasted their time and resources...I am sorry my youngest is 3 yrs old, my eldest is 7 with disabilities that I need to attend to first. Leave me alone. Working/studying is NOT my priority right now - my children are.¹⁴⁸

3.64 By contrast, the department stated that ParentsNext is delivered in a flexible manner. It stated that participation requirements themselves are relatively light and very flexible, and designed around the needs of the parent and their caring responsibilities,¹⁴⁹ and highlighted that participation funds are permitted to be used in a flexible way.¹⁵⁰ In addition, the department stated that the significant number of exemptions provided with respect to the program is indicative of its flexible operation.¹⁵¹

Penalties for non-compliance

3.65 Pursuant to the application of the Targeted Compliance Framework, non-compliance with the ParentsNext program may result in payment suspension, or the application of a demerit (a series of which may lead to a payment reduction or cancellation).¹⁵²

3.66 The minister's initial response to the committee noted that 52,343 parents had incurred a payment suspension between 2 July 2018 and 28 February 2021.¹⁵³ However, the department clarified that individual parents may have incurred more than one suspension. In this regard, the department advised that over 55,000 parents participating in ParentsNext had received 159,000 payment suspensions

148 National Council of Single Mothers and Their Children, *Submission 18*, p. 5.

149 Ms Carmel O'Regan, Assist Secretary, Labour Market Policy Branch, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p.48.

150 Ms Samantha Robertson, Assistant Secretary, Assessments, Services and Outcomes Branch, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 55.

151 Department of Education, Skills and Employment, *Submission 8*, p. 10.

152 This process is set out at page 38 of the *Jobactive and ParentsNext guideline – Targeted Compliance Framework: Mutual Obligation Failures*. See, <https://www.dese.gov.au/parentsnext/resources/targeted-compliance-framework-mutual-obligation-failures> [Accessed 21 July 2021].

153 Minister's initial response, received 12 March 2021.

(that is, an average of three suspensions per person).¹⁵⁴ Noting also the minister's advice that these suspensions lasted, on average, five days,¹⁵⁵ this would have the effect that approximately one-third of ParentsNext participants had their parenting payments suspended for an average of 15 days in total.

3.67 With respect to the application of demerits (and consequent penalties), the department advised that from 2 July 2018 to 31 May 2021, 14,194 participants had incurred a demerit (and subsequently entered the warning zone of the Targeted Compliance Framework).¹⁵⁶ It further advised that:

- there were 10 instances in which a participant had lost one weeks' payment (that is, they incurred a sixth total demerit, being the first demerit while in the penalty zone);¹⁵⁷ and
- there were under five instances in which a participant had lost two weeks' payment (that is, they incurred a seventh total demerit, being the second demerit while in the penalty zone).¹⁵⁸

3.68 With respect to cancellations of parenting payment, the department advised that:

- from 1 July 2018 to 31 May 2021, 23,830 ParentsNext participants had their parenting payments cancelled (this includes cancellations because of a change in circumstances including finding work, moving to a different payment type, the application of the Targeted Compliance Framework, and other circumstances));¹⁵⁹
- in five of those instances, cancellation took place as a result of a third mutual obligation failure while in the penalty zone of the Targeted Compliance Framework;¹⁶⁰ and

154 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 49.

155 Minister's initial response, received 12 March 2021.

156 Department of Education, Skills and Employment, answer to question on notice IQ21-000071, 16 June 2021 (received 20 July 2021).

157 Department of Education, Skills and Employment, answer to question on notice IQ21-000087, 16 June 2021 (received 20 July 2021). The department advised that these affected persons were identified as being Indigenous, homeless and/or with disability.

158 Department of Education, Skills and Employment, answer to question on notice IQ21-000087, 16 June 2021 (received 20 July 2021).

159 Department of Education, Skills and Employment, answer to question on notice IQ21-000088, 16 June 2021 (received 20 July 2021).

160 Department of Education, Skills and Employment, answer to question on notice IQ21-000087, 16 June 2021 (received 20 July 2021).

- 1,223 participants had their payment cancelled for not re-engaging with the program for a 28-day period following a payment suspension, 455 of whom subsequently re-applied for parenting payment.¹⁶¹

3.69 Brotherhood of St Laurence, a ParentsNext provider in Melbourne, submitted that the application of the Targeted Compliance Framework, and the focus on compliance, is at odds with aim of supporting parents. In particular, it stated that payment suspensions are occurring for arbitrary reasons (such as missing appointments due to administrative errors, family emergencies, miscommunications, or due to scheduled activities having been postponed or cancelled).¹⁶² It submitted that the larger automated reporting undermines the flexibility and responsiveness which is required of a program that should suit the parents of young children.¹⁶³ Dr Eve Vincent highlighted one example of a single parent living in a regional town:

Natasha's ParentsNext caseworker sent her a form to fill out. Originally the form was 4 pages, double-sided. The caseworker scanned and sent her only pages 1 and 3. Natasha's fortnightly payment was halved after Natasha returned the form incomplete, *having called her caseworker and requested the missing pages to no avail*. The reduced amount didn't cover her rent, but her private landlord was understanding and a friend "turned up at my place with...you know, she'd gone and got some groceries for me".¹⁶⁴

3.70 The Australian Human Rights Commission argued that the safeguard value of the two-day grace period (the newly-introduced two business day resolution period during which a person can re-engage with their provider without their payment being suspended) would rely on the relationships between a provider and participant:

I think when [the committee Chair] was inquiring about the importance of the firsthand, close knowledge of the person who was dealing with the person in the program, the provider, they might be the kinds of things that come into play, but what we're talking about is a very small window of time. It's only two days in which a person who is noncompliant will have to seek exemption or forgiveness for the inability to discharge the requirements. It's a very tight time frame in which that relationship would need to be drawn upon, in order to prevent the suspension happening. The perils of suspension, I think, are very great, and, with that very tight window and the impact that can flow, these are the sorts of concerns that

161 Department of Education, Skills and Employment, answer to question on notice IQ21-000088, 16 June 2021 (received 20 July 2021). The department advised that of those 1,223 participants, 241 were Indigenous, 123 had a disability, 65 were homeless, and 230 were identified as being culturally and linguistically diverse.

162 Brotherhood of St Laurence, *Submission 16*, p. 2.

163 Brotherhood of St Laurence, *Submission 16*, p. 2.

164 Dr Eve Vincent, *Submission 17*, p. 2.

the targeted compliance framework brings up for us as the Human Rights Commission.¹⁶⁵

3.71 Dr Vincent argued that the two-day resolution period does not address the fundamental and unhelpful dynamic core to ParentsNext's design, and unacceptably places the onus on mothers to correct systemic errors in order to ensure their social security entitlements are paid.¹⁶⁶ The Feminist Legal Clinic likewise submitted that it is not sufficient, including because of the challenges communicating with Centrelink.¹⁶⁷ The National Council of Single Mothers and Their Children said that the consequences of a payment suspension having been incorrectly applied against a participant are so severe that their organisation actively encourages women not to enter into any activities prior to the weekend:

Suspension can be the fault of the provider. If they don't fill in the data correctly and on time, a payment is suspended...I had a phone call from a woman on Saturday. Her activity was on a Friday. She was suspended. She went through the whole weekend cancelling every activity completely stressed because she was unsure of what would happen on the Monday. One of the tips that the Council of Single Mothers and their Children and the Council of Single Mothers and their Children Vic promotes is the concept of 'Do not enter into any activity before the weekend,' because, if something goes awry, you've got no capacity to rectify it and you go into the weekend in complete fear of your financial insecurity.¹⁶⁸

3.72 In addition, Mr Simon Tracy, Acting Principal Solicitor of Basic Rights Queensland argued that the process around responding to a payment suspension generally lacks clarity, and advised that while some people would approach a community legal service for support, many would remain suspended before they could figure out what was required of them.¹⁶⁹

Service provision quality

3.73 Numerous witnesses and submitters raised evidence relating to the varying quality of ParentsNext providers in terms of service provision and staff training.

3.74 The department advised that it assesses the performance of providers each year against six key performance indicators, measuring efficiency, effectiveness and

165 Emeritus Professor Rosalind Croucher AM, President, Australian Human Rights Commission, *Hansard*, 25 June 2021, p. 32.

166 Dr Eve Vincent, *Submission 17*, p. 3.

167 Feminist Legal Clinic, *Submission 12*, p. 2.

168 Ms Terese Edwards, Chief Executive Officer, National Council of Single Mothers and Their Children, *Hansard*, 25 June 2021, pp. 9–10.

169 Mr Simon Tracy, Acting Principal Solicitor of Basic Rights Queensland, *Hansard*, 25 June 2021, p. 9.

quality.¹⁷⁰ It stated that it may conduct both announced and unannounced site visits by account and contract managers,¹⁷¹ advising that it expects that providers are all familiar with the arrangements in place that cover the program, and stating that unannounced site visits are conducted using a range of risk factors to determine whether an unannounced site visit is warranted.¹⁷² In addition, the department noted that of the 633 complaints it had received about ParentsNext, 140 related to provider servicing, 29 related to provider nomination, and 71 related to participation plans and requirements.¹⁷³

3.75 Some submitters highlighted positive examples of service provision. For example, Metro Assist (a ParentsNext provider) noted that its staff were all qualified in community services, social science or social work, with a background of supporting vulnerable communities,¹⁷⁴ and advised that it had never initiated a reduction or cancellation of payment for any participant, and that staff build trust and rapport with parents to work with them.¹⁷⁵ Dr Elise Klein similarly stated that some of the women she had interviewed about ParentsNext spoke highly of one provider:

[T]here was one provider that stood out particularly, because they had a specific program that was extremely supportive. It was like they were definitely operating outside of the general ParentsNext framework at expense to that organisation. They had a separate building. They created a safe space for women. They were sort of creating a space that was counter to what ParentsNext was doing. I can say that some of the women there felt that it was a very supportive environment. They did not necessarily think that the compulsory nature, though, was still useful, because the environment spoke for itself.¹⁷⁶

3.76 However, a number of witnesses and submitters considered that there were widespread problems of poor service provision, inappropriately trained staff, and complications arising out of the application of the Targeted Compliance Framework. Economic Justice Australia raised concerns about the complexity of the framework

170 Department of Education, Skills and Employment, answer to question on notice SQ21-000070, 16 June 2021 (received 20 July 2021).

171 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 53.

172 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, and Ms Robyn Shannon, First Assistant Secretary, Procurement, Quality and Deeds Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 53.

173 Department of Education, Skills and Employment, answer to question on notice IQ21-000069, 16 June 2021 (received 20 July 2021).

174 Ms April Pan, Manager, Settlement and Employment Support Services, Metro Assist Ltd, *Hansard*, 25 June 2021, pp. 25–26.

175 Metro Assist, *Submission 21*, p. 2.

176 Dr Elise Klein OAM, *Hansard*, 25 June 2021, p. 36.

that ParentsNext providers were expected to administer. It submitted that providers can generally have difficulty applying the complex ParentsNext guidelines, and can inappropriately apply demerits even where a person's vulnerability has been well-documented by Centrelink.¹⁷⁷ Mission Australia (a current provider) echoed those concerns, advising that it takes 'enormous amounts of staff time to comply with the TCF framework'.¹⁷⁸ Mr Simon Tracey, Acting Principal Solicitor of Basic Rights Queensland stated that the scheme is complex and relies on discretionary decision-making by ParentsNext providers:

We deal with appeals at Centrelink, so I usually deal with, for instance, a ParentsNext person after they've been suspended or cancelled. That comes about because someone in a ParentsNext provider has implemented the targeted compliance framework demerit points have been made by people who, in our experience, haven't necessarily received the training to be making such discretionary decisions that have major impacts on a vulnerable person's life. By the time I hear from these clients, it's, in effect, already too late because their payment has already been suspended or cancelled.

...[T]he criteria to go on this are incredibly complex from a legal point of view, even for the decision-makers implementing it. I think the framework the decision-makers are deciding on is also complex, time is arbitrary and the hands of decision-making are definitely not ones I would support, and the people that are impacted by it are the most vulnerable people, who have difficulty meeting these onerous conditions.¹⁷⁹

3.77 Several submitters expressed concern that the level of support a participant receives under ParentsNext varies dramatically depending on the quality of their provider, and/or individual caseworker. The department stated that as part of the procurement process for ParentsNext, all providers were required to identify diverse strategies to ensure culturally competent servicing, and noted that the department has also provided training to providers in engaging Indigenous participants in a culturally sensitive way.¹⁸⁰ However, the Centre for Excellence in Child and Family Welfare stated that discrepancies between providers mean that people are receiving a different response depending on where they live, and expressed concern about the quality of providers that have been selected to deliver ParentsNext, noting that many are for-profit organisations with employment services histories.¹⁸¹ The Council of

177 Economic Justice Australia, *Submission 11*, pp. 3–4.

178 Mr Stephen Vines, State Director, Queensland, Mission Australia, *Hansard*, 25 June 2021, p. 23.

179 Mr Simon Tracy, Acting Principal Solicitor of Basic Rights Queensland, *Hansard*, 25 June 2021, p. 5.

180 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 50.

181 Centre for Excellence in Child and Family Welfare, *Submission 7*, Attachment 1, p. 3.

Single Mothers and Their Children likewise submitted that there is 'considerable variation' between providers, with some workers having a deep understanding of family and children's issues, and others who see a participant as one of a number they have to meet at the end of the day.¹⁸² They stated that this variation occurs also in rural areas, but there is often less choice for the participant to move to a different agency, and has included instances of perceived racism and bullying against Indigenous participants.¹⁸³ Dr Elise Klein stated that the service providers who may be contracted to administer ParentsNext can be for-profit organisations and not-for-profit, and may also have major differences in staff quality:

Some interviewees mentioned having case workers stretched for time or others that were poorly trained and underqualified to support people put on ParentsNext. These different aspects of the service providers led to the kind of experience interviewees had – many reported being subjected to micro aggressions and underskilled support failing to help interviewees find pathways forward. This was the case for a single mother recovering from a severe domestic violence situation that left her with a permanent disability. She told her Centrelink case worker that she held a Master of Business Administration, but was told to work as a brick layer for 18 hours a day. She said, "How do you expect me to go into bricklaying and for 18 hours a day? Are you going to be giving me free childcare? ... So do you expect me to drop off my daughter at 5 a.m. in the morning. And someone pick her up at 6:00pm. So when does she see her mother? She doesn't have a father in the picture. She doesn't have anyone else. So what are you trying to do to my child?"¹⁸⁴

3.78 Several witnesses and submitters expressed concern that providers were being expected to themselves undertake (or otherwise to work with clients who required) specialised supports that they were not qualified to provide. Ms Terese Edwards, CEO of the National Council of Single Mothers and Their Children stated that '[p]roviders aren't child welfare experts, but they are stepping into a very expert space'.¹⁸⁵ A former employee of a ParentsNext provider likewise stated that agencies are immersed in the job provider language and system without understanding the realities of people's lives, and are working with clients who require a social worker or caseworker, but that staff are not encouraged to refer them on, and are not trained to deal with the issues that participants present with (including homelessness, mental health issues, domestic violence, drug and alcohol misuse, and intellectual

182 Council of Single Mothers and Their Children, and Community Information and Support VIC, *Submission 23*, p. 8.

183 Council of Single Mothers and Their Children, and Community Information and Support VIC, *Submission 23*, p. 8.

184 Dr Elise Klein OAM, *Submission 14*, p. 4.

185 Ms Terese Edwards, Chief Executive Officer, National Council of Single Mothers and Their Children, *Hansard*, 25 June 2021, p. 5.

disabilities).¹⁸⁶ Metro Assist (a community-based provider in Sydney) noted that in managing their small cohort of participants they would refer people to mental-health services, conduct outreach counselling on site, and had never reduced or cut a person's payment for non-compliance.¹⁸⁷ However, equally, it noted that Metro Assist staff were all qualified in community services, social science or social work, with a background of supporting vulnerable communities.¹⁸⁸

3.79 A number of submitters expressed concern that poor service provision was leading to mistakes and harm to participants. For example, the Australian Council of Social Service noted anecdotal suggestions that while ParentsNext provider appointments are only required once every three months, they are sometimes being scheduled on a monthly basis.¹⁸⁹ The Council of Single Mothers and Their Children also noted that their 2019 survey of participants found that 89 per cent of participants were not aware that they had ten days to consider their proposed plan before signing it.¹⁹⁰ Dr Eve Vincent likewise noted concern that poor service provision was causing some participants to be enrolled in inappropriate activities, including in instances where the participant felt that their caseworker was 'overworked, jaded and cynical'.¹⁹¹ Ms Jenny Davidson, CEO of the Council of Single Mothers and Their Children recounted one account from a young Indigenous mother who had stated:

When I went to the first appointment they didn't ask me anything about my interests or what I was thinking about for the future. They just told me to get a driver's licence and do it by a certain date. When I walked out of there I was filled with panic, I felt overwhelmed and hopeless. There I was with three kids, one of them a baby needing nappies, and my budget so tight. Where was I going to get the money for a licence?¹⁹²

3.80 Ms Jenny Davidson, CEO of the Council of Single Mothers and Their Children, noted that when ParentsNext was being rolled out nationally in 2018 the department declined to establish national standards for cultural safety and working with people

186 Council of Single Mothers and Their Children, and Community Information and Support VIC, *Tabled document* (tabled at public hearing, 25 June 2021), p. 3. This tabled document is an account provided to the organisation by a former ParentsNext provider worker.

187 Ms April Pan, Manager, Settlement and Employment Support Services, Metro Assist Ltd, *Hansard*, 25 June 2021, p. 26.

188 Ms April Pan, Manager, Settlement and Employment Support Services, Metro Assist Ltd, *Hansard*, 25 June 2021, pp. 25–26.

189 Australian Council of Social Service, *Submission 22*, p. 9.

190 Council of Single Mothers and Their Children, and Community Information and Support VIC, *Submission 23*, p. 11.

191 Dr Eve Vincent, *Submission 17*, p. 5.

192 Ms Jenny Davidson, Chief Executive Officer, Council of single Mothers and Their Children, *Hansard*, 25 Jun 2021, p. 2.

with financial hardship, and said that standards of training were part of the providers' contracts.¹⁹³

Process of obtaining exemptions

3.81 Several submitters raised concerns about the process by which to secure an exemption from ParentsNext participation requirements, and instances in which people would appear to qualify for an exemption but have not been given one.

3.82 The department advised that from 2 July 2018 to 31 May 2021, 53,070 participants had requested an exemption (the vast majority through their provider rather than Services Australia).¹⁹⁴ That is, 32.8 per cent of the 161,734 participants since 1 July 2018. The department noted that all requests, except for 285, were granted.¹⁹⁵ It advised that the department does not hold data on why exemption requests may have been refused, but advised that of those parents who had an exemption refused, a number were identified as being Indigenous and/or having a disability.¹⁹⁶ The department also noted that of those 285 initial refusals, 119 parents were subsequently granted an exemption.¹⁹⁷ The department further advised that, at 31 March 2021, more than 12,000 people (that is, 15 per cent of the caseload) were on a temporary exemption.¹⁹⁸

3.83 The department stated that 'most providers, especially at that initial appointment, really try to take time to work through and understand what somebody's personal circumstances are', and stated that in that process, it may become apparent that somebody might fall within an exemption category.¹⁹⁹ It noted that providers are delegated powers under social security law by the Secretary of the department, and stated that this reflects the relationship providers develop working closely with participants.²⁰⁰

193 Ms Jenny Davidson, Chief Executive Officer, Council of single Mothers and Their Children, *Hansard*, 25 Jun 2021, p. 9.

194 Department of Education, Skills and Employment, answer to question on notice IQ21-000068, 16 June 2021 (received 20 July 2021).

195 Department of Education, Skills and Employment, answer to question on notice IQ21-000068, 16 June 2021 (received 20 July 2021).

196 Department of Education, Skills and Employment, answer to question on notice IQ21-000068, 16 June 2021 (received 20 July 2021).

197 Department of Education, Skills and Employment, answer to question on notice IQ21-000068, 16 June 2021 (received 20 July 2021).

198 Department of Education, Skills and Employment, *Submission 8*, p. 10.

199 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 53.

200 Department of Education, Skills and Employment, answer to question on notice IQ21-000068, 16 June 2021 (received 20 July 2021).

3.84 However, Economic Justice Australia argued that while exemptions might be theoretically available to participants, their vulnerability may make it very challenging to secure one in practice:

In theory an exemption from compliance activity requirements may be granted by Centrelink or the ParentsNext provider for one or more of a range of reasons, including domestic violence, caring responsibilities, sickness, or injury. However, difficulties securing exemptions, especially for the most vulnerable cohorts, mean that many people with prima facie grounds for exemption end up facing suspension...Our members advise that some clients, particularly clients in vulnerable situations, find the ParentsNext interview intimidating and an invasion of privacy. This is especially so where the purpose and relevance of the [Job Seeker Classification instrument] questions have not been made clear. Clients who have experienced domestic violence, for example, may be unable to disclose or discuss their experience of domestic violence on the phone with a stranger... [I]t is not surprising that circumstances which should be grounds for exemption from the ParentsNext program are overlooked...²⁰¹

3.85 Dr Shelley Bielefeld, Senior Lecturer at Griffith Law School, stated that the exemptions process places inappropriate burdens on people navigating difficult circumstances, including those experiencing domestic violence.²⁰² She noted that there are many reasons why women experiencing violence may not 'have the tidy pile of evidence demonstrating their experiences for the purposes of bureaucratic requirements', including because their partner may control access to financial and other resources preventing them from accessing health services to verify the violence.²⁰³ Domestic Violence Victoria and the Domestic Violence Resource Centre likewise raised concerns that ParentsNext provider staff do not have specialised training to recognise and understand domestic violence.²⁰⁴ Ms April Pan, Manager of Settlement and Employment Support Services with Metro Assist (a community-based ParentsNext provider) advised that the department had provided her staff with training (including in working with people experiencing domestic violence), however she also advised that all staff were also qualified in community services, social science or social work, with a background of supporting vulnerable communities.²⁰⁵

201 Economic Justice Australia, *Submission 11*, pp. 3–4.

202 Dr Shelley Bielefeld, Senior Lecturer, Griffith Law School and Law Futures Centre, Griffith University, *Hansard*, 25 June 2021, p. 38.

