

Inquiry into the Social Security (Parenting Payment Participation Requirements – Class Of Persons) Instrument 2021

Submission

May 2021



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The Queensland Family and Child Commission (QFCC) acknowledges Aboriginal and Torres Strait Islander peoples as the Traditional Custodians across the lands, seas and skies on which we walk, live and work upon.

We recognise Aboriginal and Torres Strait Islander people as two unique peoples, with their own rich and distinct cultures, strengths and knowledge. We celebrate the diversity of Aboriginal and Torres Strait Islander cultures across Queensland and pay our respects to their Elders past, present and emerging.

We recognise that these lands have raised generations of strong, thriving Aboriginal and Torres Strait Islander children for more than 60,000 years. We are committed to continually recognising the power and wisdom of Aboriginal and Torres Strait Islander families and their cultures, and the important role they play within our community.

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Background

The Queensland Family and Child Commission (QFCC) was established on 1 July 2014 under the *Family and Child Commission Act 2014* (Qld). The QFCC was established to:

- promote the safety, wellbeing and best interests of children and young people
- promote and advocate the responsibility of families and communities to protect and care for children and young people
- improve the child protection system.¹

The QFCC provides evidence-based, high-impact advocacy on children's rights and the issues that matter to children and young people in Queensland.

The safety and wellbeing of children should be the paramount consideration in the design and implementation of the ParentsNext program. Reducing, suspending or cancelling Parenting Payments could impose considerable limits on the rights of parents and children.

Some consideration should be given to whether this compliance activity is necessary and proportional to the goal of supporting parents to re-enter the workforce when their children are at school. There should also be some consideration of the specific rights of Aboriginal and Torres Strait Islander families in the design and delivery of ParentsNext services.

¹ *Family and Child Commission Act 2014* (Qld) s. 4.

Rights of parents and children

Summary

- The safety and wellbeing of children should be the paramount consideration when deciding whether Parenting Payments should be suspended, reduced or cancelled.
- The ParentsNext program should consider the specific rights of Aboriginal Torres Strait Islander peoples, recognising the distinct kinship and familial roles that exist in Aboriginal and Torres Strait Islander communities.

ParentsNext is a program that intends to support parents and carers who receive a Parenting Payment to plan and prepare for employment by the time their youngest child reaches school age.²

It is a mandatory pre-employment program and requires participants to attend all relevant appointments and activities and also report to Centrelink every two weeks. Appointments and activities could include help with developing skills, training or work experience, help arranging financial support for job preparation skills, training and other work-related expenses or connecting to local support services such as counselling.³ Failure to attend relevant appointments and activities could result in the suspension, reduction or cancellation of a person's Parenting Payment.

The proposed new Social Security (Parenting payment participation requirements – class of persons) Instrument 2021 (the Instrument) seeks to clarify eligibility criteria for the ParentsNext program based on age, level of school education and length of time receiving income support. These changes are scheduled to take place on 1 July 2021.

The compulsory nature of the ParentsNext program may fail to adequately consider the rights and best interests of children, particularly when decisions are made to suspend or cancel payments.

The United Nations *Universal Declaration of Human Rights* (the Universal Declaration) contains a right to social security and an adequate standard of living. Under article 25 of the Universal Declaration, every person has the right to a standard of living adequate for the health and well-being themselves and their family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. Article 25 also specifically stipulates that mothers and children are entitled to special care and assistance.⁴

In addition, the United Nations *Convention on the Rights of the Child* (UNCRC) addresses the unique vulnerabilities of children. The UNCRC treaty was ratified by Australia in 1990 and explicitly documents Australian governments' commitment and duty to ensure all children within Australia enjoy their rights.

Under the UNCRC children have the right to an adequate standard of living, enjoyment of the highest attainable standard of health, protection of the best interests of the child, and the protection of their families.⁵ These rights

² Australian Government, Department of Education, Skills and Employment, 23 February 2021 [online webpage] <https://www.dese.gov.au/parentsnext> accessed 30 April 2021.

