

Human  
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ParentsNext

Expansion of flawed program should be rejected

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We acknowledge the people of the Kulin and Eora Nations, the traditional owners of the unceded land on which our offices sit, and the ongoing work of Aboriginal and Torres Strait Islander peoples, communities and organisations to unravel the injustices imposed on First Nations people since colonisation. We support the self-determination of Aboriginal and Torres Strait Islander peoples.

## National Family Violence Prevention and Legal Services Forum

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

## Human Rights Law Centre

The Human Rights Law Centre uses strategic legal action, policy solutions and advocacy to support people and communities to eliminate inequality and injustice and build a fairer, more compassionate Australia. We work in coalition with key partners, including community organisations, law firms and barristers, academics and experts, and international and domestic human rights organisations.

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# 1. Summary

- 1.1 The Human Rights Law Centre (**HRLC**) and the National Family Violence Prevention and Legal Services Forum (**NFVPLS Forum**) welcome the opportunity to contribute to the Parliamentary Joint Committee on Human Rights' inquiry into the ParentsNext program and the *Social Security (Parenting payment participation requirements – class of persons) Instrument 2021 (Instrument)*.
- 1.2 The Instrument collapses two existing streams of criteria which mandate participation in the ParentsNext program. While previously the “Intensive” stream explicitly targeted locations with high numbers of Aboriginal and Torres Strait Islander parents receiving parenting payments, the new “Compulsory Participant” stream will require parents with young children in all “jobactive” employment regions who meet certain criteria to participate in “activities” in order to receive parenting payments. The new eligibility criteria apply to parents with a youngest child who is at least nine months old (the threshold was previously 12 months for the Targeted stream, or six months for the Intensive stream).
- 1.3 The Department of Education, Skills and Employment anticipates that in the coming financial year, the number of participants in the ParentsNext program will rise from 76,271 to 85,207.<sup>1</sup> The Instrument therefore does not represent any significant change to the operation or function of the ParentsNext program, but facilitates an expected expansion of the program.
- 1.4 The ParentsNext program is a punitive and flawed program. As the HRLC and NFVPLS Forum, together with SNAICC, submitted to the Senate Community Affairs References Committee in 2019,<sup>2</sup> the program:
  - a) is coupled with the Targeted Compliance Framework (**TCF**), resulting in an unfair system of financial punishments, which has left struggling parents without money for food, and disproportionately impacts Aboriginal and Torres Strait Islander women;
  - b) fails to address structural barriers to the paid workforce, in particular for Aboriginal and Torres Strait Islander women;
  - c) pushes some women towards insecure work;
  - d) devalues unpaid care work predominantly undertaken by women;
  - e) lacks sufficient culturally competent service providers and engagement with Aboriginal and Torres Strait Islander organisation and communities;
  - f) is likely to have detrimental impacts on children; and
  - g) intrudes upon rights to privacy and non-interference with family life.
- 1.5 The Senate Community Affairs References Committee's 2019 report titled '*ParentsNext, including its trial and subsequent broader rollout*' (the **Community Affairs Committee's 2019 Report**) recommended that the ParentsNext program should not continue in its current form.<sup>3</sup>
- 1.6 The Community Affairs Committee's 2019 Report recommended that fundamental changes were needed to address several key issues, “including the compulsory nature of ParentsNext, its use of the

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<sup>1</sup> Department of Education, Skills and Employment, Answer to Question on Notice no. SQ20-001869, Budget Estimates 2020 – 2021, 29 October 2020.

<sup>2</sup> Human Rights Law Centre, SNAICC, National Family Violence Prevention Legal Services, *Putting single mothers last: the economic injustice of ParentsNext: Joint submission to the Senate Community Affairs References Committee inquiry into ParentsNext*, (2019) (**Joint Submission**) accessible <https://www.hrlc.org.au/submissions/2019/1/23/putting-single-mothers-last-the-economic-injustice-of-parentsnext>.