203 Dr Shelley Bielefeld, Senior Lecturer, Griffith Law School and Law Futures Centre, Griffith University, *Hansard*, 25 June 2021, p. 38.

204 Domestic Violence Victoria and the Domestic Violence Resource Centre Victoria, *Submission 36*, pp. 11–12.

205 Ms April Pan, Manager, Settlement and Employment Support Services, Metro Assist Ltd, *Hansard*, 25 June 2021, pp. 25–26.

3.86 The department also noted that participants can also seek an exemption from Services Australia if they do not feel comfortable disclosing their circumstances to their provider.²⁰⁶ However, Economic Justice Australia stated that ineffective communication between the department, Services Australia and providers can also result in payments being suspended even where a person has been granted an exemption:

Our member centre in Queensland assisted a mother, Jess, who said she called ParentsNext to ask if they had been notified of her exemption granted by Centrelink (the exemption was formally granted on the basis of a Job Capacity Assessment). Jess said that the ParentsNext provider could see that an exemption was granted but was unsure what to do. DESE also told Jess that they were unsure what the exemption meant. Jess, who is articulate and forthright, spent hours on the phone trying to ensure that her exemption would be recognised by the provider, however, it was not until our member centre in Queensland contacted Centrelink on Jess's behalf that the database was updated and she was exempted from participating.²⁰⁷

3.87 The department stated that providers are contractually obligated to inform each participant about exemptions and the circumstances in which they may be available at the initial appointment.²⁰⁸ However, the Council of Single Mothers and Their Children stated that exemptions are not be given to participants even when there are clear grounds for one. It noted cases such as where a woman has six children and should have been exempted on the basis that she had a large family,²⁰⁹ and accounts from women who stated that their first provider had exempted them due to poor health and care of a disabled child, but that no subsequent provider would provide one.²¹⁰ It also noted a case where a woman disclosed that she was homeless and Services Australia did not advise that she should be exempted from participation, and who stated:

When I received the initial eligibility phone call from Services Australia...I informed them that I had no fixed address only a postal address (due to couch surfing with family and friends). The lady I spoke to said just pick one of those addresses...I said no I can't as I don't actually live there, she couldn't go any further without an address so preceded to make one up, to

206 Department of Education, Skills and Employment, answer to question on notice IQ21-000068, 16 June 2021 (received 20 July 2021).

207 Economic Justice Australia, *Submission 11*, p. 6.

208 Department of Education, Skills and Employment, answer to question on notice IQ21-000068, 16 June 2021 (received 20 July 2021).

209 Council of Single Mothers and Their Children, and Community Information and Support VIC, *Submission 23*, p. 8.

210 Council of Single Mothers and Their Children, and Community Information and Support VIC, *Submission 23*, p. 14.

which I was then sent out a new pension card which said no fixed address (not my postal address as I had previously). I couldn't update any accommodation or address on mygov for 3 months as it was somehow locked on me.²¹¹

3.88 The Council of Single Mothers and Their Children also provided an account from a former ParentsNext provider worker who stated that exemptions are too short, too reluctantly given, or inappropriately managed. For example, they stated that there is too much discretion around exempting someone due to homelessness, and that if someone is couch-surfing or staying with family, they will merely be given a limited time to 'get organised', rather than being exempted.²¹² This example raises concerns about the extent to which some providers appropriately recognise the various categories of homelessness.²¹³

3.89 Ms Terese Edwards, CEO of the National Council of Single Mothers and Their Children, also raised concerns about issues which can arise because where exemptions may be given only for *temporary* medical incapacity, but not ongoing health conditions:

[S]omebody has an ongoing health issues or a non-permanent disability—something that hasn't been deemed to be permanent yet, they would get rejected from exemptions to mutual obligation based on the idea that they have repetitively complained of the same issue to a doctor, which is very common with someone who has an ongoing chronic illness, or, for instance, often Centrelink will reject it based on the fact that, ironically, it's permanent. So they'll say, 'Oh, it appears as though now your health conditions are permanent and so you can't be exempt.' This is actually a big loophole of sorts that affects a lot of our clients that cannot become exempt from these kinds of programs, despite the fact that they have very great difficulty participating in them.²¹⁴

211 Council of Single Mothers and Their Children, and Community Information and Support VIC, *Submission 23*, p. 8.

212 Council of Single Mothers and Their Children, and Community Information and Support VIC, *Tabled document* (tabled at public hearing, 25 June 2021), p. 3.

213 For example, the Australia Bureau of Statistics recognises six categories of homelessness: rough sleepers; support accommodation; couch surfing; living in boarding houses; living in other temporary lodgings; or living in severely crowded dwellings. See, Australian Bureau of Statistics, 'A statistical definition of homelessness, 2012' <https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/4922.0Main%20Features22012?opendocument&tabname=Summary&prodno=4922.0&issue=2012&num=&view=> [Accessed 12 July 2021]. See also, Australian Institute of Health and Welfare 'Homelessness and homelessness services' <https://www.aihw.gov.au/reports/australias-welfare/homelessness-and-homelessness-services> [Accessed 12 July 2021].

214 Ms Terese Edwards, CEO, National Council of Single Mothers and Their Children, *Hansard*, 25 June 2021, p. 7.

3.90 This raises concerns that there may be a cohort of persons who do not meet the definition of a temporary medical condition, but whose condition is not considered to rise to the level of a disability (such that they may qualify for Disability Support Payment).²¹⁵ There would appear to be a risk that such a cohort would be considerably disadvantaged by a permanent health condition, whereas a temporary condition could provide that they are exempt from participation requirements.

Evidence of harms experienced by participants

3.91 The committee heard a range of evidence about the harms that are experienced by participants due to: their compulsory participation in ParentsNext; their payments being reduced, suspended or cancelled; and the persistent threat of their payment being impacted. These included the immediate effects of losing a primary source of income, corresponding stress and anxiety, as well as the particular harms experienced by vulnerable groups. A consistent theme from witnesses and submitters was that the potential benefits of ParentsNext did not outweigh the harms it causes in the immediate, medium and longer term. In this regard, Ms Deb Tsorbaris, CEO of the Centre for Excellence in Child and Family Welfare argued that '[s]eeking to reduce the risk of poverty long-term does not justify inflicting poverty in the present through payment suspensions and cancellations'.²¹⁶

Ability to meet basic needs

3.92 Several submitters and witnesses highlighted the underlying economic precarity of many (if not most) recipients of parenting payment as a primary consideration. The Centre for Excellence in Child and Family Welfare noted that 52 per cent of all households receiving parenting payment are living in poverty,²¹⁷ and that even the combined payments which families can receive are not enough to exceed the poverty line, meaning that 'any limitation to income has profound implications for the cash flow of a household'.²¹⁸ It also stated that female sole

215 A person will only qualify for Disability Support Pension where they either have a manifest condition (including permanent blindness), or their condition has been: fully diagnosed, treated and stabilised over a two-year period; prevents them from working at least 15 hours per week; and is assessed as constituting a required level of impairment. Further medical and non-medical requirements also apply, see, *Social Security Act 1991*, section 94.

216 Ms Deb Tsorbaris, CEO, Centre for Excellence in Child and Family Welfare, *Hansard*, 25 June 2021, p. 17.

217 Centre for Excellence in Child and Family Welfare, *Submission 7*, Attachment 1, p. 4. The Council of Single Mothers and Their Children similarly highlighted recent research examining financial stress and social security, which found that 66 per cent of households whose main source of income was allowances were in poverty in 2017. See, Council of Single Mothers and Their Children, and Community Information and Support VIC, *Submission 23*, p. 4. In reference to Ben Phillips and Vivikth Narayanan, *Financial Stress and Social Security Settings in Australia*, Australian National University Centre for Social Research and Methods (April 2021), p. 6.

218 Centre for Excellence in Child and Family Welfare, *Submission 7*, p. 2. See also Dr Cassandra Goldie, CEO, Australian Council of Social Service, *Hansard*, 25 June 2021, p. 16.

parents are generally at a high risk of financial stress, and noted that this kind of financial vulnerability has flow on negative effects on mental health and wellbeing.²¹⁹ Ms Melissa Lee, a current ParentsNext participant, reflected these concerns, submitting that:

I left a [domestic violence] marriage three years ago. I have been trying to rebuild my life since. I have no family support. My income is \$700/week. With that money I pay \$350/week in rent. There is very little left over and I'm constantly going without food and other basics such as my antidepressants and things like codral when I have a cold. Yet this program expects me to study when I can't afford the text books. It expects me to find work when I can't afford the astronomical deposit for daycare and before and after school care, which would be over \$1000 for both my children if I found full time work. It expects me to get my licence when I can't afford a car.²²⁰

3.93 Services Australia advised that when a suspension is lifted, the payment which was due will be paid in two working days of the matter being resolved.²²¹ Services Australia gave the example that if a suspension was applied on a Tuesday and resolved by the Friday, the payment would be made the following Tuesday.²²²

3.94 Numerous witnesses and submitters argued that, having regard to the underlying economic precarity of many social welfare recipients, those people may be unable to meet their basic needs, or those of their children, where their payments have been affected, even for a short period. In this regard, information was sought from the Department of Social Services as to how, and according to what criteria, the quantum of parenting payment for singles and couples is determined, and whether it is assessed by reference to an amount of money required for an adequate standard of living in Australia today. The Department of Social Services stated that the rate of payment is assessed in accordance with the *Social Security Act 1991*, but did not advise how the actual quantum is calculated, and whether or how this relates to the amount of money required for an adequate standard of living.²²³ Financial Counselling Australia stated that because these families are already experiencing financial stress, every suspension of parenting payment, even for a few days, would

219 Centre for Excellence in Child and Family Welfare, *Submission 7*, Attachment 1, p. 4. See also, Council of Single Mothers and Their Children, and Community Information and Support VIC, *Submission 23*, p. 4.

220 Ms Melissa Lee, *Submission 30*, p. 1.

221 Services Australia, answer to question on notice IQ21-000071, 16 June 2021 (received 14 July 2021).

222 Services Australia, answer to question on notice IQ21-000071, 16 June 2021 (received 14 July 2021).

223 Department of Social Services, answer to question on notice IQ21-000050, 16 June 2021 (received 30 July 2021).

likely trigger a crisis for that family.²²⁴ The Council of Single Mothers and Their Children echoed this, submitting for female-headed single parent families:

Food, rent, utility bills, school costs and transport are all balls constantly in the air. If these already tight budgets are interrupted because a payment is reduced, suspended or cancelled for any reason, the capacity of these women to continue to meet the immediate expenses for themselves and their children is severely compromised.²²⁵

3.95 The Centre for Excellence in Child and Family Welfare advised that Victorian child and family services practitioners who were supporting women who engaged with their services and received social security payments likewise reported that payment suspensions lead to 'immediate crisis, financial hardship and an inability to meet basic needs'.²²⁶ One child and family services practitioner stated that '[w]hen a mother is living week to week, even a suspension of two or three days can mean there is no food in the house for the children'.²²⁷ Both the Centre for Excellence in Child and Family Welfare and the Australian Council of Social Service agreed that the application of the Targeted Compliance Framework can have severe and immediate impacts on participants, including homelessness and the inability to buy food or pay rent.²²⁸ Zoe Support Australia (a small community organisation in Mildura) similarly highlighted numerous cases of clients stating that where their payments were suspended they had no money for food or rent.²²⁹ Economic Justice Australia also submitted that the reduction, suspension or cancellation of parenting payment would leave clients unable to meet their basic needs, including feeding and clothing their children and providing a stable and nurturing home environment.²³⁰ The Australian Association of Social Workers submitted that the current low level of income security coupled with onerous requirements for participation is entrenching poverty for those on income support, and particularly so for sole parents on parenting payment.²³¹

224 Financial Counselling Australia, *Submission 5*, pp. 1–2.

225 Council of Single Mothers and Their Children, and Community Information and Support VIC, *Submission 23*, pp. 4, 6.

226 Centre for Excellence in Child and Family Welfare, *Submission 7*, p. 1. See also, Ms Deb Tsorbaris, CEO, *Hansard*, 25 June 2021, p. 21; and Dr Elise Klein OAM, *Hansard*, 25 June 2021, p. 33.

227 Centre for Excellence in Child and Family Welfare, *Submission 7*, p. 1.

228 Centre for Excellence in Child and Family Welfare, *Submission 7*, Attachment 1, p. 4; and Australian Council of Social Service, *Submission 22*, p. 6.

229 Zoe Support Australia, *Submission 2*, p. 2.

230 Economic Justice Australia, *Submission 11*, p. 4.

231 Australian Association of Social Workers, *Submission 3*, p. 4.

3.96 A number of submitters outlined methods which clients would use in order to find alternative sources of money or food. The National Council for Single Mothers and Their Children noted cases where people who had their payment suspended over a weekend would cancel their children's sporting activities because of concerns about paying for petrol.²³² The Australian Association of Social Workers noted that some women would go without meals themselves, limit heating in winter, and their children would have limited social activities.²³³ The Council for Single Mothers and Their Children also stated that some women who had exited the program after being penalised or who had found it too onerous had survived 'through returning to a violent partner, through opportunistic sex and crime, through precarious family networks, or by seeking support from charities'.²³⁴ Economic Justice Australia noted that one single mother of a child with severe disability had her payments suspended and then reinstated, but because this experience had caused the client so much stress, she turned to a community financing organisation for a \$4000 loan so she had money on hand to meet the costs of her son's medical treatment should her payments cease again.²³⁵ Dr Eve Vincent stated that one woman also described turning to another single mother in her network for emergency cash.²³⁶ Financial Counselling Australia advised that where people did not have enough money to live on, they would be referred to emergency relief services or liaise with utility providers to ensure electricity was not cut off, but noted that clients would also resort to high-cost payday loans and trap themselves in a cycle of debt.²³⁷ The Centre for Excellence in Child and Family Welfare further noted that, where a client's payments were suspended, the child and family services practitioners it surveyed were primarily required to provide emergency relief (including food and petrol vouchers or referrals to food banks), as well as advocacy and emotional support, and a small number could use brokerage and other funds to assist.²³⁸ That is, the burden of meeting the immediate needs of participants shifted to alternative sources, and in some cases the costs ultimately increased (because state funded child and family services would incur a greater cost if children were at risk of removal).²³⁹

3.97 In addition, a number of submitters stated that the sustained *threat* of payment suspension (not merely its actual suspension) caused considerable harm to

232 National Council of Single Mothers and Their Children, *Submission 18*, p. 5.

233 Australian Association of Social Workers, *Submission 3*, p. 5.

234 Council of Single Mothers and Their Children, and Community Information and Support VIC, *Submission 23*, p. 4.

235 Economic Justice Australia, *Submission 11*, p. 5.

236 Dr Eve Vincent, *Hansard*, 25 June 2021, p. 35.

237 Financial Counselling Australia, *Submission 5*, p. 2.

238 Centre for Excellence in Child and Family Welfare, *Submission 7*, Attachment 2, p. 6.

239 See, Dr Deb Tsorbaris (CEO) and Ms Kelly Bowery (Senior Policy and Research Officer), Centre for Excellence in Child and Family Welfare, *Hansard*, 25 June 2021, p. 19.

participants. The Centre for Excellence in Child and Family Welfare stated that the threat of payment suspensions raises the level of financial vulnerability of families (that is, insecurity, and exposure to risk, shocks and stress), which in turn has negative impacts on mental health and wellbeing.²⁴⁰ Ms Deb Tsorbaris, CEO of the Centre, described this as 'the threat of poverty' hanging over the heads of parents, eroding their capacity and resilience.²⁴¹ Economic Justice Australia likewise submitted that the threat of payment suspension could be overwhelming for a vulnerable parent,²⁴² and Brotherhood of St Laurence considered that the resulting fear and anxiety undermined the intention to support parents.²⁴³ One mother stated that once she realised her parenting payment could stop at any time, she felt 'beyond desperate and in survival mode'.²⁴⁴ The Australian Association of Social Workers submitted that the punitive nature of ParentsNext program created a risk that women would find it too difficult to navigate, and would drop out of the income support system altogether.²⁴⁵

Assessment of ability to meet basic needs in practice

3.98 No evidence was adduced indicating that either a formal or informal assessment of a person's capacity to meet their basic needs (or those of their children) is undertaken before their parenting payment is suspended, reduced or cancelled.²⁴⁶ In response to a question as to whether the department formally assesses how a participant will meet their basic needs before payments are suspended, reduced or cancelled, the department instead advised that compulsory participation has a range of positive outcomes for parents and children, and that a necessary condition of this 'is some consequence for not meeting those requirements'.²⁴⁷ Economic Justice Australia stated that the administration of the Targeted Compliance Framework across providers, the department and Centrelink means that financial circumstances are not adequately assessed before payments are affected, especially where the person has limited English, cognitive impairments or feels disempowered.²⁴⁸ Zoe Support Australia (a small community service in Mildura)

240 Centre for Excellence in Child and Family Welfare, *Submission 7*, Attachment 1, p. 4.

241 Ms Deb Tsorbaris, CEO, Centre for Excellence in Child and Family Welfare, *Hansard*, 25 June 2021, p. 17.

242 Economic Justice Australia, *Submission 11*, p. 2.

243 Brotherhood of St Laurence, *Submission 16*, p. 2.

244 Economic Justice Australia, *Submission 11*, p. 5.

245 Australian Association of Social Workers, *Submission 3*, p. 5.

246 Department of Education, Skills and Employment, answer to question on notice IQ21-000065, 16 June 2021 (received 20 July 2021). See further, Mission Australia, *Submission 34*, p. 5.

247 Department of Education, Skills and Employment, answer to question on notice IQ21-000065, 16 June 2021 (received 20 July 2021).

248 Economic Justice Australia, *Submission 11*, p. 3.

indicated that it had no evidence of clients receiving additional support from their Job Active agency to ensure their basic needs were met before their payments were suspended.²⁴⁹

3.99 The department noted that there are safeguards in place to reduce the risk of people getting to the point where there are payments suspensions or penalties.²⁵⁰ It submitted that the Targeted Compliance Framework focuses resources and financial penalties on people who 'persistently and wilfully do not comply'.²⁵¹ It submitted that the Targeted Compliance Framework provides protections for vulnerable job seekers and participants (including the newly-introduced two day resolution period for suspensions and two capability reviews before ongoing penalties are applied).²⁵² However, Mission Australia (a current ParentsNext provider) stated that in their experience, it was the complex lives and circumstances of parents, not 'wilful noncompliance', that lead to nonattendance.²⁵³ In this regard, the department advised that the most common reasons given by participants for not meeting mutual obligations between 2018 and 2021 were: family/carer responsibilities; medical/health issues; or because no notification of required attendance had been received.²⁵⁴

3.100 The department noted that payment suspensions did not apply to Family Tax Benefit or the Child Care Subsidy, payment suspension resulted in back payment and were usually lifted quickly and with little actual impact on the payment.²⁵⁵ However, in this regard it is noted that Child Care Subsidy is not a payment made to parents—it is paid to child care providers if children attend child care to subsidise the cost. Further, Family Tax Benefit A and B are intended to supplement, not replace, a parent's primary income support payment. In this regard Professor Ben Saul, Challis Professor of International Law and the University of Sydney, argued that the fact that payment penalties do not affect these additional payments may have limited safeguard value, because if a parent is still unable to support themselves this will inevitably have a 'cascading effect on their ability to care for their children'.²⁵⁶

249 Zoe Support Australia, *Submission 2*, p. 2.

250 Ms Carmel O'Regan, Assist Secretary, Labour Market Policy Branch, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 48.

251 Department of Education, Skills and Employment, *Submission 8*, p. 8.

252 Department of Education, Skills and Employment, *Submission 8*, p. 8.

253 Ms Stephen Vines, State Director, Queensland, Mission Australia, *Hansard*, 25 June 2021, p. 23.

254 Department of Education, Skills and Employment, answer to question on notice IQ21-000079, 16 June 2021 (received 20 July 2021).

255 Department of Education, Skills and Employment, *Submission 8*, p. 8.

256 Professor Ben Saul, *Hansard*, 25 June 2021, p. 43.

3.101 Services Australia advised that where a participant has their payment affected, and advises that they cannot afford food or rent, Services Australia will attempt to restore their payment as soon as possible 'once the reason for the suspension has been addressed', and generally within two days of being contacted.²⁵⁷ It also advised that a person may be eligible for Crisis Payment, but noted that this is also provided within two working days from application. Lastly, it stated that participants could be referred to a social worker who could connect them with emergency support services. It is noted that Crisis Payment is available only in specified circumstances, namely where the person is in severe financial hardship and are experiencing an extreme circumstance, which is stated to be because the person is quarantining due to COVID-19; experiencing a family or domestic violence incident; had to leave their usual home because of a natural or other disaster; arrived in Australia as a humanitarian entrant; or released from prison or psychiatric confinement.²⁵⁸ It does not appear to be available for those whose parenting payments have been suspended and they are unable to meet their basic needs, outside of these specified circumstances.

Mental health and wellbeing

3.102 Numerous submitters stated that ParentsNext (and the associated threat of payment suspension, reduction or cancellation) also had widespread negative effects on the mental health and wellbeing of participants. Dr Simone Casey, Senior Policy Adviser at the Australian Council of Social Service, stated that the first letter a participant receives from Services Australia notifying them of their required participation states in large print that if they do not comply their payment may be affected: '[t]hat strikes fear into them from the very first moment'.²⁵⁹ Several submitters and witnesses highlighted the inherent and complex vulnerability of many ParentsNext participants, with Economic Justice Australia noting that the cohorts of participants most likely to face suspension include people experiencing: intellectual disability, mental health issues or cognitive impairment; people experiencing (or at risk of) homelessness; parents of children with high care needs; and victims of domestic violence.²⁶⁰

3.103 Dr Elise Klein stated that the ParentsNext participants she has interviewed felt that they were unfairly stigmatised for being a single mother and treated as

257 Services Australia, answer to question on notice IQ21-000070, 16 June 2021 (received 14 July 2021).

258 Services Australia, *Crisis Payment*, <https://www.servicesaustralia.gov.au/individuals/services/centrelink/crisis-payment> [Accessed 14 July 2021].