³ Australian Government, Department of Education, Skills and Employment, 23 February 2021 [online webpage] <https://www.dese.gov.au/parentsnext> accessed 30 April 2021.

⁴ United Nations 1948, *Universal Declaration of Human Rights*, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>, accessed 4 May 2021, articles 22 & 25.

⁵ United Nations Human Rights Office of the High Commissioner 1989, *Convention on the Rights of the Child*, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>, accessed 4 May 2021.

and the overall wellbeing of children should be the central concern for agencies when they are prescribing the ParentsNext program to parents and when a decision is being made to suspend, reduce or cancel a family's Parenting Payment.

The decision to suspend or cancel a parent's Parenting Payment could have a detrimental effect on the immediate wellbeing of any child involved and could result in adverse childhood experiences, including malnutrition and homelessness. These experiences can be particularly detrimental during a child's critical early years.

For most parents and carers accessing ParentsNext, the Parenting Payment may be their main form of income support. Therefore, the suspension or cancellation of a payment could result in children being without food, medicine and shelter. Even the strict requirement to attend appointments and the risk of a payment being suspended or cancelled could put unnecessary stress and strain on families who already face significant challenges, which could increase the risk that children could come into contact with the child protection system.

The QFCC stresses the importance of ensuring the wellbeing of children remains the paramount consideration when providing support to parents through the ParentsNext program. Children will have the best opportunity to succeed if their best interests remain at the centre of every decision.

Rights of Aboriginal and Torres Strait Islander families

The Instrument removes the provisions currently in place which make specific reference to the participation of Aboriginal and Torres Strait Islander peoples in ParentsNext. The Statement of Compatibility released alongside the measure does not highlight any concerns about the specific rights of Aboriginal and Torres Strait Islander parents and children.

Aboriginal and Torres Strait Islander peoples experience higher rates of income support. This comes as a result of complex social and environmental factors, including the legacy of discriminatory government policies.⁶ In turn, this means Aboriginal and Torres Strait Islander families may continue to be disproportionately represented in the ParentsNext program even after the eligibility criteria change.

Further, the ParentsNext program does not specifically recognise the unique cultural rights of Aboriginal and Torres Strait Islander people. Aboriginal and Torres Strait Islander peoples hold distinct rights to enjoy, maintain and control their cultural heritage.

Australia has endorsed the United Nations *Declaration on the Rights of Indigenous Peoples*, which provides clear rights to cultural traditions, customs and cultural sites (article 12), and to participate in decision-making in matters that affect their rights (article 18).⁷ Unique child rearing practices and kinship roles are the foundation of Aboriginal and Torres Strait Islander families, which need to be considered in the design and implementation of programs and services under ParentsNext.

Culturally safe employment service providers need to be available and offer services that are tailored specifically to the unique needs of Aboriginal and Torres Strait Islander people and communities.

⁶ Australian Institute of Health and Welfare 2019, *Indigenous income and finance*, <https://www.aihw.gov.au/reports/australias-welfare/indigenous-income-and-finance>, accessed 4 May 2021; Australian Human Rights Commission 2016, *Social Justice and Native Title Report 2016*, <https://humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/publications/social-justice-and-2>, accessed 4 May 2021, p. 2.

⁷ United Nations 2007, *Declaration on the Rights of Indigenous Peoples*, <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>, accessed 4 May 2021.

It would be beneficial for pre-employment programs under ParentsNext to be developed alongside Aboriginal and Torres Strait Islander communities, taking into account the unique cultural rights and child rearing practices that exist within those communities. In this way, the requirements of the program could be designed to make sure they support the employment aspirations of families and communities without unreasonably limiting their rights.

Meeting the stated objectives

Summary

- Consideration should be given as to whether the limitations on children’s rights from reducing, suspending or cancelling Parenting Payments are proportional to the objective of the ParentsNext program.
- A community education program supporting parents to engage with services could help empower parents, without the need for compliance activity.