<sup>3</sup> Community Affairs References Committee, *ParentsNext, including its trial and subsequent broader rollout*, (March 2019), Australian Senate, p xi, recommendation 1, (the **Community Affairs Committee's 2019 Report**) accessible: [https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/024267/toc\\_pdf/ParentsNext.includingitstrialandsubsequentbroaderrollout.pdf;fileType=application%2Fpdf](https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/024267/toc_pdf/ParentsNext.includingitstrialandsubsequentbroaderrollout.pdf;fileType=application%2Fpdf)

TCF to monitor and record participation, the sense of control it places over participants' lives, its gender bias, and the confusion around its purpose and aims.”<sup>4</sup>

- 1.7 The Instrument does not address or remedy any of the fundamental issues with ParentsNext. The Federal Government appears to have paid little attention to the Community Affairs Committee’s 2019 Report. The operation of the program in recent years reinforces our views previously submitted and echoed by the Community Affairs Committee’s findings - ParentsNext remains a punitive, discriminatory and ineffective program. The Federal Government now plans to expand this program and invest further funds without addressing the serious failings of the program highlighted in the 2019 inquiry.
- 1.8 We recommend that the ParentsNext program be abandoned, and the funding instead be directed to evidence-based, voluntary and empowering measures that are separate to the receipt of parenting payments. Such measures should recognise parenting (and different approaches to parenting) as an indispensable form of labour. The Australian Government should work in genuine partnership with Aboriginal and Torres Strait Islander organisations and communities to create sustainable Aboriginal-led programs and institutions that support parents and workforce participation.

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

**Recommendation 2:** If the ParentsNext program continues, that:

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

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

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

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<sup>4</sup> The Community Affairs Committee’s 2019 Report, p 71.

- 1.9 This submission sets out a summary of our reasons for these recommendations. For further detail, please see the joint submission of the HRLC, NFVPLS Forum and SNAICC, *Putting single mothers last: the economic injustice of ParentsNext - Joint submission to the Senate Community Affairs References Committee inquiry into ParentsNext*.<sup>5</sup>

## 2. ParentsNext discriminates on the basis of race and sex

- 2.1 Each of us expects to be supported, treated fairly and compassionately by governments in times of need, and to have our contribution to Australia's economic prosperity, including through unpaid care work, valued. The ParentsNext program, which is underpinned by a punitive compliance framework and targets mothers with young children and Aboriginal and Torres Strait Islander women in particular, undermines these basic expectations.
- 2.2 ParentsNext discriminates directly or indirectly against women, Aboriginal and Torres Strait Islander people, and young people. As acknowledged in the Explanatory Memorandum to the Instrument, the ParentsNext program discriminates directly on the basis of age (given that eligibility is determined by age), and indirectly on the basis of sex (given that 95% of participants are women).<sup>6</sup>
- 2.3 Prior to the introduction of the Instrument, the "Intensive" stream was explicitly targeted at Aboriginal and Torres Strait Islander women, with the stated justification that they "have lower employment rates than Aboriginal and Torres Strait Islander men and non-Indigenous people."<sup>7</sup>
- 2.4 The new, blanket "Compulsory Participant" stream "does not make reference to Indigenous people or to any other racial group."<sup>8</sup> However, removing this express reference does not absolve the ParentsNext program of discrimination against Aboriginal and Torres Strait Islander people; it merely disguises it.
- 2.5 It remains the case that Aboriginal and Torres Strait Islander people, and particularly women, disproportionately experience restrictions on the right to social security and the right to an adequate standard of living as a result of the ParentsNext program. They are overrepresented as both participants in the program and recipients of financial penalties under the TCF.
- 2.6 As at 28 February 2021, 18% of ParentsNext participants identified as Indigenous.<sup>9</sup> In 2019, 94% of participants who identified as Aboriginal or Torres Strait Islander were women, 69% of whom were single mothers.<sup>10</sup>
- 2.7 Discrimination will only be lawful if it is based on reasonable and objective criteria that serve a legitimate objective, is rationally connected to its stated objective and is a proportionate means of achieving that objective. The ParentsNext program lacks any clear evidentiary basis for its overall objective, its specific criteria for participation, or the "activities" deemed helpful to participants. The compulsory nature of the program causes undue stress, anxiety and disruptions to families' lives, and fails to take into account the cultural obligations and kinship care responsibilities that may be held by Aboriginal and Torres Strait Islander participants. The basis on which the Australian Government

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<sup>5</sup> Accessible at <https://www.hrlc.org.au/submissions/2019/1/23/putting-single-mothers-last-the-economic-injustice-of-parentsnext>.