259 Dr Simone Casey, Senior Policy Adviser, Australian Council of Social Service, *Hansard*, 25 June 2021, p. 19. This was also echoed by Dr Eve Vincent. See, Dr Eve Vincent, *Hansard*, 25 June 2021, p. 35.

260 Economic Justice Australia, *Submission 11*, p. 2.

'societal lepers'.²⁶¹ One participant described stress stemming from the process of complying with ParentsNext (including travel time, arranging for care of their children, and money spent on public transport), as well as the fear of payments being cut off.²⁶² Other participants reported feeling severe anxiety about attending appointments (both because of existing underlying anxiety and because of the compulsory nature of the appointments themselves), with one person stating that they made people want to kill themselves.²⁶³ Dr Eve Vincent further submitted that the inability to meet basic needs where payments were reduced, suspended or cancelled for non-compliance eroded the wellbeing and confidence of caregivers, and led to feelings of guilt and shame.²⁶⁴ Mission Australia (a current ParentsNext provider) likewise argued that the mutual obligations approach to the delivery of services failed to treat people with dignity, and risks people withdrawing from government services altogether and being forced into poverty and homelessness.²⁶⁵

3.104 Dr Ann Nevile and Dr Katherine Curchin pointed to academic studies demonstrating the negative impacts of welfare conditionality and social welfare sanctions on mental health. They stated that research indicates that benefits sanctions are used against people with mental health issues, these lead to 'feelings of worthlessness, suicidal thoughts, episodic trauma, and the need for increased medication'.²⁶⁶ In turn, they note, research indicates that this worsening physical and mental health 'brought claimants closer to life-changing crises like eviction and homelessness, deepened poverty and caused hunger'.²⁶⁷

3.105 These concerns were further reflected by Ms Leanne Ho, Executive Officer of Economic Justice Australia, who stated that:

Among payment suspension and cancellation case studies we've received from our member centres, there are single mothers caring for disabled children who could also be caring for children with chronic illness or behavioural issues and dealing with Family Court or child services. Having

261 Dr Elise Klein OAM, *Submission 14*, p. 8.

262 Name withheld, *Submission 28*, p. 1. See also Anglicare Australia, *Submission 7*, p. 7.

263 Mission Australia, *Submission 34*, p. 6.

264 Dr Eve Vincent, *Submission 17*, pp. 1–2.

265 Mission Australia, *Submission 34*, p. 3.

266 Dr Ann Nevile and Dr Katherine Curchin, *Submission 13*, p. 4. In reference to: Peter Dwyer, Lisa Scullion, Katy Jones, Jenny McNeill and Alasdair Stewart, 'Work, welfare and wellbeing: The impacts of welfare conditionality on people with mental health impairments in the UK', *Social Policy & Administration*, vol. 54, no. 2, 2020, p. 318.

267 Dr Ann Nevile and Dr Katherine Curchin, *Submission 13*, p. 4. In reference to: Sharon Wright, Del Roy Fletcher and Alasdair Stewart, 'Punitive benefit sanctions, welfare conditionality, and the social abuse of unemployed people in Britain: Transforming claimants into offenders?', *Social Policy & Administration*, vol. 54, no. 2, 2020, pp. 285–6.

to comply with mutual obligations for their parenting payment on top of all these stresses and demands can just be too much.²⁶⁸

Victims of domestic violence

3.106 A number of submitters raised concerns about the particular risks faced by women experiencing domestic violence. Domestic Violence Victoria and the Domestic Violence Resource Centre Victoria stated that given that 95 per cent of ParentsNext participants are women, and Aboriginal parents are a considerable portion of them, there is a high likelihood most participants are victim-survivors of family violence.²⁶⁹ Indeed, Dr Ann Nevile and Dr Katherine Curchin highlighted that some providers report that 80 per cent of their clients are affected by domestic violence,²⁷⁰ and Metro Assist (a provider in Sydney) noted that it has a high number of declared domestic violence cases.²⁷¹ In this regard, the department advised that from 1 July 2018, 7,667 female participants had advised that they had experienced domestic violence (including 1,774 who identified as Indigenous, 1,103 who were homeless, and 1,797 who identified as having a disability).²⁷²

3.107 Metro Assist submitted that the compulsory nature of ParentsNext could serve as a means by which to connect with participants who would otherwise have no access to support, because it gave them a good 'excuse' to engage with broader society without their partner's interference, and to step outside their partner's control.²⁷³ Ms April Pan, Manager of Settlement and Employment Support Services, stated that Metro Assist would work with clients and their controlling partners, including to discover the extent of any violence,²⁷⁴ notwithstanding that experience of domestic violence is a basis for exemption from participation in ParentsNext.

3.108 A significant number of submitters raised concerns about the heightened vulnerability of survivors of domestic violence, and posited that the compulsory nature of ParentsNext reflects the coercion levelled against women by a violent partner. For example the Centre for Women's Economic Safety submitted that:

The compulsory nature of ParentsNext undermines human dignity and personal autonomy. For the many women who have experienced domestic violence and economic abuse, this mirrors their experiences of power and

268 Ms Leanne Ho, Executive Officer, Economic Justice Australia, *Hansard*, 25 June 2021, p. 3.

269 Domestic Violence Victoria and the Domestic Violence Resource Centre Victoria, *Submission 36*, p. 7.

270 Dr Ann Nevile and Dr Katherine Curchin, *Submission 13*, p. 3.

271 Metro Assist, *Submission 21*, p. 4.

272 Department of Education, Skills and Employment, answer to question on notice IQ21-000089, 16 June 2021 (received 20 July 2021).

273 Metro Assist, *Submission 21*, p. 4.

274 Ms April Pan, Manager, Settlement and Employment Support Services, Metro Assist, *Hansard*, 25 June 2021, p. 25.

control by their former partner thereby amplifying the harm caused by the program, rather than supporting them to regain individual agency and control.²⁷⁵

3.109 Dr Elise Klein reflected this view, submitting that based on her interviews with ParentsNext participants:

Telling is how women recovering from the trauma of domestic violence, but still put on ParentsNext, felt that ParentsNext was like entering another abusive relationship, “The conditionality is like a new violent relationship – financial and psychologically abusive”, one interviewee said. It did not provide the nurturing or caring space needed to support them from recovering from their trauma, even producing further trauma and stress.²⁷⁶

3.110 The National Council for Single Mothers and Their Children likewise stated that 'women continue to speak about the retraumatising, and a retriggering process associated with obligation and compliance processes, a dynamic that replicates power and control as experienced in the context of DV'.²⁷⁷ Domestic Violence Victoria and the Domestic Violence Resource Centre Victoria agreed, submitting that that reduction/cancellation or suspension of parenting payments would penalise survivors for their experience of family violence, and in so doing inadvertently collude with perpetrator tactics that blame and punish victim-survivors.²⁷⁸ Similarly, Ms Meena Singh, Legal Director at the Human Rights Law Centre, expressed concern that requiring a woman to engage in a program—and potentially therefore requiring her to disclose family violence before she is ready—would lead to negative outcomes.²⁷⁹

3.111 The Human Rights Law Centre and the National Family Violence Prevention and Legal Services Forum noted that financial sanctions may act as a barrier to women escaping violence,²⁸⁰ and the Centre for Excellence in Child and Family Welfare noted evidence of single mothers having to contact violent ex-partners

275 Centre for Women's Economic Safety, *Submission 6*, p. 1.

276 Dr Elise Klein OAM, *Submission 14*, p. 3.

277 National Council of Single Mothers and Their Children, *Submission 18*, p. 3.

278 Domestic Violence Victoria and the Domestic Violence Resource Centre Victoria, *Submission 36*, pp. 9–10.

279 Ms Meena Singh, Legal Director, Human Rights Law Centre, *Hansard*, 25 June 2021, p. 13.

280 Human Rights Law Centre and National Family Violence Prevention Legal Services Forum, *Submission 39*, p. 7).

asking for money to make ends meet.²⁸¹ One ParentsNext participant, a mother of two young children, spoke of similar experiences, and described being signed onto ParentsNext in order for financial wellbeing as 'financial abuse...reminiscent of control and manipulation found in [domestic violence] scenarios – yet on behalf of the government'.²⁸² Another participant described participants being told they will be managed, monitored and controlled by a provider as 'demeaning, belittling and just cruel'.²⁸³

3.112 Several submitters argued that ParentsNext fails to take account of the experiences of women escaping domestic violence, particularly in terms of their capacity to comply. For example, Dr Eve Vincent noted that she had interviewed a university-educated participant in the program who had relocated to escape a violent relationship. The interviewee had explained that her ex-partner refused to transfer the registration of her vehicle into her name but refused to pay his outstanding fines, and so the car's registration was cancelled, meaning that she could not physically get to ParentsNext appointments.²⁸⁴ The mother advised that while she had been able to negotiate with her caseworker to conduct appointments over the phone, the caseworker inexplicably refused to provide her with an exemption.²⁸⁵ Similarly, Ms Cindy Cavanagh-Knez of Zoe Support Australia (a small community organisation in Mildura) recounted that:

I have a young client who was experiencing family violence and had to flee her home and became homeless and, as a result of that, financially was not able to keep up her payments to her phone plan, so her phone was disconnected. Then, because she wasn't answering the phone calls on the ParentsNext program, her payments were suspended. It was only that I went out to visit her and speak to her in person that I found out that all of this was going on.²⁸⁶

281 Centre for Excellence in Child and Family Welfare, *Submission 7*, Attachment 2, p. 5. See also Council for Single Mothers, *Submission 23*, p. 7. The Australian Association of Social Workers also highlighted clients who had their payments cut while escaping violent relationships as they were not able to meet ParentsNext obligations, and were at risk of returning to the perpetrator as a matter of financial necessity. See, Australian Association of Social Workers, *Submission 3*, p. 5.

282 Name withheld, *Submission 27*, p. 1.

283 Name withheld, *Submission 25*, p. 1.

284 Dr Eve Vincent, *Submission 17*, p. 3.

285 Dr Eve Vincent, *Submission 17*, p. 4.

286 Ms Cindy Cavanagh-Knez, Team Leader – Integrated Family Services, Zoe Support Australia, *Hansard*, 25 June 2021, p. 7.

3.113 The Council for Single Mothers and Their Children also highlighted the risk of harm associated with discussing domestic violence with a provider in front of a woman's children.²⁸⁷

Children of participants

3.114 In addition, several submitters raised particular concerns about the harms experienced by the children of parents who were required to participate in ParentsNext, noting the serious concerns about the inability for parents who had their payments suspended, reduced or cancelled to meet the basic needs of their family. These concerns related to both short-term harms, and the risk of long-term harms.

3.115 The Queensland Family and Child Commission stated that a decision to suspend or cancel a parent's parenting payment could have a detrimental effect on the immediate wellbeing of the child, and could result in adverse childhood experiences, including malnutrition and homelessness.²⁸⁸ It also argued that placing children at risk of being without food, medicine or shelter, and placing stress and strain on families, could increase the risk that children could come into contact with the child protection system.²⁸⁹ In this regard, Ms Terese Edwards of the National Council for Single Mothers and Their Children noted that she was working with a mother whose payment had been cancelled and her child had been removed because she was not able to provide basic necessities.²⁹⁰ She argued that in the short term, it sends children the message that their mother is not in control of their family.²⁹¹ In contrast, the department stated that no children had been removed from their families as a result of parents not complying with the program.²⁹²

3.116 Anglicare Australia likewise submitted that children who grow up in poverty are more likely to live in poverty as adults whereas additional income positively affects cognitive development and school performance.²⁹³ The Council for Single Mothers and Their Children agreed, stating that exposing parents to stress is highly likely to have negative immediate and longer term effects on children:

287 Council of Single Mothers and Their Children, and Community Information and Support VIC, *Submission 23*, p. 6.

288 Queensland Child and Family Commission, *Submission 37*, p. 5.

289 Queensland Child and Family Commission, *Submission 37*, p. 5.

290 Ms Terese Edwards, Chief Executive Officer, National Council for Single Mothers and Their Children, *Hansard*, 25 June 2021, p. 4.

291 Ms Terese Edwards, Chief Executive Officer, National Council for Single Mothers and Their Children, *Hansard*, 25 June 2021, p. 6.

292 Department of Education, Skills and Employment, answer to question on notice IQ21-000097, 16 June 2021 (received 20 July 2021).

293 Anglicare Australia, *Submission 4*, p. 5.

Significant Australian research concerning the first 1000 days of a child's life concludes that: "Researchers have consistently found that various types of chronic stress are linked to — and probably cause — shorter telomeres ... Telomere shortness and stress have independently been associated with several common conditions, such as cardiovascular disease and diabetes. These associations are so widespread and consistent that even without a detailed understanding of the biochemical pathways involved, the message is clear. **Failure to alleviate severe stress caused by prolonged threats such as violence, financial hardship, abuse and emotional neglect, particularly in children, will result in exponentially higher costs further down the line — personal, economic and otherwise.**"²⁹⁴

3.117 Domestic Violence Victoria and the Domestic Violence Resource Centre Victoria highlighted the particular harms which may be experienced by children who have been exposed to both family violence and poverty:

Children are victim-survivors in their own right, with unique and distinct experiences of family violence, tied to and independent from adult family members' experiences. As family violence is often a prolonged experience, involving complex and unique patterns of perpetrator tactics and behaviours over, children can experience 'complex trauma', which is the 'experience of multiple, chronic and prolonged traumatic events in childhood'. The ongoing nature of family violence can have long-term effects on a child's development, including physical, emotional, and mental development...[T]his abuse often results in children going without food, medication, necessities for school, and school excursions. Reducing, cancelling or suspending parenting payments for not meeting the requirements of ParentsNext not only affects adult victim-survivors' standard of living, it would also worsen children's standard of living.²⁹⁵

3.118 Ms Deb Tsorbaris, CEO of the Centre for Excellence in Child and Family Welfare, expressed concern that there was no evidence of the harmful impacts of compliance measures on children having been investigated by the government in spite of robust evidence as to its existence.²⁹⁶ The department submitted that compulsory participation in ParentsNext has a range of positive outcomes for parents and their children. It stated that parents' labour market status has a profound effect on children, with joblessness associated with intergenerational disadvantage and impacts on children's development. It stated that early intervention to assist parents with young children, such as by compulsory participation in ParentsNext, improves

294 Council of Single Mothers and Their Children, and Community Information and Support VIC, *Submission 23*, p. 5 [emphasis in original].

295 Domestic Violence Victoria and the Domestic Violence Resource Centre Victoria, *Submission 36*, p. 11.

296 Ms Deb Tsorbaris, CEO, Centre for Excellence in Child and Family Welfare, *Hansard*, 25 June 2021, p. 17.

the work and study outcomes for participants, which directly benefits participants' children and their development.²⁹⁷

The impact on Indigenous participants

3.119 Evidence was received as to the particular harms (and risks of harm) experienced by Indigenous participants in ParentsNext.

3.120 When ParentsNext was rolled-out nationally in 2018, it was delivered in two streams: Targeted and Intensive. The Intensive Stream delivered the same services as the Targeted Stream, but with access to greater financial assistance. This stream operated in 30 trial locations, 20 of which were selected based on the high proportion of Indigenous parenting payment recipients in those locations.²⁹⁸ At that time, one of the objectives of the program was to help Close the Gap in Indigenous employment.²⁹⁹ The department noted that six Indigenous organisations currently deliver ParentsNext,³⁰⁰ and that Indigenous participants may access support services including: connecting with elders in their community; counselling and support; assistance to secure housing and assistance to complete year 12 or undertake vocational training.³⁰¹

3.121 The department advised that Indigenous participants make up 18 per cent of all participants in ParentsNext to date, and 21 per cent of the caseload as at 31 May 2021.³⁰² It also advised that 31 per cent of participants who have incurred a demerit under the Targeted Compliance Framework are Indigenous.³⁰³ The Human Rights Law Centre and National Family Violence Prevention and Legal Services Forum also noted that at the end of 2018, Aboriginal and Torres Strait Islander parents made up 24 per cent of the 16,025 payments suspensions, despite being only 19 per cent of all participants.³⁰⁴ The Australian Council of Social Service highlighted that 31 per cent

297 Department of Education, Skills and Employment, answer to question on notice IQ21-000065, 16 June 2021 (received 20 July 2021).

298 Social Security (Parenting payment participation requirements – class of persons) Instrument 2018 (No. 1) [F2018L00238], statement of compatibility, p. 7.

299 Social Security (Parenting payment participation requirements – class of persons) Instrument 2018 (No. 1) [F2018L00238], statement of compatibility, p. 12.

300 Department of Education, Skills and Employment, answer to question on notice IQ21-000104, 30 June 2021 (received 21 July 2021).

301 Department of Education, Skills and Employment, answer to question on notice IQ21-000099, 30 June 2021 (received 20 July 2021).

302 Department of Education, Skills and Employment, answer to question on notice IQ21-000071, 30 June 2021 (received 20 July 2021).

303 Department of Education, Skills and Employment, answer to question on notice IQ21-000071, 30 June 2021 (received 20 July 2021).

304 Human Rights Law Centre and NFVPLSF, *Submission 38*, p. 7. See also, Economic Justice Australia, *Submission 11*, p. 2.

of third demerits were incurred by Indigenous participants, as were 61 per cent of fourth demerits, and 19 per cent of actual payment cancellations.³⁰⁵ It also stated that some Indigenous parents had cancelled their own parenting payments 'rather than deal with the distress of remaining on benefits and because it was difficult to attend initial appointments with ParentsNext providers'.³⁰⁶

3.122 Domestic Violence Victoria and the Domestic Violence Resource Centre Victoria submitted that Indigenous women were particularly vulnerable to intersecting harms resulting from historical disempowerment, and experiences of racism, disadvantage and discrimination:

[B]y targeting Aboriginal families, the Government is replicating past government policies that have systematically disempowered Aboriginal communities from taking control of their lives, such as indentured labour, stolen wages and the forced removal of children. The ParentsNext Evaluation cites high-unemployment and low labour force participation as a reason for focusing the program on Aboriginal communities. However, it implies that high-unemployment in Aboriginal communities is a result of a deficiency within Aboriginal communities, rather than colonisation, dispossession and intergenerational trauma. The impacts of colonisation are recognised alongside structural gender inequality as the key drivers of violence against Aboriginal women and their children.

Regaining individual agency and control over their lives is integral to recovery for adult and child victim-survivors. Family violence is an abuse of power and control. Most victim-survivors have experienced a combination of psychological, financial, emotional, social, physical and sexual violence that erodes their confidence, self-worth and ability to seek safety and independence. For Aboriginal women, these factors are combined with experiences of institutional and individualised racism, discrimination and intergenerational disadvantage.³⁰⁷

3.123 Professor Ben Saul, Challis Professor of International Law at the University of Sydney, similarly raised concerns that ParentsNext inappropriately targets Indigenous participants:

[T]he problem with this is that it is really individualising Indigenous responsibility for poverty. Instead of looking at the broader historical structural circumstances of disadvantage, which have got us to where we are today, it's saying, 'If you fit into this category of vulnerable families and if you don't comply with our efforts to help you, then you're going to be punished.' We need to take a step back to think about how we got to that position in the first place and what we're doing to reduce that structural

305 Australian Council of Social Service, *Submission 22*, p. 7.

306 Australian Council of Social Service, *Submission 22*, p. 8.

307 Domestic Violence Victoria and the domestic Violence Resource Centre Victoria, *Submission 36*, p. 14.

disadvantage in a cooperative and consensual way, based on consultation, not paternalism and punishment.³⁰⁸

3.124 Dr Katherine Curchin, Senior Lecturer in Social Policy at the Australian National University, likewise argued that, being a paternalistic program, ParentsNext has the effect of perpetuating historical policies that disproportionately affected Indigenous families:

[T]here is obviously a very long history, an ongoing situation, of the Australian governments treating First Nations people in paternalistic ways...[T]here was quite concerning evidence from people earlier today about the potential for people who are experiencing destitution, due to the suspension of their payments, then being at further risk of coming into contact with the child protection system. So there is what I think is a very scary articulation between ParentsNext and a systemically racist child protection system in Australia.³⁰⁹

3.125 These concerns were highlighted by Ms Meena Singh, a Legal Director with the Human Rights Law Centre, who noted that Indigenous people deal with racism as a barrier to education and employment, and Indigenous women deal with 'racist sexism'.³¹⁰ She also stated that the impact of ParentsNext on mothers is especially hard in remote and regional communities, where employment opportunities are 'limited and sometimes non-existent'.³¹¹ She highlighted compounding factors for Aboriginal and Torres Strait Islander women, such as lack of transport, that perpetuate the cycle and make the ParentsNext program a punitive one:

ParentsNext...is pushing our mothers deeper into poverty. ParentsNext is another barrier and another violation of human rights to be financially secure, to be safe and to be supported. It prevents Aboriginal and Torres Strait Islander mums from growing their kids strong in culture and identity. Poverty is not a choice; it is a direct result of systemic failure.³¹²

3.126 She stated that this disadvantage can manifest in different ways:

In our Aboriginal communities, we experience disadvantage, discrimination and poverty at far greater levels than non-Indigenous people. That can play out in a number of ways, but it's essentially not having the resources to be able to participate in the community as people would like to see themselves participating. A really simple thing like getting to appointments requires having a car or having money to put petrol in the car. If you don't have a car, you have to have access to public

308 Professor Ben Saul, *Hansard*, 25 June 2021, p. 46.

309 Dr Katherine Curchin, Senior Lecturer in Social Policy, Australian National University, *Hansard*, 25 June 2021, p. 39.