In general, limitations on human rights are considered acceptable where they are proportional, rational and connected to the objective. This is set out in the Parliamentary Joint Committee on Human Rights *Guide to Human Rights*, which states, ‘the key question is whether the relevant measures are likely to be effective in achieving the objective being sought’.⁸

The Statement of Compatibility claims

the risk of compliance action has proved to be effective in ensuring participants engage with providers delivering ParentsNext and similar programs, and are able to benefit from the services that they officer (including support to address the barriers to employment and education identified above).⁹

While it is important for parents to engage with services that support them, the overall objective of the ParentsNext program should be for parents of school-aged children to re-enter the workforce.

It is notable that the explanatory notes to the 2021 Instrument state that between 1 July 2018 and 1 December 2020 more than 150,000 parents have received assistance through ParentsNext, but 4,500 parents have exited the program as a result of finding stable work.¹⁰ While these numbers are rounded, they suggest only three per cent of participants successfully exit the program through employment.

Research from the United Kingdom (UK) has shown that welfare programs that are punitive and apply sanctions to welfare payments do not work in gaining people sustainable employment.¹¹ The UK Department of Social Policy and Social Work’s *Final Findings Report: Welfare Conditionality Project 2013-2018* found that for many participants who relied on conditional welfare, the most common outcome was a lack of sustained change in employment status. For those participants that were able to gain some paid work, it was often recurrent short-term movements between various insecure jobs, interspersed with periods of unemployment.¹²

It follows that the limitations imposed on the rights of parents may not be proportional to outcomes under the ParentsNext program as it currently operates.

⁸ Parliamentary Joint Committee on Human Rights 2014, *Guide to Human Rights*, https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/Guidance_Notes_and_Resources, accessed 4 May 2021.

⁹ Social Security (Parenting payment participation requirements – class of persons) Instrument 2021, explanatory notes.

¹⁰ Social Security (Parenting payment participation requirements – class of persons) Instrument 2021, explanatory notes.

¹¹ Welfare Conditionality Project 2018, *Final Report*, European Social Research Council, <http://www.welfareconditionality.ac.uk/publications/final-findings-report/>, accessed 4 May 2021, p. 4.

¹² Welfare Conditionality Project 2018, *Final Report*, European Social Research Council, <http://www.welfareconditionality.ac.uk/publications/final-findings-report/>, accessed 4 May 2021, p. 4.

In addition, children's rights to safety, health and protection are at risk where Parenting Payments are reduced, suspended or cancelled for non-compliance. The Statement of Compatibility does not clarify how the limits on children's rights are proportional to the stated goal of the ParentsNext program.

Parents have also raised concerns that there is often no alignment between the purpose of the activity tests prescribed through the ParentsNext program and the actual needs or aspirations of parents or their children.¹³

Parents can be encouraged to engage with services without the need for compliance activities. The QFCC has developed the *Talking Families* initiative to support parents, carers and families to find information.

Talking Families is a community education initiative by the QFCC designed to encourage parents to ask for and accept support throughout their parenting journey. *Talking Families* aims to normalise help-seeking behaviour and empower parents to ask for, and accept help with parenting issues early before they become crises.

The initiative is focused on the strengths of parents and families as opposed to their stressors and problems. The QFCC has created a website and Facebook community to give parents, carers and families tips on who to talk to and how to start conversations.¹⁴

The QFCC believes similar approaches may encourage the help-seeking behaviour intended through the ParentsNext program. A strong community education program could help to empower parents when supporting them to gain employment, without the limitations on parents' and children's rights imposed by reducing, suspending or cancelling the Parenting Payments that protect children's safety and wellbeing.

¹³ SNAICC, Human Rights Law Centre & National Family Violence Prevention Legal Services, February 2019, *Joint Submission to the Senate Community Affairs References Committee Inquiry into ParentsNext*, <https://www.snaicc.org.au/media-release-27-february-2019-senate-inquiry-told-to-scrap-discriminatory-parentsnex-program/>, accessed 4 May 2021, p. 12.

¹⁴ Queensland Family and Child Commission, *Talking Families*, <https://www.qfcc.qld.gov.au/families-communities/talkingfamilies>, accessed 30 April 2021.