<sup>6</sup> See the Explanatory Statement to the Instrument, pp 12-13. See also the Community Affairs Committee's 2019 Report.

<sup>7</sup> Explanatory Statement, *Social Security (Parenting payment participation requirements – classes of persons) Instrument 2018 (No. 1)* 11.

<sup>8</sup> Explanatory Statement to the Instrument, p 13.

<sup>9</sup> Letter from Senator the Hon Michaelia Cash to Dr Anne Webster MP, Chair of Parliamentary Joint Committee on Human Rights, re the Committee's request for further information, dated 11 March 2021.

<sup>10</sup> The Committee's 2019 Report, p 29.

describes the program as “highly successful”<sup>11</sup> is unclear, given that less than 10% of all participants have exited the program into paid work.<sup>12</sup>

- 2.8 In our assessment, the program’s discrimination against women and Aboriginal and Torres Strait Islander people is disproportionate and entirely unjustified. The Instrument will not address this discrimination in any way in practice – it only makes it less explicit.

### 3. Unfair system of financial punishment

- 3.1 The ParentsNext program operates on the assumption that the threat and application of financial sanctions – suspending, reducing or cancelling a payment – results in greater engagement with employment services providers and positive employment outcomes.<sup>13</sup> The Committee’s 2019 Report identified the TCF as “[o]ne of the most distressing aspects of ParentsNext.”<sup>14</sup>
- 3.2 There is clear evidence that placing conditions on social security, such as applying the TCF to ParentsNext, is likely to result in negative financial, health and psychological outcomes for participants<sup>15</sup> and is generally ineffective at helping people gain employment.<sup>16</sup>
- 3.3 Financial sanctions for ParentsNext participants disproportionately impact Aboriginal and Torres Strait Islander parents; at the end of 2018, Aboriginal and Torres Strait Islander parents made up 24% of the 16,025 payment suspensions, despite being only 19% of participants.<sup>17</sup> We refer also to the Australian Council of Social Services’ analysis of more recent data, provided in their submission to this Committee, which shows that payment suspensions and demerit points continue to be applied disproportionately to Aboriginal and Torres Strait Islander participants. It also highlights a concerning number of Aboriginal and Torres Strait Islander participants whose parenting payments have been cancelled altogether, demonstrating that the TCF is not an effective measure for encouraging compliance with activity requirements.
- 3.4 The threat of and actual reduction, suspension or cancellation of social security payments limits the rights to social security, an adequate standard of living, a private life and equality and non-discrimination.<sup>18</sup> It is also cruel, considering it may result in parents being unable to put food on the table for their child.
- 3.5 Financial sanctions can also make women more vulnerable to family violence and may act as a barrier to escaping violence. Victims/survivors of family violence can seek an exemption to the program, however we note the concerns raised by numerous organisations in submissions to this inquiry about how those exemptions are applied in practice, the trauma for victims/survivors in retelling their stories, and the evidentiary requirements for obtaining an exemption.
- 3.6 The Community Affairs Committee’s 2019 Report called on the Australian Government to remove the TCF from the ParentsNext program. The Federal Government has not acted on this recommendation, and the program remains steeped in punitive compliance measures that cause psychological and financial distress to young parents.

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<sup>11</sup> Letter from Senator the Hon Michaelia Cash to Dr Anne Webster MP, Chair of Parliamentary Joint Committee on Human Rights, re the Committee’s request for further information, dated 11 March 2021.

<sup>12</sup> Department of Education, Skills and Employment, Answer to Question on Notice no. SQ20-00004, Additional Estimates 2019 – 2020.

<sup>13</sup> See Explanatory Statement to the Instrument, p 2.

<sup>14</sup> The Committee’s 2019 Report, p 13.

<sup>15</sup> The Committee’s 2019 Report, p 25; Department of Social Policy and Social Work, *Final Findings Report: Welfare Conditionality Project 2013–2018* (June 2018), p 29; Joint Submission, pp 9-10; Good Shepherd, “*Outside systems control my life*”: The experience of single mothers on Welfare to Work (2018).

<sup>16</sup> United Kingdom Department of Social Policy and Social Work, *Final Findings Report: Welfare Conditionality Project 2013–2018* (June 2018) 29.

<sup>17</sup> See Joint Submission, p 8.

<sup>18</sup> The Committee’s Preliminary Report, p 60; see also Joint Submission, pp 1, 10, 16-18.