310 Ms Meena Singh, Legal Director, Human Rights Law Centre, *Hansard*, 25 June 2021, p. 13.

311 Ms Meena Singh, Legal Director, Human Rights Law Centre, *Hansard*, 25 June 2021, p. 11.

312 Ms Meena Singh, Legal Director, Human Rights Law Centre, *Hansard*, 25 June 2021, p. 11.

transport. All of these things require resources, and, when you're already disadvantaged, it is incredibly hard to meet those obligations, particularly for Aboriginal and Torres Strait Islander people, where we have experienced and still experience the ongoing impact of colonisation that was deliberately to remove and disadvantage us. Yes, this program disproportionately impacts on Aboriginal people. Yes, we have different experiences to non- Aboriginal people.³¹³

3.127 Ms Terese Edwards, CEO of the National Council for Single Mothers and Their Children, also highlighted the particular challenges which Indigenous participants face where they live in rural and remote areas, and have limited access to services:

I was contacted a couple of days ago by a young Indigenous woman from Toowoomba. She needed a letter from the hospital to give an exemption for how unwell her child is. The letter was three or four days late coming, because of the nature of a local hospital. In the interim her income was suspended. She had no money for food, and petrol was limited. She contacted me. I asked her to phone the service. Unfortunately, that service only had an answering machine as an option; it was a fly-in, fly-out type of service, I suspect. We managed to get her some emergency funding, and then also get that suspension lifted.³¹⁴

3.128 A number of accounts raised similar concerns that the provision of services under ParentsNext was, at times, also felt to be racist and discriminatory. Some Indigenous participants felt that their providers were themselves racist and dismissive.³¹⁵ Ms Terese Edwards, CEO of the National Council for Single Mothers and Their Children, noted that one participant (a grandmother) who described herself as being 'vocal' during an appointment and was 'warned that if she didn't stop asking questions her children would suffer a suspension in payment'.³¹⁶

3.129 In addition, concerns were raised about the failure to factor the additional cultural and community obligations required of Aboriginal women. Ms Meena Singh, Legal Director at the Human Rights Law Centre submitted that:

Aboriginal women, as mothers, as grandmothers, have greater, more far-reaching familial obligations to people that Western cultures wouldn't consider family but whom we call family. We have a responsibility, culturally, to look after those people, to put their needs sometimes ahead of our own. There is very little good understanding outside of Aboriginal community about how our systems of kinship and obligation work, and we

313 Ms Meena Singh, Legal Director, Human Rights Law Centre, *Hansard*, 25 June 2021, p. 12.

314 Ms Terese Edwards, Chief Executive Officer of the National Council for Single Mothers and Their Children, *Hansard*, 25 June 2021, p. 4.

315 Council of Single Mothers and Their Children, and Community Information and Support VIC, *Submission 23*, p. 8.

316 Ms Terese Edwards, Chief Executive Officer of the National Council for Single Mothers and Their Children, *Hansard*, 25 June 2021, p. 4.

see that reflected in child removal practices when kinship arrangements or extended family arrangements for care of children aren't recognised as being proper parenting. Sadly, there is too long a narrative in this country about the inability of Aboriginal women to parent their own children, and this program is a further extension of that.³¹⁷

3.130 The Queensland Family and Child Commission likewise considered that the unique child rearing practices and kinship roles, which are a foundation of Indigenous families, must be considered in the design and implementation of services under ParentsNext.³¹⁸

3.131 The department submitted that ParentsNext providers are required to cater to the needs of parents from diverse backgrounds, particularly Indigenous parents.³¹⁹ It also submitted that departmental evidence shows that over 65 per cent of Indigenous participants reported improvements in their health and wellbeing, through participation in ParentsNext.³²⁰ It also submitted:

Through the national expansion of the program, all providers had to outline in their tender submission diverse strategies that ensure the culturally competent servicing of Indigenous participants. Some strategies include engaging local Indigenous people to be staff members, connecting with Elders in the community and working with local Indigenous organisations. As well as this, all providers need to demonstrate they can effectively and sensitively work with Indigenous parents and are required to have an Indigenous employment strategy. Moreover, at least 100 Indigenous organisations are working in some capacity alongside ParentsNext providers to service Indigenous parents in a culturally sensitive way.³²¹

Consultation

3.132 Numerous submitters also raised concerns that Indigenous communities had not been appropriately consulted about ParentsNext.

3.133 The department stated that it hosted 18 public consultation forums in late 2017, which were attended by 200 people, including community groups, Indigenous organisations, employment service providers, ParentsNext providers, parents and members of the public.³²² The department advised that it had consulted with the following Indigenous organisations as part of its national expansion:

317 Ms Meena Singh, Legal Director, Human Rights Law Centre, *Hansard*, 25 June 2021, p. 14.

318 Queensland Family and Child Commission, *Submission 37*, p. 5.

319 Department of Education Skills and Employment, *Submission 8*, p. 3.

320 Department of Education Skills and Employment, *Submission 8*, p. 5.

321 Department of Education Skills and Employment, *Submission 8*, p. 6.

322 Department of Education, Skills and Employment, answer to question on notice IQ21-000073, 16 June 2021 (received 20 July 2021).

- the National Aboriginal and Torres Strait Islander Women’s Alliance;
- Cape York Partnerships;
- Kaiela Institute;
- Aarnja Aboriginal Regional Body;
- Supply Nation;
- Aboriginal and Torres Strait Islander Social Justice Commissioner;
- Kullarri Regional Corporation (a ParentsNext provider); and
- Kuditj (a ParentsNext provider).³²³

3.134 The department stated that as a result of the feedback received as part of the ParentsNext 2018 procurement process, providers were required to identify 'diverse strategies to ensure culturally competent servicing of the culturally diverse participants, in particular Indigenous participants'.³²⁴ It also stated that other feedback from Indigenous organisations related to: ensuring the program has a strong focus on supporting participants' experience in family and domestic violence; ensuring additional resources about childcare assistance are available to providers and participants; and expanding the range of financial assistance available through the Participation Fund, by including a category for participant support to fund appropriate expenditure including for counselling, driving lessons and items to support training.³²⁵ The department also noted that there are also Indigenous providers of ParentsNext,³²⁶ and that approximately 100 Indigenous organisations work in some capacity alongside ParentsNext providers to service Indigenous clients in a culturally sensitive way.³²⁷ The department also noted that in relation to the recent changes to eligibility (as introduced by this instrument) the department considered feedback from key stakeholders, 11 per cent of whom were Indigenous owned organisations.³²⁸

3.135 However, the National Family Violence Prevention Legal Services Forum, the peak Indigenous body with a focus on supporting women and children, stated that

323 Department of Education, Skills and Employment, *Submission 8*, p. 6; Department of Education, Skills and Employment, answer to question on notice IQ21-000073, 16 June 2021 (received 20 July 2021), and answer to question on notice IQ21-000102, 30 June 2021 (received 20 July 2021).

324 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, pp. 54–55.

325 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, pp. 54–55.

326 Department of Education, Skills and Employment, *Submission 8*, p. 6.

327 Ms Samantha Robertson, Assistant Secretary, Assessments, Services and Outcomes Branch, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 51.

328 Department of Education Skills and Employment, *Submission 8*, p. 4.

the majority of its 14 member organisations had not been consulted.³²⁹ Dr Shelley Bielefeld likewise stated that in the communications she had with a range of different Aboriginal organisations, they said they had not been consulted and had expressed concerned about that.³³⁰

329 Human Rights Law Centre and NFVPLSF, *Submission 38*, p. 7. See also, Economic Justice Australia, *Submission 11*, p. 8; and Australian Council of Social Service, *Submission 22*, p. 11.

330 Dr Shelly Bielefeld, Senior Lecturer, Griffith Law School and Law Futures Centre, *Hansard*, 25 June 2021, p. 40.

Chapter 4

Compatibility with international human rights law

4.1 This chapter outlines and analyses the international human rights law associated with the instrument under consideration. It sets out the rights that may be promoted and limited by participation in ParentsNext, and how those rights apply. For those rights that are limited, this chapter assesses whether the limitation is permissible under international human rights law, such that it pursues a legitimate objective, is rationally connected to that objective and is a proportionate means of achieving that objective.

4.2 The instrument specifies a class of person in relation to whom participation requirements apply in order to remain qualified for parenting payment. Currently, those participation requirements obligate a person within that class to participate in the ParentsNext program. Numerous submitters expressed concern that compulsory participation in ParentsNext, and the corresponding suspension, reduction or cancellation of social welfare payments, was not consistent with Australia's international human rights law obligations.¹

Rights possibly promoted by the ParentsNext program

4.3 The statement of compatibility accompanying the instrument states that the ParentsNext program is intended to provide early support to young parents with a lower level of educational attainment to help them plan and prepare for employment before their youngest child starts school, including by participating in educational activities or activities with their children.² Participation in the program may, in and of itself, provide parents with greater opportunities to undertake education or other work-preparedness activities. As such, it may promote the rights to work and education. The right to work requires that, for the full realisation of that right, steps should be taken by a State including 'technical and vocational guidance and training programs, policies and techniques to achieve steady economic, social and cultural development and productive employment'.³ The right to education provides that

1 Equality Rights Alliance, *Submission 1*, p. 4; Centre for Women's Economic Safety, *Submission 6*, p. 1; Centre for Excellence in Child and Family Welfare, *Submission 7*, p. 3; Dr Elise Klein OAM, *Submission 14*, p. 1; Professor Beth Goldblatt, *Submission 15*, p. 6; Brotherhood of St Laurence, *Submission 16*, p. 2; National council of Single Mothers and Their Children, *Submission 18*, p. 1; WEstjustice Community Legal Centre, *Submission 19*, p. 1; Dr Shelley Bielefeld, *Submission 20*, p. 2; and Domestic Violence Victoria and the Domestic Violence Resource Centre Victoria, *Submission 36*, p. 7.

2 Statement of compatibility, p. 9.

3 International Covenant on Economic, Social and Cultural Rights, article 6(2).

education should be accessible to all.⁴ The United Nations (UN) Committee on Economic, Social and Cultural Rights has advocated, with respect to the right to work, for the funding of training measures to facilitate the re-entry of women to the workforce following parental leave.⁵

4.4 The explanatory statement to the instrument states that ParentsNext is aimed at disrupting intergenerational disadvantage and reducing the risk of long-term welfare dependency for participating parents and their children. The statement of compatibility for the instrument notes that, in this respect, the measure engages the obligation to consider the best interests of the child pursuant to article 3 of the UN Convention on the Rights of the Child. As such, if participation in this program could achieve this objective, it could promote the rights of the child. The statement of compatibility states that children are given primary importance in ParentsNext, noting that participation in the program will connect parents (and by proxy, their children) to community services.⁶

4.5 As such, if participation in ParentsNext were purely voluntary, government funding for such a program could promote a number of human rights and would not limit any human rights.

Linking ParentsNext with the receipt of social welfare payments

4.6 However, because this instrument has the effect of mandating participation in ParentsNext for a defined class of parents (such that it makes the ongoing receipt of their parenting payment contingent on that participation,⁷ and may consequently lead to those payments being reduced, suspended or cancelled) it engages and may limit several interrelated and intersecting human rights. These include:

- the right to social security;
- the right to an adequate standard of living;
- the right to equality and non-discrimination;
- the right to a private life;
- the rights of the child; and

4 International Covenant on Economic, Social and Cultural Rights, article 13.

5 UN Committee on Economic, Social and Cultural Rights, *Concluding observations: Austria*, E/C.12/AUT/CO/3 (25 January 2006) [26].

6 Statement of compatibility, pp. 13–14.

7 Pursuant to subsection 500(2) of the *Social Security Act 1991*.

- the right to protection of the family.⁸

4.7 These rights may generally be limited where the limitation is reasonable, necessary and proportionate. This is further explained below from paragraph [4.34].

The rights to social security and an adequate standard of living

4.8 Because the instrument requires that a specified class of parents participate in ParentsNext by making the ongoing receipt of their welfare payment contingent on that participation and subject to penalties, it engages the right to social security and the closely related right to an adequate standard of living.

4.9 The right to social security recognises the importance of adequate social benefits in reducing the effects of poverty and plays an important role in realising many other economic, social and cultural rights, in particular the right to an adequate standard of living and the right to health.⁹ Social security benefits must be adequate in amount and duration.¹⁰ States must have also regard to the principles of human dignity and non-discrimination so as to avoid any adverse effect on the levels of benefits and the form in which they are provided.¹¹ They must guarantee the equal enjoyment by all of minimum and adequate protection, and the right includes the right not to be subject to arbitrary and unreasonable restrictions of existing social security coverage.¹² In addition, public authorities are responsible for ensuring the effective administration or supervision of a social security system.¹³ The right to an adequate standard of living requires Australia to take steps to ensure the availability, adequacy and accessibility of food, clothing, water and housing for all people in Australia, and

8 By requiring certain ParentsNext participants to engage in activities, which may be related to the care and education of their children, and by mandating this participation by providing that the parent's social welfare payment may be reduced, suspended or cancelled for non-compliance, this measure may engage and limit the right to the protection of the family. Australia has obligations under article 10 of the International Covenant on Economic, Social and Cultural Rights to provide the widest possible protection and assistance to the family, including taking measures to support the family while it is responsible for the care and education of dependent children. The right also requires that the State must not arbitrarily or unlawfully interfere in family life.

9 International Covenant on Economic, Social and Cultural Rights, article 9. See also, UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008).

10 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [22].

11 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [22].

12 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [4] and [9].

13 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [11].

also imposes on Australia the obligations listed above in relation to the right to social security.¹⁴

4.10 Australia has two types of obligations in relation to economic, social and cultural rights. It is obliged to take reasonable measures within its available resources to progressively secure broader enjoyment of the right to an adequate standard of living and to social security. It also has immediate obligations to satisfy certain minimum aspects of the rights; not to unjustifiably take any backwards steps that might affect living standards; and to ensure the rights are made available in a non-discriminatory way.¹⁵ In this regard, the UN Committee on Economic, Social and Cultural Rights has identified a 'minimum core' to the right to social security, requiring that States Parties ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education, and ensure the right of access to social security systems or schemes on a non-discriminatory basis, especially for disadvantaged or marginalised individuals or groups.¹⁶ Where there is a possibility that a scheme could cause individuals to be put into a situation where the minimum requirement is not being satisfied, that would raise concerns as to whether that minimum core obligation were satisfied.¹⁷

4.11 As to the right to an adequate standard of living (which encompasses the rights to food and adequate housing), the UN Committee on Economic, Social and Cultural Rights has stated that food must be economically accessible, meaning that personal or household financial costs associated with the acquisition of food for an adequate diet should be at a level such that the attainment and satisfaction of other basic needs are not threatened or compromised.¹⁸ Further, the UN Committee has explained that the right to housing dimension of the right to an adequate standard of living refers not merely to a roof over one's head, but to the right to live somewhere in 'security, peace and dignity'.¹⁹

14 International Covenant on Economic, Social and Cultural Rights, article 11.

15 See, UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [40].

16 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [59].

17 Professor Aoife Nolan, Professor of International Human Rights law and Co-Director of the Human Rights Law Centre, University of Nottingham, *Hansard*, 25 June 2021, p. 58.

18 UN Committee on Economic, Social and Cultural Rights, *General Comment 12: the right to adequate food* (1999) [13].

19 UN Committee on Economic, Social and Cultural Rights, *General Comment 4: the right to adequate housing* (1991) [7].

The right to equality and non-discrimination

4.12 As the instrument determines the class of persons in relation to whom these participation requirements apply by reference to the age, educational attainment and economic status of the person,²⁰ and as 95 per cent of current compulsory participants in ParentsNext are women, and 18 per cent are Indigenous, the instrument engages and limits the right to equality and non-discrimination.

4.13 The right to equality and non-discrimination establishes an immediate obligation, and provides that everyone is entitled to enjoy their rights without discrimination of any kind and that all people are equal before the law and entitled without discrimination to equal and non-discriminatory protection of the law.²¹ The right to equality encompasses both 'direct' discrimination (where measures have a discriminatory intent) and 'indirect' discrimination (where measures have a discriminatory effect on the enjoyment of rights).²² Indirect discrimination occurs where 'a rule or measure that is neutral at face value or without intent to discriminate', exclusively or disproportionately affects people with a particular protected attribute (including race, gender and age).²³ The UN Committee on Economic, Social and Cultural Rights has observed that discrimination undermines the fulfilment of economic, social and cultural rights for a significant proportion of the world's population.²⁴ It has stated that eliminating discrimination in practice requires paying sufficient attention to groups of individuals which suffer historical or persistent

20 For example, 66 per cent of households whose main source of income was allowances were in poverty in 2017. See, Ben Phillips and Vivikth Narayanan, *Financial Stress and Social Security Settings in Australia*, Australian National University Centre for Social Research and Methods (April 2021), p. 6.

21 International Covenant on Civil and Political Rights, articles 2 and 26. Article 2(2) of the International Covenant on Economic, Social and Cultural Rights also prohibits discrimination specifically in relation to the human rights contained in the International Covenant on Economic, Social and Cultural Rights. See also UN Committee on Economic, Social and Cultural Rights, *General Comment 20: non-discrimination in economic, social and cultural rights* (2009) [7].

22 UN Human Rights Committee, *General Comment 18: Non-discrimination* (1989).

23 *Althammer v Austria*, UN Human Rights Committee Communication no. 998/01 (2003) [10.2]. The prohibited grounds of discrimination are race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Under 'other status' the following have been held to qualify as prohibited grounds: age, nationality, marital status, disability, place of residence within a country and sexual orientation. The prohibited grounds of discrimination are often described as 'personal attributes'.

24 UN Committee on Economic, Social and Cultural Rights, *General Comment 20: non-discrimination in economic, social and cultural rights* (2009) [1].

prejudice, and not merely comparing the formal treatment of individuals in similar situations.²⁵

4.14 International human rights law prohibits discrimination on a number of grounds, including race, colour, sex, and 'other status'. The UN Committee on Economic, Social and Cultural Rights has advised that the term 'other status' reflects the fact that the nature of discrimination varies according to context and evolves over time.²⁶ It has stated that these additional grounds 'are commonly recognized when they reflect the experience of social groups that are vulnerable and have suffered and continue to suffer marginalization'.²⁷ It has also set out examples of the types of other status which will be captured, including:

- a person's economic and social situation (individuals and groups of individuals must not be arbitrarily treated on account of belonging to a certain economic or social group or strata within society);
- place of residence (the exercise of rights should not be conditional on, or determined by, a person's current or former place of residence, such as whether an individual lives in an urban or a rural area); and
- a person's age.²⁸

Differential treatment of women

4.15 The UN Convention on the Elimination of All Forms of Discrimination Against Women recognises the particular risk of discrimination against women,²⁹ including with respect to the right to social security.³⁰ The UN Committee on the Elimination of All Forms of Discrimination Against Women has noted that the Convention 'guarantees women the equal recognition, enjoyment and exercise of all human rights and fundamental freedoms in the political, economic, social, cultural, civil, domestic or any

25 UN Committee on Economic, Social and Cultural Rights, *General Comment 20: non-discrimination in economic, social and cultural rights* (2009) [8].

26 UN Committee on Economic, Social and Cultural Rights, *General Comment 20: non-discrimination in economic, social and cultural rights* (2009) [27].

27 UN Committee on Economic, Social and Cultural Rights, *General Comment 20: non-discrimination in economic, social and cultural rights* (2009) [27].

28 UN Committee on Economic, Social and Cultural Rights, *General Comment 20: non-discrimination in economic, social and cultural rights* (2009).

29 Convention on the Elimination of all Forms of Discrimination against Women.

30 Convention on the Elimination of all Forms of Discrimination against Women, article 11(1)(e). Article 14 also recognises the particular barriers which may be faced by women in rural areas, and obligates States Parties to take all appropriate measures to ensure that such women can benefit from social security programs.

other field, irrespective of their marital status, and on a basis of equality with men'.³¹ It has further noted that the Convention obliges States to refrain from making laws and policies 'that directly or indirectly result in the denial of the equal enjoyment by women of their civil, political, economic, social and cultural rights'.³² The rights of women to equality and non-discrimination are engaged and appear to be limited by this measure because 95 per cent of the persons who are captured by the specified class of persons are women, indicating that it has an overwhelmingly disproportionate impact on women as opposed to men.

4.16 The UN Committee on Economic, Social and Cultural Rights has commented specifically on the right to both formal and substantive equality between men and women under international human rights law,³³ noting that women are often denied equal enjoyment of their human rights as a result of overt or covert discrimination,³⁴ and has stated that the enjoyment of human rights on the basis of equality between men and women must be understood comprehensively:

Guarantees of non-discrimination and equality in international human rights treaties mandate both de facto and de jure equality. De jure (or formal) equality and de facto (or substantive) equality are different but interconnected concepts. Formal equality assumes that equality is achieved if a law or policy treats men and women in a neutral manner. Substantive equality is concerned, in addition, with the effects of laws, policies and practices and with ensuring that they do not maintain, but rather alleviate, the inherent disadvantage that particular groups experience.³⁵

4.17 The UN Committee has noted the particular risk of discrimination against women in relation to the right to social security, because women typically have more unpaid domestic caring responsibilities:

States must review restrictions on access to social security schemes to ensure that they do not discriminate against women in law or in fact. In particular, States must bear in mind that, because of the persistence of

31 Committee on the Elimination of Discrimination against Women, *General Recommendation No. 28: The Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, CEDAW/C/GS/28 (16 December 2010) [4].

32 Committee on the Elimination of Discrimination against Women, *General Recommendation No. 28: The Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, CEDAW/C/GS/28 (16 December 2010) [9].

33 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 16: the equal right of men and women to the enjoyment of all economic, social and cultural rights* (2005).

34 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 16: the equal right of men and women to the enjoyment of all economic, social and cultural rights* (2005) [5].

35 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 16: the equal right of men and women to the enjoyment of all economic, social and cultural rights* (2005) [7].

stereotypes and other structural causes, women spend much more time than men in unpaid work. States should...ensure that schemes take account of such factors in the design of benefit formulas, for example by considering periods spent, especially by women, rearing children or taking care of adult dependants.³⁶

4.18 The former Special Rapporteur on extreme poverty and human rights, Ms Magdalena Sepúlveda Carmona, has likewise cautioned that the imposition of conditions on social welfare, particularly on the female head of household, has the potential to impede the enjoyment of human rights in multiple ways, and should therefore be the subject of careful consideration from a human rights perspective.³⁷

Disproportionate impact on Indigenous people

4.19 As 18 per cent of the total participants who have participated in ParentsNext to date are Indigenous (and 21 per cent of all ParentsNext participants at 31 May 2021), despite forming only 3.3 per cent of the overall population,³⁸ the measure has a disproportionate impact on Indigenous Australians. This engages the right to equality and non-discrimination. International human rights law recognises the particular risk of discrimination against Indigenous people.³⁹ It also establishes specific requirements regarding consultation where a measure will have a disproportionate impact on Indigenous peoples. Australia has an obligation to consult with Indigenous peoples in relation to actions which may affect them.⁴⁰ Free, prior and informed consent is a human rights norm grounded in the fundamental rights to self-determination and to be free from racial discrimination guaranteed by the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights

36 *Marcia Cecilia Trujillo Calero v. Ecuador*, UN Committee on Economic, Social and Cultural Rights, Communication No. 10/2015, E/C.12/63/D/10/2015 (26 March 2018) [13.4]. See also UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [32].

37 Magdalena Sepúlveda Carmona, Carly Nyst and Heidi Hautala, 'The Human Rights Approach to Social Protection', Report, Ministry for Foreign Affairs of Finland, 1 June 2012, p. 48.

38 Australian Bureau of Statistics, *Estimates and projections, Aboriginal and Torres Strait Islander Australians, 2006 to 2031*. ABS cat. no. 3238.0 (2019).

39 Department of Education, Skills and Employment, answer to question on notice IQ21-000071, 16 June 2021 (received 20 July 2021). See also, recent consideration of the particular risk of discrimination faced by Indigenous women: Special Rapporteur on the rights of indigenous peoples, *Report on Indigenous women and girls*, A/HRC/30/41 (2015).

40 The UN Human Rights Council has recently provided guidance on the right to be consulted, as part of its Expert Mechanism on the Rights of Indigenous Peoples, stating that 'states' obligations to consult with indigenous peoples should consist of a qualitative process of dialogue and negotiation, with consent as the objective' and that consultation does not entail 'a single moment or action but a process of dialogue and negotiation over the course of a project, from planning to implementation and follow-up'. See UN Human Rights Council, *Free, prior and informed consent: a human rights-based approach - Study of the Expert Mechanism on the Rights of Indigenous Peoples*, A/HRC/39/62 (2018) paras [15]-[16].

and the International Convention on the Elimination of All Forms of Racial Discrimination.⁴¹ Consultation should protect the right of Indigenous peoples to 'influence the outcome of decision-making processes affecting them', which is 'not a mere right to be involved in such processes or merely to have their views heard'.⁴² The principles contained in the United Nations Declaration on the Rights of Indigenous Peoples (the Declaration) are also relevant. The Declaration provides context as to how human rights standards under international law apply to the particular situation of indigenous peoples. For example, the Declaration recognises the right of indigenous families and communities to retain shared responsibility for the upbringing and well-being of their children, consistent with the rights of the child.⁴³ While the Declaration is not included in the definition of 'human rights' under the *Human Rights (Parliamentary Scrutiny) Act 2011*, it provides clarification as to how human rights standards under international law, including under the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, apply to the particular situation of indigenous peoples.⁴⁴

Intersecting forms of discrimination

4.20 International human rights law also recognises intersecting forms of discrimination. The UN Committee on Economic, Social and Cultural Rights has observed that some individuals (or groups of individuals) may face discrimination on more than one of the prohibited grounds, for example women belonging to an ethnic minority, stating that '[s]uch cumulative discrimination has a unique and specific impact on individuals and merits particular consideration and remedying'.⁴⁵ The UN Committee on the Elimination of All Forms of Discrimination Against Women likewise has advised that:

Intersectionality is a basic concept for understanding the scope of the general obligations of States parties contained in article 2 [of the Convention on the Elimination of All Forms of Discrimination Against Women]. The discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual

41 UN Human Rights Council, *Free, prior and informed consent: a human rights-based approach - Study of the Expert Mechanism on the Rights of Indigenous Peoples*, A/HRC/39/62 (2018) para [1].

42 UN Human Rights Council, *Free, prior and informed consent: a human rights-based approach - Study of the Expert Mechanism on the Rights of Indigenous Peoples*, A/HRC/39/62 (2018) paras [15]-[16].

43 UN Declaration on the Rights of Indigenous Peoples, preamble.

44 Parliamentary Joint Committee on Human Rights, *Report 4 of 2017* (9 May 2017) pp. 122-123.

45 UN Committee on Economic, Social and Cultural Rights, *General Comment 20: non-discrimination in economic, social and cultural rights* (2009) [17]. See also, UN Committee on Economic, Social and Cultural Rights, *General Comment 16: the equal right of men and women to the enjoyment of all economic, social and cultural rights* (2005) [5].

orientation and gender identity. Discrimination on the basis of sex or gender may affect women belonging to such groups to a different degree or in different ways to men. States parties must legally recognize such intersecting forms of discrimination and their compounded negative impact on the women concerned and prohibit them.⁴⁶

4.21 With respect to the particular vulnerability of Indigenous women, the Special Rapporteur on the rights of indigenous peoples, Ms Victoria Tauli Corpuz, has observed that:

Indigenous women experience a broad, multifaceted and complex spectrum of mutually reinforcing human rights abuses. That spectrum is influenced by multiple and intersecting forms of vulnerability, including patriarchal power structures; multiple forms of discrimination and marginalization, based on gender, class, ethnic origin and socioeconomic circumstances; and historical and current violations of the right to self-determination and control of resources.⁴⁷

4.22 The UN Committee on Economic, Social and Cultural Rights has explained that where a person possesses characteristics which make them particularly vulnerable to discrimination, any claim of discrimination requires careful consideration. In *Trujillo Calero v Ecuador*, it found that the violation of Ms Calero's right to social security was connected to her gender, and the fact that she has dedicated part of her life to unpaid domestic work.⁴⁸ It considered that, taken together, the applicant's gender and old age made her particularly vulnerable when compared with the general population. Because of this greater risk of discrimination, the UN Committee considered that 'particularly special or strict scrutiny is required in considering the question of possible discrimination'.⁴⁹ It took the same approach in *Rodriguez v Spain* regarding an allegation of social welfare discrimination by a prisoner with disability.⁵⁰ It stated that because this person had a disability and was in prison (and thereby deprived of their liberty), there was a greater risk of discrimination against them as compared to the

46 Committee on the Elimination of Discrimination against Women, *General Recommendation No. 28: The Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women*, CEDAW/C/GS/28 (16 December 2010) [28].

47 Ms Victoria Tauli Corpuz, *Report of the Special Rapporteur on the rights of indigenous peoples A/HRC/30/41* (6 August 2015) [5].

48 *Marcia Cecilia Trujillo Calero v. Ecuador*, UN Committee on Economic, Social and Cultural Rights, Communication No. 10/2015, E/C.12/63/D/10/2015 (26 March 2018) [19.1].

49 *Marcia Cecilia Trujillo Calero v. Ecuador*, UN Committee on Economic, Social and Cultural Rights, Communication No. 10/2015, E/C.12/63/D/10/2015 (26 March 2018) [19.2].

50 *Rodriguez v Spain*, UN Committee on Economic, Social and Cultural Rights, Communication No. 1/2013 E/C.12/57/D/1/2013 (20 April 2016).

general population by virtue of those characteristics, and stated that stricter scrutiny of possible discrimination against them was therefore required.⁵¹

4.23 In this context, because 95 per cent of participants are women, 18 per cent are Indigenous, 21 per cent are culturally and linguistically diverse, and 15 per cent experience disability,⁵² there are cohorts of participants in relation to whom this issue of intersecting characteristics arises. As such, stricter scrutiny of possible discrimination with respect to those cohorts is required.

When differential treatment will not be unlawful

4.24 Differential treatment (including the differential effect of a measure that is neutral on its face) will not constitute unlawful discrimination if the differential treatment is based on reasonable and objective criteria such that it serves a legitimate objective (one which, where an economic, social and cultural right is in question, is solely for the purpose of promoting the general welfare in a democratic society),⁵³ is rationally connected to that objective and is a proportionate means of achieving that objective (having regard also to the effects of the measure).⁵⁴

The right to privacy

4.25 By requiring ParentsNext participants to regularly engage in specified activities, and regularly report their participation in those activities, this measure engages and appears to limit the right to privacy.⁵⁵ The right to privacy prohibits unlawful and arbitrary interferences with an individual's privacy, family, correspondence or home.⁵⁶ The term 'arbitrary interference' is intended to guarantee that even interference provided for by law should be in accordance with the provisions, aims and objectives of the International Covenant on Civil and Political

51 *Rodriguez v Spain*, UN Committee on Economic, Social and Cultural Rights, Communication No. 1/2013 E/C.12/57/D/1/2013 (20 April 2016) [14.1].

52 Minister's response, received 12 March 2021.

53 International Covenant on Economic, Social and Cultural Rights, article 4.

54 UN Human Rights Committee, *General Comment 18: Non-Discrimination* (1989) [13] and UN Committee on Economic, Social and Cultural Rights, *General Comment 20: non-discrimination in economic, social and cultural rights* (2009) [13]. See also *Althammer v Austria*, UN Human Rights Committee Communication No. 998/01 (2003) [10.2].

55 In this regard the department advised that, each fortnight, a participant would be required to report their gross income and report their attendance at all the activities they had agreed to participate in during that period. Participants have an average of five activities in their plan over the course of the average 13 months of time spent in the program. See, Department of Education, Skills and Employment, answer to question on notice IQ21-000081, 16 June 2021 (received 20 July 2021), and answer to question on notice IQ21-000112, 25 June 2021 (received 20 July 2021).

56 International Covenant on Civil and Political Rights, articles 17 and 23. UN Human Rights Committee, *General Comment No. 16: Article 17* (1988) [3]–[4].

Rights and should be, in any event, reasonable in the particular circumstances.⁵⁷ This includes a requirement that the state does not arbitrarily interfere with a person's private and home life.⁵⁸ A private life is linked to notions of personal autonomy and human dignity. It includes the idea that individuals should have an area of autonomous development; a 'private sphere' free from government intervention and excessive unsolicited intervention by others. This is a right of immediate realisation.

The rights of the child

4.26 Children have special rights under human rights law taking into account their particular vulnerabilities. Under the Convention on the Rights of the Child, children have the right to benefit from social security and to a standard of living adequate for a child's physical, mental, spiritual, moral and social development.⁵⁹

4.27 States Parties are also required to ensure that, in all actions concerning children, the best interests of the child are a primary consideration.⁶⁰ This requires legislative, administrative and judicial bodies and institutions to systematically consider how children's rights and interests are or will be affected directly or indirectly by their decisions and actions.⁶¹ The child's best interests includes the enjoyment of the rights set out in the UN Convention on the Rights of the Child, and, in the case of individual decisions, 'must be assessed and determined in light of the specific circumstances of the particular child'.⁶²

4.28 The UN Committee on the Rights of the Child has explained that the expression 'primary consideration' means that the child's best interests must be given primacy, and 'may not be considered on the same level as all other considerations'.⁶³ It is a concept involving:

A substantive right: The right of the child to have his or her best interests assessed and taken as a primary consideration when different interests are being considered in order to reach a decision on the issue at stake, and the guarantee that this right will be implemented whenever a decision is to be

57 UN Human Rights Committee, *General Comment No. 16: Article 17* (1988) [4].

58 The UN Human Rights Committee further explains that this right is required to be guaranteed against all such interferences and attacks whether they emanate from State authorities or from natural or legal persons: *General Comment No. 16: Article 17* (1988).

59 Convention on the Rights of the Child, articles 26 and 27.

60 Convention on the Rights of the Child, article 3(1).

61 UN Committee on the Rights of Children, *General Comment 14 on the right of the child to have his or her best interest taken as primary consideration* (2013).

62 UN Committee on the Rights of the Child, *General comment 14 on the right of the child to have his or her best interests taken as a primary consideration* (2013) p. 3.

63 UN Committee on the Rights of the Child, *General comment 14 on the right of the child to have his or her best interests taken as a primary consideration* (2013); see also *IAM v Denmark*, UN Committee on the Rights of the Child Communication No.3/2016 (2018) [11.8].

made concerning a child, a group of identified or unidentified children or children in general...

A rule of procedure: Whenever a decision is to be made that will affect a specific child, an identified group of children or children in general, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned. Assessing and determining the best interests of the child require procedural guarantees. Furthermore, the justification of a decision must show that the right has been explicitly taken into account. In this regard, States parties shall explain how the right has been respected in the decision, that is, what has been considered to be in the child's best interests; what criteria it is based on; and how the child's interests have been weighed against other considerations, be they broad issues of policy or individual cases.⁶⁴

4.29 Professor Aoife Nolan, Professor of International Human Rights Law at the University of Nottingham and an international expert in the rights of the child, advised at the hearing that, in relation to the obligation to consider the best interests of the child in the context of the instrument under consideration:

This undoubtedly applies to a measure which, while focused on parents, will unquestionably impact on those parents' children also. Given the potential impacts of scheme penalties on children's rights, your committee will need to consider very carefully whether in fact children's best interests are being secured by the instrument—are they a primary consideration in this context?⁶⁵

4.30 The statement of compatibility to the instrument notes that the child's right to have their best interests taken as a primary consideration is engaged. It states that the intention of ParentsNext is to help disrupt intergenerational disadvantage and reduce the risk of long-term welfare dependency, notes that the program will connect parents (and children) with support services, and notes that non-compliance with ParentsNext does not impact the receipt of Family Tax Benefit payments. The department also submitted that 'parents' labour market status has a profound effect on children', and that research has shown that one of the most important factors which can contribute to child poverty is living with parents who are jobless and that joblessness is associated with intergenerational disadvantage and impacts on children's development. The department also submitted that 'ParentsNext improves the work and study outcomes for participants, thereby also directly benefitting participants' children and their development'.⁶⁶

64 UN Committee on the Rights of the Child, *General comment 14 on the right of the child to have his or her best interests taken as a primary consideration* (2013) [6].

65 Professor Aoife Nolan, Professor of International Human Rights law and Co-Director of the Human Rights Law Centre, University of Nottingham, *Hansard*, 25 June 2021, p. 58.

66 Department of Education, Skills and Employment, answer to question on notice IQ21-000065, 16 June 2021 (received 20 July 2021).

4.31 It may be inferred from this information that what has been considered to be in the child's best interests is the achievement of the long-term broad-reaching social and economic outcomes of reducing welfare dependency and intergenerational disadvantage. However, as set out in chapter 3, many recipients of parenting payment would appear to experience significant financial hardship (meaning that any payment sanctions may severely limit the ability of parents to meet the basic needs of themselves and their children). For some children in that cohort, there would appear to be a significant risk that the measure may therefore have the effect of meaning that they are unable to realise their rights to benefit from the provision of social security, or to an adequate standard of living. It is not clear how the matters which appear to have been considered to be in the child's best interests may have been weighed against these other considerations. As such, a number of questions remain as to the extent to which the measure complies with the obligation to consider the best interests of the child as a primary consideration.

4.32 The UN Committee on Economic, Social and Cultural Rights has emphasised that the provision of benefits (in the form of cash or services) is crucial for realising the rights of child.⁶⁷ The Convention on the Rights of the Child likewise provides that the underlying purpose of any such assistance is to ensure an adequate standard of living for families and children,⁶⁸ and article 27(3) of the Convention requires the state to assist parents or carers of children, through social assistance and support, to realise a child's right to an adequate standard of living. The UN Committee on Economic, Social and Cultural Rights has previously expressed concern about inadequate support for single-parent families undermining the family unit and its ability to care for dependent children.⁶⁹ It has recommended that financial and other supports be put in place to assist parents in their parental role, and assist in maintaining connections with their children (for example, where there is a risk of children entering foster care).⁷⁰ Professor Aoife Nolan gave evidence that depending on the severity of the impact of any reduction, suspension or cancellation of payments on the position of children, the measure may also have implications for the child's right to survival and development, as set out in article 6 of the UN Convention on the Rights of the Child.⁷¹ In addition,

67 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [18].

68 See also Convention on the Rights of the Child, article 27(3).

69 See, UN Committee on Economic, Social and Cultural Rights, *Concluding observations: Iceland*, E/C.12/1/Add.89 (26 June 2003), [16]; *San Marino*, E/C.12/SMR/CO/4 (4 January 2008) [16].

70 See, for example, UN Committee on Economic, Social and Cultural Rights, *Concluding Observations: Canada*, E/C.12/CAN/CO/4 E/C.12/CAN/CO/5 (22 May 2006) [56]; *Concluding observations: Iceland*, E/C.12/1/Add.89 (26 June 2003), [26]; and *Concluding observations: Norway*, E/C.12/1/Add.109 (23 June 2005) [32].

71 Professor Aoife Nolan, Professor of International Human Rights law and Co-Director of the Human Rights Law Centre, University of Nottingham, *Hansard*, 25 June 2021, p. 58.

she stated that the measure has intersecting implications with respect to the child's right to non-discrimination:

[I]f there is evidence that the linking of welfare payments to the performance of certain activities by welfare recipient parents is having a disproportionate impact on certain groups of children, for instance, Indigenous children or children in sole parent families, this raises important issues in terms of a child's right to non-discrimination, which is set out in article 2 of the UN Convention on the Rights of the Child. Very importantly...the convention is clear that a child must not be discriminated against on the basis of their parents' status...So in this case, the parents' economic and social situation cannot be the basis for discrimination against a child.⁷²

4.33 Professor Nolan also submitted that, when considering whether limitations with respect to the rights of the child may be permissible, the following approach is required:

In its 2020 statement on COVID, the [UN Committee on the Rights of the Child] addressed the question of limitations on rights, in this instance, motivated by public health in a crisis situation. The committee said that 'international human rights law exceptionally permits measures that may restrict the enjoyment of certain human rights'. However, it made clear that such restrictions must be imposed only when necessary, they must be proportionate and they must be kept to an absolute minimum.⁷³

Permissible limitations on human rights

4.34 International human rights law recognises that reasonable limits may be placed on most rights and freedoms – there are very few absolute rights which can never be legitimately limited.⁷⁴ All other rights may be limited provided the limitation meets certain standards. This reflects the general understanding that States Parties have the power to regulate the exercise of human rights, but not extinguish them.⁷⁵

72 Professor Aoife Nolan, Professor of International Human Rights law and Co-Director of the Human Rights Law Centre, University of Nottingham, *Hansard*, 25 June 2021, p. 58.

73 Professor Aoife Nolan, Professor of International Human Rights law and Co-Director of the Human Rights Law Centre, University of Nottingham, *Hansard*, 25 June 2021, p. 58.

74 Some human rights obligations are absolute under international law, that is, a State cannot lawfully limit the enjoyment of an absolute right in any circumstances. For example, the right not to be subjected to torture, cruel, inhuman or degrading treatment or punishment may never be permissibly limited.

75 See, Nihal Jayawickrama, *The Judicial Application of Human Rights Law: National, Regional and International Jurisprudence*, Cambridge University Press, Cambridge, 2002, pp. 184–185.

In this context, the imposition of a penalty (in the form of a reduction, suspension or cancellation) of a social welfare payment can be regarded as a limitation.⁷⁶

4.35 In general, human rights may be subject to permissible limitations where the limitation:

- (a) pursues a legitimate objective (one that is necessary and addresses an issue of public or social concern that is pressing and substantial enough to warrant limiting the right);
- (b) is rationally connected to (that is, likely to achieve) that objective; and
- (c) is a proportionate means of achieving that objective.

4.36 With respect to proportionality, some of the matters it is necessary to consider are: whether a proposed limitation is sufficiently circumscribed; is flexible enough to treat different cases differently, and is accompanied by sufficient safeguards; whether any less rights restrictive alternatives could achieve the same stated objective; and whether there is the possibility of oversight and the availability of review.

4.37 The application of this general test is further qualified by specific requirements that apply to economic, social and cultural rights, such as the rights to social security and an adequate standard of living.

Legitimate objectives for limiting economic, social and cultural rights

4.38 With respect to a legitimate objective, the International Covenant on Economic, Social and Cultural Rights establishes a specific restriction on the reasons for, and the manner in which, economic, social and cultural rights may be limited. Article 4 of this Convention establishes that States Parties may limit economic, social and cultural rights only insofar as this may be compatible with the nature of those rights, and 'solely for the purpose of promoting the general welfare in a democratic society'.⁷⁷ This has the effect that, applying the general limitation test at paragraph [4.35], the only legitimate objective in the context of economic, social and cultural rights is a limitation for the 'promotion of general welfare'. In addition, the UN Committee on Economic, Social and Cultural Rights has advised that:

[T]he benefits of the limitation in promoting the general welfare must outweigh the impacts on the enjoyment of the right being limited. The more serious the impact on the [individual's] Covenant rights, the greater the scrutiny that must be given to the grounds invoked for such a limitation.⁷⁸

4.39 As to when a limitation will be compatible with the nature of economic, social and cultural rights, the UN Committee on Economic, Social and Cultural Rights appears

76 Professor Aoife Nolan, Professor of International Human Rights law and Co-Director of the Human Rights Law Centre, University of Nottingham, *Hansard*, 25 June 2021, p. 57.