## 4. Failure to address structural barriers to paid work

- 4.1 ParentsNext employs punitive means that fail to address the structural barriers to paid workforce participation which entrench the disadvantage of many women with young children, particularly single parents and Aboriginal and Torres Strait Islander women.<sup>19</sup> Structural barriers include the unaffordability and unavailability of child care, the casualisation of the workforce, racial discrimination and the limited employment opportunities available in rural and regional communities.
- 4.2 Forcing women into mandatory “activities” does not address these underlying structural barriers. Some of the activities may be useful in certain cases, however individuals cannot be expected to overcome the entrenched gendered and racial barriers to secure employment.
- 4.3 The Community Affairs Committee’s 2019 Report found that ParentsNext “has not been designed in a way which acknowledges or addresses these structural barriers to workforce participation,”<sup>20</sup> and recommended that the program be “reshaped” to acknowledge and address structural barriers to employment.<sup>21</sup>
- 4.4 The Instrument does not reshape ParentsNext; the program, by design, remains unable to address structural barriers to workforce participation. Its inability to meet this aim is a key reason that the discrimination inherent in its operation is unlawful and unjustified.

## 5. Pushing women into insecure work

- 5.1 The Community Affairs Committee’s 2019 Report considered that ParentsNext “appears to push parents into insecure, low-paying work rather than developing their ability to secure longer term employment.”<sup>22</sup> That report referenced evidence demonstrating that welfare conditionality is largely ineffective in facilitating people’s entry into or progression within the workforce.<sup>23</sup>
- 5.2 It is also problematic that ParentsNext providers receive an “outcome payment” when a participant achieves “sustainable employment”. “Sustainable employment” is defined as a minimum of 15 hours per week in paid employment for at least 12 weeks.<sup>24</sup> This incentivises employment service providers to push women towards certain outcomes, regardless of their circumstances.<sup>25</sup> Pushing women to pursue limited work opportunities that lack security, adequate remuneration or a long-term career pathway just for the sake of getting them off income support runs counter to the ParentsNext program’s stated objective.<sup>26</sup>
- 5.3 Provider incentives and the application of the TCF may also have the combined impact of pressuring women to tolerate poor working conditions, including racism or discrimination in the workplace, for the sake of maintaining employment.
- 5.4 The ParentsNext program also further devalues the enormous amount of unpaid labour, undertaken primarily by women, to care for children and other family or community members.<sup>27</sup> Aboriginal and

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<sup>19</sup> Joint Submission, pp 11 -12.

<sup>20</sup> The Committee’s 2019 Report, p 72.

<sup>21</sup> The Committee’s 2019 Report, p 72.

<sup>22</sup> The Committee’s 2019 Report, p 42.

<sup>23</sup> Department of Social Policy and Social Work, *Final Findings Report: Welfare Conditionality Project 2013–2018*, (June 2018), p 18; Good Shepherd, “*Outside systems control my life*”: *The experience of single mothers on Welfare to Work* (2018); Joint Submission, p 13.

<sup>24</sup> Department of Employment, *ParentsNext Discussion Paper* (2017), p 13.

<sup>25</sup> Joint Submission, p 13; Department of Employment, *ParentsNext Discussion Paper* (2017) 13.

<sup>26</sup> Explanatory Statement to the Instrument, p 9; Committee’s 2019 Report, p 13.

<sup>27</sup> The Committee’s 2019 Report, pp 28 – 29.

Torres Strait Islander women in particular often undertake additional work in the context of kinship or extended family care arrangements. This work, as well as activities observing cultural and community responsibilities, ought to be valued and recognised. The ParentsNext program reinforces the perception of paid work as the only valuable form of labour by linking parenting payments to the completion of mandatory “activities” rather than recognising parenting or caring as a challenging but critical form of labour, particularly in the vital early years of a child’s life.<sup>28</sup>