77 International Covenant on Economic, Social and Cultural Rights, article 4.

78 *Pardo v Spain*, UN Committee on Economic, Social and Cultural Rights, Communication No. 52/2018, E/C.12/67/D/52/2018, [9.4].

to indicate that minimum essential levels and corresponding minimum core obligations under each right represent the nature of the rights.⁷⁹ That is, even if a limitation were for the promotion of general welfare, if it was regarded as constituting a non-fulfilment of the minimum core obligations associated with economic, social and cultural rights, then it would go against the nature of those rights.⁸⁰ The term 'general welfare' is to be interpreted restrictively in this context, and should not be taken to impliedly include reference to public order, public morality and respect for the rights and freedoms of others.⁸¹ Rather, 'general welfare' refers primarily to the economic and social well-being of the people and the community as a whole, meaning that a limitation on a right which disproportionately impacts a vulnerable group may not meet the definition of promoting 'general welfare'.⁸² In this regard, the UN Committee on Economic, Social and Cultural Rights has indicated that references to broad concepts like 'economic development' cannot easily justify limitations of economic, social and cultural rights, particularly noting that policies directed towards economic development often limit these rights of certain individuals or groups without 'promoting general welfare'.⁸³

Permissible conditions on social welfare payments

4.40 UN bodies have established specific guidance with respect to the permissibility of welfare conditionalities and associated sanctions. This guidance indicates that a welfare sanction will only be permissible under international human rights law where

79 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 3: the nature of states parties' obligations* (14 December 1990) E/1991/23(Supp) [10].

80 For further discussion see, Amrei Muller, 'Limitations to and derogations from economic, social and cultural rights', *Human Rights Law Review*, vol. 9, no. 4, 2009, pp. 580–581.

81 Amrei Muller, 'Limitations to and derogations from economic, social and cultural rights', *Human Rights Law Review*, vol. 9, no. 4, 2009, p. 573. See also, Phillip Alston and Gerard Quinn, 'The Nature and Scope of States Parties' Obligations under the International Covenant on Economic, Social and Cultural Rights', *Human Rights Quarterly*, vol. 9 no. 2, 1987, pp. 201–202.

82 Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, June 1986 [52]. See also, Amrei Muller, 'Limitations to and derogations from economic, social and cultural rights', *Human Rights Law Review*, vol. 9, no. 4, 2009, p. 573; Erica-Irene A Daes, *The Individual's Duties to the Community and the Limitations on Human Rights and Freedoms under Article 29 of the Universal Declaration of Human Rights, Study of the Special Rapporteur of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities*, E/CN.4/Sub.2/432/Rev.2 (1983), pp. 123–4.

83 See, for example, UN Committee on Economic, Social and Cultural Rights, *Concluding observations: Egypt* (23 May 2000) E/C.12/1/Add.44 [10]; and *Concluding observations: Kyrgyzstan* (1 September 2000) E/C.12/1/Add.49 [29]. In addition, comparative jurisprudence from the European Court of Human Rights would appear to indicate that where a limitation relates to a right which is vital for a person's immediate survival (such as the right to an adequate standard of living), the more a state will be required to demonstrate that there is a pressing social need justifying that interference. See, for example, *Dudgeon v United Kingdom*, European Court of Human Rights (1981) [52].

it does not deprive an individual of their minimum essential level of benefits (as would ordinarily cover food, clothing, housing, water and sanitation, or other rights as appropriate), or deprive them of a benefit on a discriminatory basis.⁸⁴ Once this threshold has been exceeded, sanctions will no longer be permissible.

4.41 In this regard, the former Special Rapporteur on extreme poverty and human rights, Ms Magdalena Sepúlveda Carmona, has advised that:

Under international human rights law, States have an obligation to immediately meet minimum essential levels of the rights of food, health, housing, education and social security. The enjoyment of these rights by all individuals is not conditional on the performance of certain actions or the meeting of requirements. Rather, these are inherent rights which are essential to the realisation of human dignity. In this context, **non-compliance with conditionalities attached to social protection programmes must not result in the exclusion of beneficiaries from programmes and services which are essential to their enjoyment of minimum essential levels of basic human rights.** The imposition of conditionalities, therefore, should be analysed with respect to the overall set of obligations of the State and the need to meet minimum essential levels of economic, social and cultural rights.⁸⁵

4.42 Professor Beth Goldblatt, an expert in the right to social security at the University of Technology Sydney, gave evidence that under international human rights law, conditional social security is suspect because it raises questions of consistency with respect to the nature of the right:

Social security is an entitlement that attaches as of right, just as medical care or education does. So attaching conditions to it sends a message that it is not a prerogative of citizenship, available to anyone who needs it, but something that can be withheld as a policy lever to change behaviour.⁸⁶

4.43 As noted above at paragraph [4.9], the right to social security requires that benefits must be adequate in amount and duration in order that everyone may realise their rights to family protection and assistance, an adequate standard of living and adequate access to health care.⁸⁷ States Parties are obliged to monitor the adequacy of benefits to ensure that beneficiaries can afford the goods and services they require

84 See, *F. H. Zwaan-de Vries v. the Netherlands*, UN Committee on Economic, Social and Cultural Rights, Communication No. 182/1984 (9 April 1987).

85 Magdalena Sepúlveda Carmona, Carly Nyst and Heidi Hautala, 'The Human Rights Approach to Social Protection' (Report, Ministry for Foreign Affairs of Finland) 1 June 2012, p. 49 [emphasis added].

86 Professor Beth Goldblatt, *Hansard*, 25 June 2021, p. 43.

87 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [22].

to realise their other economic, social and cultural rights.⁸⁸ The UN Committee on Economic, Social and Cultural Rights has also highlighted that 'social protection floors'—which call for a set of basic social security guarantees that ensure universal access to essential health services and basic income security—are a core obligation, without which economic and social rights are rendered meaningless.⁸⁹ In this regard, it has stated that welfare conditionalities will only be compatible with the right to social security where they are reasonable, proportionate and transparent, stating: 'the withdrawal, reduction or suspension of benefits should be circumscribed, based on grounds that are reasonable, subject to due process, and provided for in national law'.⁹⁰ It has stated that '[u]nder no circumstances should an individual be deprived of a benefit on discriminatory grounds or of the minimum essential level of benefits'.⁹¹

4.44 The UN Committee on Economic Social and Cultural Rights has also advised that the minimum essential level of benefits must enable individuals and families to 'acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education'.⁹² In further elucidating the meaning of a minimum essential level of benefits, the UN Committee has referred to a range of threshold questions. It has stated that benefits must give recipients an

88 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [22].

89 UN Committee on Economic, Social and Cultural Rights, *Social protection floors: an essential element of the right to social security and of the sustainable development goals* (15 April 2015) E/C.12/2015/1 [7]–[10].

90 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [24]. The committee has also stated that sanctions in relation to social security benefits should be used proportionately and be subject to prompt and independent dispute resolution mechanisms. See, UN Committee on Economic, Social and Cultural Rights, *Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland* (14 July 2016) E/C.12/GBR/CO/6 [41].

91 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [78]. This approach has also been echoed in the European context. The European Committee of Social Rights has stated that the European Social Charter requires that 'reducing or suspending social assistance benefits can only be in conformity with the Charter if it does not deprive the person of his/her means of subsistence'. European Committee of Social Rights Conclusions, decision of 06 December 2017, Norway, 2013/def/NOR/13/1/EN.

92 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [59(a)]. There are varying perspectives as to what sum of money would be required to meet these essential needs in Australia today. In 2017–2018, the Australian Council of Social Service (ACOSS) stated that the poverty line for a single adult in Australia was \$457 per week, and for a couple with two children it was \$960 per week. See, ACOSS and University of New South Wales, *Poverty in Australia 2020* (2020) p. 9.

'adequate', 'reasonable', or 'decent' standard of living.⁹³ It has referred to the need for benefits not to fall below the 'minimum income poverty line',⁹⁴ or the need for benefits to be sufficient for recipients to 'combat poverty'.⁹⁵ The UN Committee has also raised concerns about social welfare benefits which fall 'far below the minimum level of subsistence',⁹⁶ and has, on occasion, made determinations that specified sums of money would not enable an adequate standard of living in a particular country.⁹⁷ However, it has more generally required States Parties to develop their own social security 'indicators' against which to assess the adequacy of social security benefits.⁹⁸

93 See, UN Committee on Economic, Social and Cultural Rights, *Concluding observations: Italy*, E/C.12/1/Add.103 (14 December 2004) [52]; *Concluding observations: Hong Kong*, E/C.12/1/Add.58 (21 May 2001) [39]; and *Concluding observations: China*, E/C.12/1/Add.107 (13 May 2005) [84]

94 UN Committee on Economic, Social and Cultural Rights, *Concluding observations: Ireland*, E/C.12/1/Add.35 (14 May 1999) [13].

95 UN Committee on Economic, Social and Cultural Rights, *Concluding observations: Netherlands Antilles*, E/C.12/NLD/CO/3/Add.1 (31 January 2008) [16].

96 UN Committee on Economic, Social and Cultural Rights, *Concluding observations: Georgia*, E/C.12/1/Add.83 (19 December 2002) [17] and [35]; and *Concluding observations: Latvia*, E/C.12/LVA/CO/1 (7 January 2008) [45]. The European Committee of Social Rights has also stated that to be considered adequate, a benefit should exceed the minimum subsistence level. See, European Committee of Social Rights, *Statement of Interpretation: Article 12, Conclusions XVI-1* (30 May 2003).

97 See, UN Committee on Economic, Social and Cultural Rights, *Concluding observations: Estonia*, E/C.12/1/Add.85 (29 November 2002) [17]; and *Concluding observations: Morocco*, E/C.12/MAR/CO/3 (4 September 2006) [22]. In addition, the International Labour Organization has established specified classes of person in relation to whom a required level of support must be provided (see, *Convention No. 102 on Social Security (Minimum Standards)* adopted 1952). Note, however, that Australia has not ratified this convention.

98 See, UN Committee on Economic, Social and Cultural Rights, *Guidelines on treaty-specific documents to be submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights*, E/C.12/2008/224 (March 2009). The Australian Institute of Health and Welfare (AIHW) monitors Australia's welfare indicators. In relation to the welfare system, these indicators consider: housing, employment and social support outcomes; and an assessment of access to, responsiveness and effectiveness of relevant services. See, AIHW, *Australia's Welfare indicators*, <https://www.aihw.gov.au/reports-data/indicators/australias-welfare-indicators> [accessed 9 June 2021].

4.45 The UN Committee on Economic, Social and Cultural Rights has also stated that qualifying conditions for social welfare payments must be reasonable.⁹⁹ Several factors may influence an assessment of whether conditions are reasonable in the given context. For example, the UN Commission on the Status of Women has urged States Parties to assess the need for (and promote the revision of) conditionalities to avoid reinforcing gender stereotypes and exacerbating women's unpaid work; and ensure that any welfare conditionalities are adequate, proportional and non-discriminatory and that non-compliance does not lead to punitive measures that exclude women and girls who are marginalised or in vulnerable situations.¹⁰⁰ In *Trujillo Calero v Ecuador*, the UN Committee on Economic, Social and Cultural Rights considered the case of a mother who had made voluntary payments, as she was not in the workforce while raising her three children, to a scheme in order to qualify for a retirement payment. On applying for a retirement payment, Ms Calero was advised that as she had missed making some contributory payments this had disqualified her from the scheme.¹⁰¹ The UN Committee on Economic, Social and Cultural Rights observed that even if it were assumed that the aim of this disqualification process was to protect the resources of the social security system (a valid and legitimate objective), the State Party had not demonstrated that this was the only way to achieve this purpose, and that there were no alternative measures that did not seriously affect the woman's access to a pension.¹⁰² It stated that the State Party was obliged to take the necessary measures to ensure that penalties imposed were proportionate, and did not in practice constitute an obstacle to obtaining a retirement pension.¹⁰³ It also considered that the State Party had failed to provide sufficient detail as to the reasonableness and proportionality of the eligibility requirements for voluntary

99 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [24]. Professor Ben Saul similarly highlighted that the International Labour Organization has stated that conditions imposed on social security should be restricted, and advised that 'care is required in the design and implementation of any active labour market measures to ensure that they don't restrict effective access to social security benefits through stricter controls on beneficiaries and their entitlements'. See, *Hansard*, 25 June 2021, p. 42. A similar approach has also been taken in Europe. See, European Committee of Social Rights Conclusions, decision of 06 December 2017, Norway, 2013/def/NOR/13/1/EN; and decision of 30 June 2006, Estonia, 2006/def/EST/13/1/EN.

100 UN Commission on the Status of Women, *Social protection systems, access to public services and sustainable infrastructure for gender equality and the empowerment of women and girls – agreed conclusions* (25 March 2019) E/CN.6/2019/L.3 [47(mm)].

101 *Marcia Cecilia Trujillo Calero v. Ecuador*, UN Committee on Economic, Social and Cultural Rights, Communication No. 10/2015, E/C.12/63/D/10/2015 (26 March 2018).

102 *Marcia Cecilia Trujillo Calero v. Ecuador*, UN Committee on Economic, Social and Cultural Rights, Communication No. 10/2015, E/C.12/63/D/10/2015 (26 March 2018) [17.1].

103 *Marcia Cecilia Trujillo Calero v. Ecuador*, UN Committee on Economic, Social and Cultural Rights, Communication No. 10/2015, E/C.12/63/D/10/2015 (26 March 2018) [23(c)].

affiliation (or the conditions for continued affiliation) in the case of women engaged in unpaid domestic work.¹⁰⁴

4.46 In *Djazia v Spain*, the UN Committee on Economic, Social and Cultural Rights considered the right to housing (a dimension of the right to an adequate standard of living) in the context of a forced eviction without the provision of alternative accommodation. It stated that:

States parties, with a view to rationalizing the resources of their social services, may set criteria or conditions that applicants must satisfy in order to receive social services. These conditions, however, must be reasonable and very carefully designed so as to prevent not only any stigmatization but also that the mere behaviour of a person in need of alternative housing be used to justify denying his or her application. In addition, the conditions must be communicated in a transparent, timely and complete manner to the applicant. Furthermore, it should be taken into account that the lack of housing is often the result of structural problems, such as high unemployment or systemic patterns of social exclusion, which it is the responsibility of the authorities to resolve through an appropriate, timely and coordinated response, to the maximum of their available resources.¹⁰⁵

4.47 UN bodies have made specific observations with respect to welfare conditionalities and sanctions in Australia. The UN Committee on Economic, Social and Cultural Rights has expressed concern about conditionalities such as mutual obligations in Australia's social security system on the basis that they may have a punitive effect on disadvantaged and marginalised families, women and children (including Indigenous families).¹⁰⁶ It has recommended that Australia review its

104 *Marcia Cecilia Trujillo Calero v. Ecuador*, UN Committee on Economic, Social and Cultural Rights, Communication No. 10/2015, E/C.12/63/D/10/2015 (26 March 2018) [19.5].

105 *Djazia and Bellili v Spain*, UN Committee on Economic, Social and Cultural Rights, Communication No. 5/2015, E/C.12/61/D/5/2015 (21 July 2017) [17.2]. See also Report of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona, *Mission to Timor-Leste, Addendum, A/HRC/20/25/Add.1* (24 May 2012) [76]–[79]. In this case, a local conditional cash transfer programme targeting female-headed households in Timor-Leste was found to have not been implemented based on sufficient research and needs assessments of the local context. The Special Rapporteur considered that while evidence from other countries suggested that such a program could achieve health and education outcomes, it was not clear that the policy would translate well in that local context, including because of the specific vulnerabilities of people living in poverty in Timor-Leste. They considered that the imposition of conditionalities could undermine the enjoyment of human rights and found that this raised questions as to the reasonableness of the eligibility criteria.

106 UN Committee on Economic, Social and Cultural Rights, *Concluding observations on Australia*, E/C.12/AUS/CO/4 (12 June 2009) [20]. It also expressed concern that the social welfare system does not ensure universal coverage and that certain benefits do not provide a sufficient sum to constitute effective support. See also, *Concluding observations on the fifth periodic report of Australia* E/C.12/AUS/CO/5 (11 July 2017) [31], and Professor Beth Goldblatt, *Submission 15*, p. 4.

existing and envisaged conditionalities for eligibility to social assistance and unemployment benefits and penalties for non-compliance, and ensure that all beneficiaries receive adequate benefits, without discrimination.¹⁰⁷ Former Special Rapporteur on extreme poverty and human rights, Professor Phillip Alston, has likewise expressed concern regarding a proposal for Australian welfare recipients to undergo drug testing in order to be eligible to receive income support. He raised concerns as to a lack of evidence that such a conditionality would achieve the objectives of the measure (including to decrease use of such substances, community harms, or rates of income support), and noted evidence indicating that the removal of social welfare payments could lead to other harms (including increases in poverty, homelessness and crime).¹⁰⁸ In addition, following a visit to the United Kingdom, Professor Alston assessed their Universal Credit system of social welfare, criticising the imposition of strict conditions enforced by sanctions, and arguing that there is no clear evidence that blunt and harsh sanctions help individuals move closer to work.¹⁰⁹

Human rights assessment of the instrument

Minimum core obligations

4.48 As noted above, Australia has an immediate obligation to satisfy certain minimum aspects of the rights to social security,¹¹⁰ meaning that it is required to ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education.¹¹¹ The UN Committee on Economic, Social and Cultural Rights has stated that '[u]nder no circumstances should an individual be deprived...of the minimum essential level of benefits'.¹¹²

4.49 A range of evidence (set out from paragraph [3.92] to [3.97]) was adduced as to both the underlying economic precarity of a number of parenting payment recipients, and the inability of some participants to meet their basic needs (including paying for food, rent and medical appointments) where their payments were

107 UN Committee on Economic, Social and Cultural Rights, *Concluding observations on the fifth periodic report of Australia* (11 July 2017) E/C.12/AUS/CO/5 [32(c)].

108 Professor Philip Alston, Special Rapporteur on extreme poverty and human rights, *Correspondence to Australia* (17 October 2017) p. 15.

109 Professor Philip Alston, Special Rapporteur on extreme poverty and human rights, *Visit to the United Kingdom of Great Britain and Northern Ireland* (23 April 2019) A/HRC/41/39/Add.1 [57].

110 See, UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [40].

111 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [59].

112 UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [78].

suspended, reduced or cancelled. In addition, (as set out from paragraphs [3.98] to [3.101]) it appears that no formal or informal assessment of a person's capacity to meet their basic needs (or those of their children) is undertaken before their parenting payment is suspended, reduced or cancelled. Consequently, questions arise as to whether there are sufficient safeguards in place before payments are suspended, reduced or cancelled to ensure that a payment penalty does not cause a person to be unable to meet their immediate minimum essential needs. This raises questions as to the extent to which the measure satisfies the minimum core obligations associated with the rights to social security and an adequate standard of living.

Legitimate objective

4.50 The statement of compatibility accompanying the instrument states that the objective behind the ParentsNext program is to 'encourage and assist eligible parents who are in receipt of parenting payment and have young children to identify and make progress towards achieving their education and employment goals through participation in activities and connecting to local services'.¹¹³ It states that this is a legitimate objective because the attainment of educational qualifications and skills that support undertaking work assists parents to find employment when their children reach school age and reduces the risk of long-term poverty and welfare dependency for themselves and their children.¹¹⁴ Ms Janine Pitt, First Assistant Secretary of the Employment Programs and Activation Division with the Department of Education, Skills and Employment, further gave evidence that:

The overarching objectives for ParentsNext are to assist participants in their preparations to enter or re-enter the workforce; to reduce joblessness and intergenerational welfare dependency; to increase female labour force participation; and to help close the gap in Indigenous employment.¹¹⁵

4.51 As set out at paragraph [4.38], economic, social and cultural rights may be permissibly limited only insofar as this may be compatible with the nature of those rights, and 'solely for the purpose of promoting the general welfare in a democratic society'. The objective of specifying a class of persons in relation to whom participation requirements apply in order to remain qualified for parenting payment (currently requiring that they participate in the ParentsNext program) would appear likely to constitute a legitimate objective for the purposes of international human rights law. This is because facilitating opportunities for education and pre-employment for parents (including with limited educational achievements) may assist in promoting the social and economic wellbeing of those persons, as well as of society as a whole.

113 Statement of compatibility, p. 9.

114 Statement of compatibility, p. 9.

115 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 47. See also the *Submission 8*, p. 12.

Rational connection

4.52 The instrument specifies a cohort of persons in relation to whom participation requirements apply in order to qualify for parenting payment. Those participation requirements currently require those persons to participate in the ParentsNext program. The instrument would clearly appear to be effective to require persons to participate in the ParentsNext program. Further, it would also appear that participation in individual activities under a participation plan may be effective to assist participants in undertaking activities related to education and preparation for employment. As the department noted, more than 72,000 parents who have participated in ParentsNext have commenced education and 38,500 have commenced employment.¹¹⁶

4.53 However, some questions do remain as to the extent to which participation in those activities may itself be effective to achieve some of the stated objectives of the measure, including to: reduce the risk of long-term poverty and welfare dependency for participants and their children; reduce joblessness and intergenerational welfare dependency; increase female labour force participation; and help close the gap in Indigenous employment. In this regard, it is noted that some concerns were raised by submitters and witnesses as to participants being required to participate in activities which did not appear to have a clear connection to employment or education (see Chapter 3 paragraph [3.15]). Limited detailed evidence was adduced by the department as to the types of employment and education outcomes achieved by former ParentsNext participants, and the establishment of a casual nexus between participation in ParentsNext and any such outcomes (for example, participation in a course of study, and subsequent employment in that field). In particular, the department has advised that it is currently undertaking its own evaluation of the 2018-2021 national expansion of ParentsNext, but this has not been completed,¹¹⁷ meaning that it is not clear how the results of that evaluation will inform the operation of the program. Further, the department has advised that no independent evaluations of ParentsNext have been conducted, nor is there an intention to do so.¹¹⁸ This raises concerns as to the depth and independence of the evidence-base on which the department has relied in order to establish the extent to which the ParentsNext program is effective to achieve its stated objectives. Further, it is noted that some submitters raised concerns that some of the employment opportunities being secured subsequent to participation in ParentsNext were predominantly low-paid, casual and insecure jobs, which may not be effective to address cycles of disadvantage (see

116 Department of Education, Skills and Employment, *Submission 8*, p. 5.

117 Department of Education, Skills and Employment, answer to question on notice IQ21-000072, 16 June 2021 (received 20 July 2021).

118 Department of Education, Skills and Employment, answer to question on notice IQ21-000072, 16 June 2021 (received 20 July 2021).

Chapter 3, paragraph [3.12]).¹¹⁹ As such, it does not appear that it has been established that specifying the class of persons in the instrument to be subject to participation requirements, is rationally connected to the stated objectives of the ParentsNext program.

Proportionality

4.54 In assessing the proportionality of a limitation on human rights, it is necessary to consider a number of matters, including whether the limitation is sufficiently circumscribed, is flexible enough to treat different cases differently, and is accompanied by sufficient safeguards; whether any less rights restrictive alternatives could achieve the same stated objective; and whether there is the possibility of oversight and the availability of review.

4.55 A further consideration is the extent of any interference with human rights. The greater the interference, the less likely the measure is to be considered proportionate. It is noted that for some ParentsNext participants, compulsory participation in the program will not limit their rights to social security and an adequate standard of living, particularly if their payments are never affected by a payment suspension or other penalty. However, it is noted that there is also a cohort of participants with very limited financial means, living in sometimes severe economic precarity. As such, there would appear to be a considerable risk that for a cohort of ParentsNext participants, any loss of parenting payment could have significant impacts on their ability to meet their basic needs. It is also noted that 55,000 (or one-third of all participants) have incurred a total of 159,000 payment suspensions for an average of five days, and 1,223 participants have had their payments cancelled because they

119 There is also international evidence which raises similar concerns. See: David Card, Jochen Kluge and Andrea Weber, 'What works? A meta analysis of recent active labour market program evaluations', *Journal of European Economic Association*, vol. 16, no. 3, 2018; Ruud Gerards and Riccardo Welters, 'Liquidity Constraints, Unemployed Job Search and Labour Market Outcomes' *Oxford bulletin of economics and statistics*, vol. 82, 2020, p. 625; Gerard Van Den Berg and Bas Van der Klaauw, 'Counseling and Monitoring of Unemployed Workers: Theory and Evidence from a controlled Social Experiment', *International Economic Review*, vol. 47, no. 3, 2006, pp. 895–936; Gerard Van den Berg and Johan Vikström, 'Monitoring Job Offer Decisions, Punishments, Exit to Work, and Job Quality', *Scandinavian Journal of Economics*, vol. 116, no. 2, 2014, pp. 284–334; Patrick Arni, Rafael Lalive and Jan van Ours, 'How Effective Are Unemployment Benefit Sanctions? Looking Beyond Unemployment Exit', *Journal of Applied Econometrics*, vol. 28, 2013, pp. 1153–1178; Joshua Rowntree Foundation, *Sanctions within conditional benefits systems: a review of evidence*, 2010; John David Jordan, 'Welfare grunTERS or workfare monsters? An empirical review of the operation of two UK 'work programme' centres', *Journal of Social Policy*, vol. 47, no. 3, 2017, pp. 583–601; and OECD, *Employment Outlook 2015 – Activation policies for more inclusive labour markets*, 2015; Colin Lindsay, Sarah Pearson, Elaine Batty, Anne Marie Cullen and Will Eadson, 'Empowering Lone Parents to Progress towards Employability', *Journal of Social Policy*, 2021, pp. 1–20; and Ann Green and Chris Hasluck, 'Action to reduce worklessness: What works?' *Local Economy*, vol. 24, no. 1, 2009, pp. 28–37.

did not re-engage with the program after a 28-day suspension.¹²⁰ In addition, it is noted that a wide range of evidence was adduced as to the harms experienced by a number of participants (in terms of being unable to afford to pay for food or rent). This would appear to indicate both that: there is a cohort of persons for whom loss of their social welfare payment (even for a short period of time) would have significant consequences for their ability to meet their basic needs and those of their children; and for members of that cohort this impact can be severe (including requiring persons to seek emergency charity support, emergency loans, and advocacy support from community groups).¹²¹ In addition, it is noted that a wide range of evidence was adduced as to the harm to the mental health and wellbeing of participants whose payments have been affected; particular harms and risks of harm to participants who have experienced domestic violence (including an increased risk of returning to a violent partner due to financial need); and harms and risks of harm to children (including the potential for financial hardship causing negative effects on physical, emotional and cognitive development).¹²² The existence of these further harms (and the risks of those harms manifesting) with respect to a cohort of participants are relevant considerations in assessing the proportionality of the limitation on human rights.

Flexibility

4.56 A key dimension of the proportionality of a limitation on human rights is the extent to which the measure in question has the capacity to operate flexibly, and to treat different cases differently.

4.57 It is noted that evidence was adduced as to both the extent to which the design of the ParentsNext program (in its compulsory form) permits flexibility, and the extent to which it operates flexibly in practice. With respect to the design of the

120 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 49; and Department of Education, Skills and Employment, answer to question on notice IQ21-000088, 16 June 2021 (received 20 July 2021).

121 See: Council of Single Mothers and Their Children, and Community Information and Support VIC, *Submission 23*; Economic Justice Australia, *Submission 11*; Dr Eve Vincent, *Hansard*, 25 June 2021, p. 35; Financial Counselling Australia, *Submission 5*; and Centre for Excellence in Child and Family Welfare, *Submission 7*, Attachment 2, p. 6.

122 See: Centre for Excellence in Child and Family Welfare, *Submission 7*, Attachment 2, p. 5. See also Council for Single Mothers, *Submission 23*, p. 7. The Australian Association of Social Workers also highlighted clients who had their payments cut while escaping violent relationships as they were not able to meet ParentsNext obligations, and were at risk of returning to the perpetrator as a matter of financial necessity. See, Australian Association of Social Workers, *Submission 3*, p. 5. See also: Queensland Child and Family Commission, *Submission 37*; Ms Terese Edwards, Chief Executive Officer, National Council for Single Mothers and Their Children, *Hansard*, 25 June 2021, p. 4; Council of Single Mothers and Their Children, and Community Information and Support VIC, *Submission 23*, p. 5; and Domestic Violence Victoria and the Domestic Violence Resource Centre Victoria, *Submission 36*, p. 11.

program (in its compulsory form), concerns were raised that participation in the program is by blanket determination, rather than an assessment of individual need. Some witnesses and submitters also raised concerns about the extent to which participation plans were the result of genuine agreement by the participant, and the limited means by which a participant could report their participation.¹²³ In addition, a number of witnesses and submitters argued that the application of the Targeted Compliance Framework (the framework for applying penalties for non-compliance with the program) substantially reduces the extent to which individual ParentsNext providers can respond flexibly to individual participants' circumstances, even where they have developed a strong relationship with the participant. Notably, a number of ParentsNext providers themselves argued that the Targeted Compliance Framework should not be applied, including because of the way in which it inhibits the ability to respond flexibly to individual clients.¹²⁴

4.58 As to the extent to which ParentsNext operates flexibly in practice, it is noted that a number of submitters and witnesses raised concerns about some participation plan activities not reflecting a genuine agreement by the participant. The department noted that the Targeted Compliance Framework provides participants with the opportunity to provide a reasonable excuse for an individual instance of non-compliance. However, a significant number of payment suspensions have been applied to ParentsNext participants—159,000 suspensions to approximately one third of all participants lasting an average of five days—and a cohort of participants who have incurred 14,194 demerits (that is, they have committed a mutual obligation failure without a reasonable excuse).¹²⁵ The high number of suspensions, in particular, raises very significant questions as to the extent to which the program operates flexibly in practice. Noting the advice as to the economic precarity of many recipients of parenting payments, these statistics raise significant concerns about the consequent extent of the interference with the rights to social security and an adequate standard of living for members of this cohort.

123 See: Council of Single Mothers and Their Children, and Community Information and Support VIC, *Supplementary Submission 23*, p. 5; Economic Justice Australia, *Submission 11*; and National Council of Single Mothers and Their Children, *Submission 18*, p. 5. The department noted that reporting participation would require a phone, internet, and/or a computer. Alternatively, it would require the participant to contact or travel to a ParentsNext provider in person in order to ask them to record the participation. Department of Education, Skills and Employment, answer to question on notice IQ21-000083, 16 June 2021 (received 20 July 2021).

124 See: Mission Australia, *Submission 34*, p. 4; and the Brotherhood of St Laurence, *Submission 16*, p. 1.

125 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 49. See also Department of Education, Skills and Employment, answer to question on notice IQ21-000071, 16 June 2021 (received 20 July 2021).

4.59 In addition, the department noted that 23,830 participants had their parenting payment cancelled (for a range of reasons including because they had obtained employment), but that five of those cancellations took place as a result of a third mutual obligation failure under the Targeted Compliance Framework (requiring them to serve a minimum four week cancellation period and then reapply for the payment), and 1,223 had their payment cancelled for not re-engaging with the program within 28 days after being suspended. In particular, it is noted that of those 1,223 participants, 241 were Indigenous, 123 were persons with disability, 65 were homeless, and 230 were identified as being culturally and linguistically diverse.¹²⁶ This raises concerns that for numerous members of this cohort of persons who have had their payments cancelled for non-compliance, there may be a considerable risk that they would be unable to meet their basic needs in practice, and so any interference with their rights to social security and an adequate standard of living may be considerable.

4.60 The department noted that the Targeted Compliance Framework provides participants with the opportunity to seek an exemption from their mutual obligations. In this regard, the department advised that 52,785 temporary exemptions from ParentsNext have been granted.¹²⁷ The provision of this number of exemptions may be regarded as a positive sign that the program does have the capacity to respond flexibly to different circumstances. However, noting that this constitutes approximately one-third of the total number of participants since 2018, it equally raises questions as to the appropriateness of establishing a blanket requirement for all persons falling within a specified class of persons to participate in ParentsNext in the first instance (including because doing so places the onus on the individual to demonstrate their eligibility for an exemption). Further, it is noted that a range of evidence was adduced from community groups and other stakeholders arguing that the process for seeking exemptions can be challenging for vulnerable clients including because it requires them to discuss potentially sensitive matters, such as domestic violence, with providers, and noting instances in which exemptions were being inconsistently applied, or being applied by Services Australia but not recognised by the provider.¹²⁸

4.61 In addition, it is noted that a range of concerns were expressed about the variation in the quality of service provision to participants, arguing that less effective

126 Department of Education, Skills and Employment, answer to question on notice IQ21-000088, 16 June 2021 (received 20 July 2021).

127 Department of Education, Skills and Employment, answer to question on notice IQ21-000068, 16 June 2021 (received 20 July 2021).

128 See: Economic Justice Australia, *Submission 11*, pp. 3–4; Dr Shelley Bielefeld, Senior Lecturer, Griffith Law School and Law Futures Centre, Griffith University, *Hansard*, 25 June 2021, p. 38; Domestic Violence Victoria and the Domestic Violence Resource Centre Victoria, *Submission 36*, pp. 11–12; and Council of Single Mothers and Their Children, and Community Information and Support VIC, *Tabled document* (tabled at public hearing, 25 June 2021), p. 3.

providers of ParentsNext may, in some cases, have directly influenced the extent to which the program operates in a flexible manner for individual participants, and contributed to the application of suspensions and other penalties.¹²⁹

Presence of safeguards

4.62 A further dimension of the proportionality of a limitation on human rights is the presence of safeguards. In this context, this includes consideration of the adequacy of any safeguards, to ensure that ParentsNext participants who have had their payments suspended, reduced or cancelled are able to meet their basic needs (or those of their children) in practice.

4.63 The department noted that, once a person has incurred a series of demerits for mutual obligation failures they will undergo a capability review by their provider, and will undergo a further capability review by Services Australia before they enter the penalty zone (in which any further failure will result in a sanction).¹³⁰ These capability reviews are designed to assess the individual's capability to meet their requirements, and may provide participants with an opportunity to advise of any matters which may be preventing them from complying with their mutual obligations. In this regard it is noted that 14,213 participants have entered the warning zone under the Targeted Compliance Framework (having incurred a first demerit), whereas only 32 have entered the penalty zone (having incurred five demerits and undergone both capability assessments).¹³¹ The comparatively small number of participants who have had their payments reduced or cancelled following the two capability assessments required under the Targeted Compliance Framework would appear to indicate that these two assessments have a safeguard value in terms of reducing the likelihood that a participant will have their payments reduced or cancelled. However, it is noted that the capability review does not apply when a participant's payments are suspended for a number of days, which has occurred 159,000 times since 2018.¹³²

4.64 The department noted that on 7 December 2020, it introduced a two-business day resolution period, during which time a participant may provide a

129 See: Centre for Excellence in Child and Family Welfare, *Submission 7*, Attachment 1, p. 3; Council of Single Mothers and Their Children, and Community Information and Support VIC, *Submission 23*, p. 8; Dr Elise Klein OAM, *Submission 14*, p. 4; Ms Terese Edwards, Chief Executive Officer, National Council of Single Mothers and Their Children, *Hansard*, 25 June 2021, p. 5; Council of Single Mothers and Their Children, and Community Information and Support VIC, *Tabled document* (tabled at public hearing, 25 June 2021), p. 3; Australian Council of Social Service, *Submission 22*, p. 9; Dr Eve Vincent, *Submission 17*, p. 5; and Ms Jenny Davidson, Chief Executive Officer, Council of single Mothers and Their Children, *Hansard*, 25 Jun 2021, p. 9.

130 Department of Education, Skills and Employment, *Submission 8*, p. 8.

131 Department of Education, Skills and Employment, answer to question on notice IQ21-000088, 16 June 2021 (received 20 July 2021).

132 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 49.

reasonable excuse for a mutual obligation failure, or otherwise re-connect with their provider without penalty. The department stated that after the introduction of that additional resolution time, 29 per cent of non-compliance events did not subsequently result in a payment suspension because the participant had given a valid reason for the failure, or otherwise re-engaged with their provider.¹³³ The addition of a two business-day grace period to allow participants time to contact their provider to explain why they did not attend an appointment or otherwise comply with their plan, adds some flexibility and can operate to ensure there are some safeguards around the suspension of payments. However, the corollary of this would appear to be that after the two-day resolution period was introduced, 71 per cent of non-compliance events still resulted in payment suspension. This suggests that the safeguard value of this two business-day resolution period with respect to payment suspensions may be limited.

Less rights restrictive alternatives

4.65 A further dimension of an assessment of proportionality is whether there are any less rights restrictive alternatives which would be as effective to achieve the objective of the measure.

4.66 The department argued that compulsory participation is more effective than voluntary participation, both in terms of achieving immediate engagement in a program like ParentsNext, but also in terms of achieving longer-term goals (including reducing the likelihood of long-term reliance on social welfare). As set out at paragraph [3.31], it highlighted and contrasted two earlier pilot programs as evidence that voluntary participation is less effective than compulsory participation in successfully leading to an increase in the chance of a person attaining a Year 12 (or equivalent) qualification. However, it is noted that the Australian Human Rights Commission questioned the validity of comparing these two programs in order to infer that compulsion is required, including because of the different program aims.¹³⁴ In addition, while the department pointed to some international evidence suggesting that placing conditions requiring active participation on income support payments helps to prevent future welfare dependency, those international examples (and others set out from paragraph [3.42]) contained nuanced findings as to the extent of any such success.

4.67 In addition, it is noted that when ParentsNext (in its trial form) was voluntary, appointment attendance rates were at 66 per cent, and rose to 80 per cent following compulsory participation.¹³⁵ This would appear to indicate that there was already a substantial level of engagement in ParentsNext when it was voluntary, and that the introduction of compulsory participation has only led to a relatively marginal

133 Department of Education, Skills and Employment, *Submission 8*, p. 9.

134 Mr Graeme Edgerton, Deputy General Counsel, Australian Human Rights Commission, *Hansard*, 25 June 2021, pp. 29–30.

135 Statement of compatibility, p. 2.

benefit.¹³⁶ Further, given that the national roll-out of ParentsNext was designed to be, and continues to be an overwhelmingly compulsory program, it is not clear that it has been advertised or otherwise marketed to potential voluntary participants. This raises questions as to whether an inference that disadvantaged parents are less likely to participate without compulsion may validly be drawn from low rates of voluntary participation in ParentsNext.

4.68 In addition, the department noted that from 1 July 2018 to 28 February 2020 (before the suspension of mutual obligations during the 2020 COVID-19 pandemic), 86 per cent of activities and appointments were attended, whereas between 1 March 2020 and 28 September 2020 (during the COVID-19 related suspension of mutual obligations), 75 per cent of activities and appointments were attended.¹³⁷ It also noted that attendance at activities and appointments during this more recent period would have been subject to local health advices and restrictions in place at various points in time,¹³⁸ which appears to suggest that some of those factors may have influenced the small decline in participation rates. Again, this information indicates a substantial level of engagement in ParentsNext when mutual obligations were suspended, which appears to be inconsistent with the assertion that a less rights restrictive alternative (such as voluntary participation) would not be successful to achieve the objectives of ParentsNext. It also appears to suggest that making ParentsNext compulsory for the entire class of persons specified in the instrument has, taken overall, had only a marginal benefit in terms of improving attendance rates, when compared with the levels of engagement at two different times where that participation was voluntary.

4.69 Further, it is noted that there is extensive international evidence which calls into question the inference that mutual obligations effectively achieve longer-term employment and social benefits, and highlighting the harms that may be experienced

136 The Australian Human Rights Commission highlighted this small increase in participation following the application of the Targeted Compliance Framework, stating that this suggested that compulsory participation is not necessary to achieve a substantial level of attendance, and raising the question of whether it is proportionate to cause every participant to be at risk of having their payment suspended or potentially cancelled in order to achieve that marginal benefit. See, Emeritus Professor Rosalind Croucher AM, President, and Mr Graeme Edgerton, Deputy General Counsel, *Hansard*, 25 June 2021, pp. 28–29.

137 Department of Education, Skills and Employment, answer to question on notice IQ21-000075, 16 June 2021 (received 20 July 2021).

138 Department of Education, Skills and Employment, answer to question on notice IQ21-000075, 16 June 2021 (received 20 July 2021).

by social welfare recipients as a result of the use of mutual obligations.¹³⁹ In addition, it is noted that a range of evidence was also received arguing that the department had not demonstrated that less rights restrictive alternatives would not be as effective to achieve the short-term objectives of helping participants achieve education and employment goals, and the longer term objectives, including reducing the risk of long-term poverty and welfare dependency for participants. In this regard, some witnesses noted that less rights restrictive alternatives to compulsory participation could include incentivised participation (including through the provision of additional payments or other supports such as child care), voluntary participation, or restriction in the definition of the relevant class of persons (for example, to provide that persons may only be required to participate where their youngest relevant child is school aged).¹⁴⁰

4.70 As such, it cannot be said that the department has adduced sufficient evidence to demonstrate that there are no less rights restrictive alternatives to compulsory participation, which would be as effective to achieve the stated objectives of the program. Further, of perhaps greatest significance, it is notable that ParentsNext was already substantially successful (in terms of appointment attendance rates) when it was voluntary; the introduction of compulsory participation only marginally increased that attendance, and when mutual obligations were recently suspended due to the COVID-19 pandemic there was still substantial attendance at appointments. Consequently, it has not been clearly established that there is no less rights restrictive alternative to the current compulsory participation established by this instrument.

Possibility of oversight and availability of review

4.71 With respect to oversight of decisions made in relation to ParentsNext, the department noted that it does retain oversight of providers, including conducting annual reviews, and announced and unannounced site visits.¹⁴¹ The department

139 See: University of York, *Welfare Conditionality Project 2013–2018*, Final Report, Key Findings, p. 4; Ruud Gerards and Riccardo Welters, 'Liquidity Constraints, Unemployed Job Search and Labour Market Outcomes', *Oxford bulletin of economics and statistics*, vol. 82, 2020, p. 625; Joshua Rowntree Foundation, *Sanctions within conditional benefits systems: a review of evidence*, 2010; John David Jordan, 'Welfare grunTERS or workfare monsters? An empirical review of the operation of two UK 'work programme' centres', *Journal of Social Policy*, vol. 47, no. 3, 2017, pp. 583–601; Colin Lindsay, Sarah Pearson, Elaine Batty, Anne Marie Cullen and Will Eadson, 'Empowering Lone Parents to Progress towards Employability', *Journal of Social Policy*, 2021, pp. 1–20; and Ann Green and Chris Hasluck, 'Action to reduce worklessness: What works?' *Local Economy*, vol. 24, no. 1, 2009, pp. 28–37.

140 See: Zoe Support Australia, *Submission 2*, p. 2; Queensland Family and Child Commission, *Submission 37*, p. 7; and Mission Australia, *Submission 34*, p. 12.

141 See, Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 53; and Ms Robyn Shannon, First Assistant Secretary, Procurement, Quality and Deeds Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 53.

advised that it assesses the performance of providers each year against six key performance indicators, measuring efficiency, effectiveness and quality.¹⁴² It stated that it may conduct both announced and unannounced site visits by account and contract managers,¹⁴³ and that unannounced site visits are conducted using a range of risk factors to determine whether it is warranted.¹⁴⁴ Such oversight has the capacity to assist with the proportionality of the measure, however no information has been provided in relation to how these reviews and site visits operate with respect to the provision of client services, and the extent of any issues identified following those reviews and visits relating to service provision is not clear. Further, it is noted that decisions relating to ParentsNext, for example, refusal to grant an exemption, can be reviewed.¹⁴⁵ However, the department advised that no review of an exemption refusal decision has ever been undertaken by the department.¹⁴⁶ This may indicate that the exemption process is functioning well. However, it may equally indicate that the review process has limited accessibility. In addition, it is noted that appealing a decision of the department to the Administrative Appeals Tribunal may also raise issues of accessibility for some individuals (including due to any associated costs or the need to secure legal advice and/or representation). As such, it is difficult to assess the value of these two oversight and review mechanisms in terms of assisting the proportionality of the limitation on human rights.