## 6. Lack of culturally competent service provision and engagement

- 6.1 The Community Affairs Committee’s 2019 Report expressed “serious concerns that many service providers do not have an appropriate level of cultural competency or experience in working with Aboriginal and Torres Strait Islander peoples.”<sup>29</sup> Culturally safe and appropriate employment service providers need to be available and offer services that are tailored specifically to the unique needs of Aboriginal and Torres Strait Islander people and communities.
- 6.2 The Explanatory Statement to the Instrument refers to consultation with stakeholders including participants, providers and peak bodies. The Explanatory Statement noted that the Government had received feedback highlighting the complexity of the two-stream criteria and delivery model and the limitations placed on access to the Participation Fund.<sup>30</sup>
- 6.3 This appears to be the extent of the consultation process. This demonstrates that the Government is unwilling to engage with feedback, criticism and concerns about the punitive, ineffective and discriminatory nature of the ParentsNext program, and in particular, feedback from Aboriginal and Torres Strait Islander organisations and communities.
- 6.4 The NFVPLS Forum is a peak Aboriginal and Torres Strait Islander body with a focus on supporting Aboriginal and Torres Strait Islander women and children. The majority of its member organisations have confirmed that they have not been involved in any relevant consultation with the Federal Government regarding the program.

## 7. Detrimental impacts on children

- 7.1 In 2019, the Community Affairs Committee found that ParentsNext “does not appear to consider the best interests of children.”<sup>31</sup> Article 26 of the Convention of the Rights of the Child requires that the Australian Government ensures that children have the opportunity to develop healthily and that they and their families have access to social security where needed. Equal and fair access to social security can be critical to ensuring that parents living in poverty can meet the health and developmental needs of their children.
- 7.2 The punitive regime of sanctions increases emotional and financial stress in some families and leaves some parents without money for daily essentials, like nutritious food, which are necessary for positive child health and development.<sup>32</sup> Children are often aware of, and impacted by their parent’s stress and limitations on the amount of food available for them and their families.<sup>33</sup>

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<sup>28</sup> Tim Moore, Noushin Arefadib, Alana Deery, Sue West, *The first 1000 days: An evidence paper – Summary*, Centre for Community Child Health (2017); Joint Submission, p 14.

<sup>29</sup> The Committee’s 2019 Report, p 31.

<sup>30</sup> Explanatory Statement to the Instrument, p 3.

<sup>31</sup> The Committee’s 2019 Report, p 24.

<sup>32</sup> Joint Submission, p 15.

<sup>33</sup> The Committee’s 2019 Report, p 57.

- 7.3 The program also potentially discriminates against children on the basis of their family type, with children in disadvantaged sole parent families facing discrimination as a result of the withdrawal of payments (which is less likely to affect children in less vulnerable families).<sup>34</sup>

## 8. Empowering people and communities works

- 8.1 Imposing conditions, along with the threat of punitive action, on access to vital parenting payments is a continuation of colonial practice and will not result in positive outcomes for families.<sup>35</sup> The ParentsNext program is another demonstration of the Federal Government's unwillingness to relinquish the power and control that it holds over the lives of Aboriginal and Torres Strait Islander people, particularly in this case, women who are single mothers. This power dynamic needs to change and can only occur through the equal participation of Aboriginal and Torres Strait Islander peoples in decisions that affect them.
- 8.2 Similar critiques have been made in the context of other mandatory social security programs that have targeted and tried to change the behaviour of Aboriginal and Torres Strait Islander people, like compulsory income management and CDP.
- 8.3 Rather than investing more money in the continuation and expansion of the ParentsNext program, the Federal Government must develop a response that recognises different ways of parenting and other caring responsibilities, and values unpaid care work as labour and as a significant contribution to the nation's prosperity. The Federal Government should work in partnership with Aboriginal and Torres Strait Islander organisations and communities to self-identify ways to value good parenting, address barriers to employment and create solutions tailored to meet their needs.
- 8.4 The Federal Government must listen to the feedback it has received from Aboriginal and Torres Strait Islander communities and organisations, address the recommendations made in the Community Affairs Committee's 2019 Report, and abandon the harmful ParentsNext program in its current form.

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<sup>34</sup> Beth Goldblatt, *More than unpopular. How ParentsNext intrudes on single parents' human rights*, *The Conversation*, (16 January 2019) The Conversation Online, accessible: <https://theconversation.com/more-than-unpopularhow-parentsnext-intrudes-on-single-parents-human-rights-108754>

<sup>35</sup> Dr Shelley Bielefeld, *Income Management and Indigenous Women – A New Chapter of Patriarchal Colonial Governance?* 39 *University of New South Wales Law Journal* (2016) 843.