Consultation

4.72 As noted at paragraph [4.19], regarding the right to equality and non-discrimination, international human rights law establishes specific requirements regarding consultation where a measure will have a disproportionate impact on Indigenous peoples. In this regard, the department noted that: eight Indigenous organisations were consulted during the expansion of ParentsNext; there are six Indigenous ParentsNext providers; and that providers have relationships with 100 Indigenous organisations.¹⁴⁷

142 Department of Education, Skills and Employment, answer to question on notice SQ21-000070, 16 June 2021 (received 20 July 2021).

143 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 53.

144 Ms Janine Pitt, First Assistant Secretary, Employment Programs and Activation Division, and Ms Robyn Shannon, First Assistant Secretary, Procurement, Quality and Deeds Division, Department of Education, Skills and Employment, *Hansard*, 25 June 2021, p. 53.

145 Department of Education, Skills and Employment, answer to question on notice IQ21-000068, 16 June 2021 (received 20 July 2021).

146 Department of Education, Skills and Employment, answer to question on notice IQ21-000068, 16 June 2021 (received 20 July 2021).

147 See, Department of Education, Skills and Employment, answer to question on notice IQ21-000102, IQ21-000104, and IQ21-000109, 25 and 23 June 2021 (received 20 and 21 July 2021).

4.73 The consultation with eight Indigenous organisations during the expansion of ParentsNext (although, not prior to) may assist with the proportionality of this measure in terms of the right to equality and non-discrimination. However, while the department has noted that eight Indigenous organisations were consulted 'during' the expansion of ParentsNext, it is not clear that such consultation meaningfully informed the decision to expand the program nationally (and not merely how specific aspects of the program might operate). In particular, it is not clear that the process being described involved a two-way deliberative process of dialogue in advance of a decision being made to expand the program, including because it appears it may have been undertaken after the decision to expand had been made. Consequently, the value of the consultation process as a safeguard as described may be limited. In addition, it is noted that some Indigenous-led witness organisations expressed concern as to the sufficiency of the consultation which was undertaken. For example, the National Family Violence Prevention Legal Services Forum, the peak Indigenous body with a focus on supporting women and children, advised that the majority of its 14 member organisations confirmed that they had not been consulted.¹⁴⁸

Committee view

4.74 The committee's mandate requires it to undertake a technical examination of this instrument, in order to assess its compatibility with Australia's obligations under international human rights law. Typically, the committee may write to a minister to seek further information in order to conduct this assessment. However, the committee may also undertake further inquiries, and seek information from a broader range of stakeholders, as it has done here. The contributions made by the witnesses and submitters to this inquiry have provided the committee with an extensive range of in-depth information on which the committee can base its assessment of the human rights compatibility of the instrument under consideration. In particular, this evidence has provided information about how the ParentsNext program—which this instrument currently has the effect of mandating participation in for a specified class of persons—is operating in practice. This information is critical in informing the committee's assessment of the compatibility of the instrument with international human rights law. The committee thanks all those witnesses and submitters who participated in this inquiry.

4.75 The committee considers that if participation in ParentsNext were voluntary, no human rights concerns would arise. This is because voluntary participation in the program could promote a range of rights, such as the right to education and work, and would not appear to limit any rights. However, because the legislation provides that the class of persons specified in the instrument only qualify for parenting payment if

148 It is also noted that two of the organisations consulted (Aarnja Aboriginal Regional Body and Cape York Partnership) appear to operate in remote areas of Australia in which this instrument does not operate. Further, it is noted that the Secretariat of National Aboriginal and Islander Child Care (SNAICC) was not consulted.

they meet participation requirements, which potentially enables their payment to be reduced, suspended or cancelled, it also engages and limits a number of interrelated and intersecting human rights, such as: the rights to social security and an adequate standard of living; the right to equality and non-discrimination; the right to a private life; and the rights of the child.

4.76 The committee considers that, in practice, there is likely to be a large cohort of ParentsNext participants for whom compulsory participation does not limit their rights to social security and an adequate standard of living, because they may never incur a payment suspension or other penalty. The committee also considers that there are a number of ParentsNext providers who appear to provide a high level of services in a responsive manner, and develop a strong relationship with ParentsNext participants. In such cases, the committee considers that ParentsNext could offer substantial benefits for those participants in helping them gain relevant educational qualifications and prepare for future employment.

4.77 However, the committee considers that there is also a cohort of participants for whom compulsory participation in ParentsNext does limit their human rights, particularly where their payments have been reduced, suspended or cancelled. In particular, the committee notes with some concern that around one-third of participants¹⁴⁹ have incurred 159,000 payment suspensions lasting an average of 5 days, and that 1,223 participants have had their payments cancelled for failing to re-engage with the program for 28 days (after having been suspended during that time). Further, the committee notes the advice that approximately half of parenting payment recipients are living in financial hardship, meaning that any such interruptions to social welfare payments (even for a relatively short duration) could have a significant impact on their capacity to meet their basic needs and those of their children. In this regard, the committee considers there is some risk that, for a cohort of ParentsNext participants who experience underlying poverty, the suspension, reduction or cancellation of their social welfare payments may result in the non-fulfilment of the minimum core obligations associated with the right to social security and an adequate standard of living.

4.78 Further, the committee notes that because the instrument applies to parents, it necessarily has a flow-on impact on children. In this regard, the committee notes that under international human rights law, the child's best interests must be taken as a primary consideration and that it must be shown that the right of the child to have their best interests taken as a primary consideration has been explicitly taken into account; and if it has been weighed against other considerations this must be explained. The committee notes that it appears that what has been considered to be in the child's best interests is the achievement of long-term broad-reaching social and economic outcomes of reducing welfare dependency and intergenerational disadvantage. However, while reducing intergenerational disadvantage is an

149 55,000 participants, out of a total of 161,734.

important objective, since a cohort of participants experience underlying financial hardship (meaning that any payment sanctions may severely limit the ability of parents to meet the basic needs of themselves and their children), for some children in that cohort, there would appear to be a significant risk that the measure may have the effect that they are unable to realise their rights to benefit from the provision of social security, or to an adequate standard of living. This raises questions as to the extent to which the measure complies with the obligation to consider the best interests of the child as a primary consideration.

4.79 The committee notes that most¹⁵⁰ of these human rights may, in general, be permissibly limited where the measure seeks to achieve a legitimate objective, is rationally connected to (that is, effective to achieve) that objective, and is a proportionate means by which to do so.

Legitimate objective

4.80 The committee considers that the overarching objectives of the ParentsNext program are positive, and would themselves likely constitute a legitimate objective for the purposes of international human rights law. Reducing intergenerational welfare dependency, facilitating opportunities for education and pre-employment for parents (including those with limited educational achievements), and helping to close the gap in Indigenous employment, may assist in promoting the social and economic wellbeing of those persons, as well as of society as a whole.

Rational connection

4.81 The committee considers that the instrument would clearly be effective to require persons to participate in the ParentsNext program, and that participation in individual activities under a participation plan may be effective to assist participants in undertaking activities related to education and preparation for employment.

4.82 However, the committee considers that some questions remain as to the extent to which participation in those activities may itself be effective to achieve some of the stated objectives of the measure (including to: reduce the risk of long-term poverty and welfare dependency for participants and their children; reduce joblessness and intergenerational welfare dependency; increase female labour force participation; and help close the gap in Indigenous employment). The committee notes that questions were raised as to some participants being required to participate in activities which did not appear to have a clear connection to employment or education. The committee also notes that the ParentsNext program has not been independently evaluated.

4.83 The committee considers there are questions as to the depth and independence of the evidence-base on which the department has relied in order to establish the extent to which the ParentsNext program is effective to achieve the

150 Noting that this general limitation criteria does not appear to apply to the right of the child to have their best interests taken as a primary consideration.

various stated objectives of the program. As such, the committee considers it has not been clearly established that specifying the class of persons in the instrument to be subject to participation requirements, is rationally connected to (that is, effective to achieve) the stated objectives of the ParentsNext program.

Proportionality

4.84 The committee notes that in assessing the proportionality of a limitation on human rights one consideration is the extent of any interference with human rights: the greater the interference, the less likely the measure is to be considered proportionate. In this regard, the committee considers that there is a cohort of participants for whom suspensions of their social welfare payment (even for a short period of time) would likely have significance consequences for their ability to meet their immediate basic needs and those of their children; and for members of that cohort this impact may be severe (including requiring persons to seek emergency charity support, emergency loans, and advocacy support from community groups). In this regard, the committee notes with concern that it does not appear that any assessment of a person's capacity to meet their basic needs is undertaken before reducing, suspending or cancelling their payment. Further, the committee notes that it appears that it takes, at a minimum, two business days for any further payment of money to be made to the person after the reason for the suspension has been addressed, raising serious concerns about their capacity to meet their minimum essential needs in the interim.

4.85 Further, the committee considers that it has not been established that the ParentsNext program operates, in all instances, in a sufficiently flexible manner so as to mitigate the risk of such harms occurring. In particular, the committee considers that the high number of suspensions raises very significant questions as to the extent to which the program operates flexibly in practice. The committee further notes that 1,223 participants have had their payment cancelled for not re-engaging with the program within 28 days after being suspended. In particular, it is noted that of this cohort, 241 people were Indigenous, 123 had a disability, 65 were homeless, and 230 were identified as being culturally and linguistically diverse. The committee considers that this raises concerns that for this cohort of persons who have had their payments cancelled for non-compliance, there may be a considerable risk that they would be unable to meet their basic needs in practice, and so any interference with their rights to social security and an adequate standard of living may be considerable.

4.86 The committee also notes that a range of temporary exemptions from ParentsNext are available, which ensures some capacity to respond flexibly to different circumstances. However, the high rate of exemptions raises questions as to the appropriateness of establishing a blanket requirement for all persons falling within a specified class of persons to participate in ParentsNext, noting that the onus is on the individual to demonstrate their eligibility for an exemption. The committee considers that the two capability assessments undertaken prior to a payment being reduced or cancelled under the Targeted Compliance Framework can operate as an

effective safeguard against permanent loss of welfare payments. However, the committee is concerned there are limited safeguards with respect to payment suspensions, which have affected almost one-third of all participants.

4.87 The committee considers that the evidence adduced by the department as to why compulsory participation is preferable to voluntary participation does not clearly demonstrate that there are no less rights restrictive alternatives which would be as effective to achieve the stated objectives of the program. Most significantly, it appears ParentsNext was already substantially successful (in terms of appointment attendance rates) when it was voluntary, and the introduction of compulsory participation only marginally increased that attendance, and when mutual obligations were recently suspended due to the COVID-19 pandemic there was still substantial attendance at appointments. Having regard to the range of concerns which have been raised in this inquiry regarding the harms experienced by some participants as a result of compulsory participation, the committee considers that this raises serious concerns regarding the proportionality of the limitation on human rights.

4.88 Finally, the committee is particularly concerned about the disproportionate impact of the measure on women (who make up 95 per cent of participants) and Indigenous peoples (who make up 18 per cent of participants). The committee notes that in assessing compatibility with the right to equality and non-discrimination where a measure has a disproportionate impact on Indigenous people, it is necessary to consider whether free, prior and informed consent was sought before actions which might affect Indigenous peoples were taken. In this regard, while the committee notes that consultation with some Indigenous groups was undertaken, it is not clear that this was undertaken prior to the decision to expand ParentsNext nationally, and the committee remains concerned as to the quality and value of that consultation process as a safeguard.

Conclusions and recommendations

4.89 The committee considers that there is a risk that, for a cohort of ParentsNext participants, compulsory participation in ParentsNext as a condition for qualifying for parenting payment, and consequent financial sanctions, may mean they are unable to meet their basic needs in practice. The committee considers that, having regard to the position under international human rights law, with respect to that cohort of participants, there is a considerable risk that this would constitute an impermissible limitation on the rights to social security and an adequate standard of living.

4.90 Further, the committee considers that there appears to be a risk that compulsory participation does not constitute a proportionate limit on the right to a private life, the right to equality and non-discrimination, and the rights of the child.

Recommendation 1

4.91 The committee considers that if participation in ParentsNext were voluntary this could promote a range of human rights and no human rights would be limited. As such, the committee considers that the human rights compatibility of the measure would be addressed if an individual's qualification for parenting payment was not linked to the person meeting participation requirements (such as compulsory participation in ParentsNext). As such, the committee recommends that a class of persons not be prescribed for the purposes of paragraph 500(1)(ca) of the *Social Security Act 1991*.

Recommendation 2

4.92 If participation in ParentsNext remains compulsory, the committee recommends the following changes be made to assist with the proportionality of the measure:

- (a)** that a parent is only required to enter into a Parenting Payment Employment Pathway Plan after an assessment of their individual circumstances, including consideration of the best interests of any child as a primary consideration;
- (b)** that payment suspensions are only applied once a ParentsNext provider has successfully contacted the parent and established why they have not met their participation requirements, and made an assessment that the suspension would not result in the parent and any children being unable to meet their immediate basic needs;
- (c)** that payment reductions and cancellations are only applied after an assessment has been made that to do so would not result in the parent and any children being unable to meet their immediate basic needs; and
- (d)** that further consultation be undertaken with Indigenous-led organisations, and affected Indigenous communities, to obtain their free, prior and informed consent to participate in ParentsNext.

Dr Anne Webster MP

Chair

Additional comments by Australian Labor members

1.1 Australian Labor Party members (Labor members) of the Parliamentary Joint Committee on Human Rights (the committee) seek to make some short additional comments.

1.2 Labor members consider this report to be a comprehensive analysis of the concerning human rights implications of making participation in ParentsNext compulsory. Labor members fully agree with the committee's findings that there is a risk that participation in ParentsNext as a condition for qualifying for parenting payment, and consequent financial sanctions, may mean a number of parents are unable to meet their basic needs. Labor members also strongly agree there is a considerable risk that compulsory participation impermissibly limits a number of human rights, and that the human rights compatibility of the measure would be addressed if an individual's qualification for parenting payment was not linked to compulsory participation. Labor members agree with the committee's recommendations, particularly that a class of persons not be prescribed for the purposes of paragraph 500(1)(ca) of the *Social Security Act 1991*.

1.3 Labor members note that the instrument under consideration prescribes a class of persons for the purposes of paragraph 500(1)(ca) of the *Social Security Act 1991*. As such, Labor members consider the committee's recommendation could be achieved by disallowing those sections of the instrument that do this. Labor members note that the instrument also repeals a 2018 instrument¹ which also prescribed a class of persons for this purpose. As such, Labor members consider this earlier instrument should remain repealed (and the relevant part of the instrument that repeals this not be disallowed).² Therefore, while fully agreeing with the committee's analysis in this important report, Labor members also consider the committee's recommendations could be achieved by disallowing relevant sections of the instrument.

1.4 As such, in order to make participation in ParentsNext voluntary and not subject parents to the possibility of financial sanctions, Labor members recommend the Senate move to disallow sections 4 and 6 of the Social Security (Parenting payment participation requirements – class of persons) Instrument 2021.

1 Social Security (Parenting payment participation requirements – classes of persons) Instrument 2018 (No. 1) (2018 instrument).

2 Noting that section 5 and Schedule 1 to the Social Security (Parenting payment participation requirements – class of persons) Instrument 2021 repeals the 2018 instrument.

Graham Perrett MP
Deputy Chair
Member for Moreton

Steve Georganas MP
Member for Adelaide

Senator Nita Green
Senator for Queensland

Senator Pat Dodson
Senator for Western Australia

Additional comments by Australian Greens member

1.1 The Australian Greens member (Australian Greens) of the Parliamentary Joint Committee on Human Rights (the committee) seek to make some short additional comments.

1.2 The Australian Greens wish to deeply thank all witnesses who have come forward during the inquiry, in particular women who have spoken up about their personal circumstances and challenges with the ParentsNext program, as well as those organisations assisting women and their children in challenging circumstances.

1.3 The Australian Greens wish to address the concerns presented by a number of witnesses regarding the difficulty of applying for exemptions to the program during difficult circumstances, such as in situations of family violence or sickness, as well as the difficulty of exiting the program when circumstances changed.

1.4 The Australian Greens therefore wish to put forward the following recommendations in addition to the recommendations proposed by the committee.

Amend Recommendation 2(a) to read as follows:

- that a parent is only required to enter into a Parenting Payment Employment Pathway Plan after an assessment of their individual circumstances, including a discussion of these circumstances with, and consideration of their impact on, the individual participant, and with the best interests of any child as a primary consideration, to ensure that no one is required to participate under the program who is experiencing challenges that make that participation challenging;

Add the following recommendations to Recommendation 2:

- that, if individual circumstances change and make program participation challenging, the participant can fast-track notify the provider to immediately suspend program participation for up to two weeks without any payment suspension to have the opportunity to deal with immediate personal challenges and discuss ongoing participation when urgent challenges have been dealt with; and
- that required program participation be regularly reviewed and program exit can be easily facilitated by providers when the participant's personal circumstances have changed.

Senator Lidia Thorpe
Senator for Victoria

Appendix 1

Submissions received

- 1 Equality Rights Alliance
- 2 Zoe Support Australia
- 3 Australian Association of Social Workers
- 4 Anglicare Australia
- 5 Financial Counselling Australia
- 6 Centre for Women's Economic Safety
- 7 Centre for Excellence in Child and Family Welfare
- 8 Department of Education, Skills and Employment
- 9 Jobs Australia
- 10 Domestic Violence NSW
- 11 Economic Justice Australia
- 12 Feminist Legal Clinic Incorporated
- 13 Dr Ann Nevile and Dr Katherine Curchin
- 14 Dr Elise Klein OAM
- 15 Professor Beth Goldblatt
- 16 The Brotherhood of St Laurence
- 17 Dr Eve Vincent
- 18 National Council of Single Mother and Their Children
- 19 WEstjustice Community Legal Centre
- 20 Dr Shelley Bielefeld
- 21 Metro Assist Limited
- 22 Australian Council of Social Service
- 23 Council of Single Mothers and Their Children and Community Information
and Support Victoria
- 24 Mrs Felicity Bailey
- 25 Ms Angela Mackie
- 26 Ms Amanda Chain
- 27 Ms Natalie Moyle

- 28 Ms Alice Williamson
- 29 Ms Jane Corb
- 30 Ms Melissa Lee
- 31 Ms Raina O'Rourke
- 32 Ms Kate Bell
- 33 Ms Fiona Musgrave
- 34 Mission Australia
- 35 Mr Glen Philpott
- 36 Domestic Violence Victoria and Domestic Violence Resource Centre Victoria
- 37 Queensland Family and Child Commission
- 38 Law Council of Australia

Appendix 2

Public hearing

Friday, 25 June 2021

Parliament House, Canberra

National Council of Single Mothers & Their Child

Ms Terese Edwards, Chief Executive Officer

Council of Single Mothers and Their Children *(via videoconference)*

Ms Jenny Davidson, Chief Executive Officer

Economic Justice Australia *(via videoconference)*

Ms Leanne Ho, Executive Officer

Mr Simon Tracy, A/g Principal Solicitor, Basic Rights Queensland

Zoe Support Australia *(via videoconference)*

Ms Cindy Cavanagh-Knez, Team Leader, Integrated Family Services

Human Rights Law Centre *(via videoconference)*

Ms Meena Singh, Legal Director, Human Rights Law Centre

Centre for Excellence in Child and Family Welfare *(via videoconference)*

Ms Deb Tsorbaris, Chief Executive Officer

Ms Kelly Bowey, Senior Policy and Research Officer

Australian Council of Social Service

Dr Cassandra Goldie, Chief Executive Officer *(via videoconference)*

Dr Simone Casey, Senior Advisor - Employment

Mission Australia *(via videoconference)*

Mr Stephen Vines, QLD State Director

Mr Paul Rennie, Regional Leader, QLD

Metro Assist *(via videoconference)*

Ms April Pan, Manager of Settlement and Employment Support Services

Australian Human Rights Commission *(via videoconference)*

Emeritus Professor Rosalind Croucher AM, President

Mr Graeme Edgerton, Deputy General Counsel

Dr Elise Klein OAM

Dr Eve Vincent (*via videoconference*)

Dr Ann Nevile (*via videoconference*)

Dr Katherine Curchin (*via videoconference*)

Dr Shelley Bielefeld

Professor Ben Saul (*via teleconference*)

Professor Beth Goldblatt (*via videoconference*)

Department of Education, Skills and Employment

Ms Robyn Shannon, First Assistant Secretary, Quality, Integrity and Evidence Division

Ms Janine Pitt, First Assistant Secretary, Employment Programs & Activation Division

Ms Carmel O'Regan, Assistant Secretary, Labour Market Policy Branch

Ms Samantha Robertson, Assistant Secretary, Assessments, Services and Outcomes Branch

Professor Aoife Nolan (*via teleconference*)

Appendix 3

Tabled documents, additional information and questions on notice

Tabled documents

- 1 Document tabled at public hearing in Canberra on 25 June 2021 by Council of Single Mothers and Their Children – Statement from a former ParentsNext Mentor

Additional information

- 1 Additional information provided by Dr Elise Klein following public hearing, received 6 July 2021
- 2 Opening statement delivered at the public hearing on 25 June 2021 by Human Rights Law Centre
- 3 Opening statement delivered at the public hearing on 25 June 2021 on behalf of the National Family Violence Prevention Legal Services
- 4 Clarification of evidence provided at public hearing on 25 June 2021 from the Centre for Excellence in Child and Family Welfare
- 5 Additional information provided by Professor Aoife Nolan received 16 July 2021

Answers to Questions on notice

- 1 Australian Council of Social Service, answers to questions on notice, received 1 July 2021
- 2 Mission Australia, answers to questions on notice, received 5 July 2021
- 3 Professor Aoife Nolan, answers to questions on notice, received 5 July 2021
- 4 Human Rights Law Centre, answers to questions on notice, received 6 July 2021
- 5 Services Australia, answers to questions on notice, received 14 July 2021
- 6 Department of Education, Skills and Employment, answers to questions on notice, received 20, 21, and 26 July 2021
- 7 Department of Social Services, answers to questions on notice, 30 July 2021

