

**Social Security Legislation
Amendment (Youth Jobs Path:
Prepare, Trial, Hire) Bill 2016**

**Australian Unemployed Workers'
Union (AUWU) Submission to the
Committee Secretariat**

14 November 2016



Introduction

1. The Australian Unemployed Workers' Union (AUWU) is a national body representing unemployed and underemployed Australians. The AUWU formed in early 2014 with the primary aim of fighting for the rights and dignity of unemployed workers and has active branches in Melbourne, Sydney, Brisbane and Adelaide. The AUWU has in excess of 4,000 members across Australia. The AUWU is run by volunteers.
2. Since forming, the AUWU has been collecting stories from Newstart recipients regarding their concerns with Employment Service Providers. The vast majority of these stories involve an Employment Service Provider misinforming, unfairly penalising, and intimidating Newstart recipients. After collecting these stories, the AUWU has prioritised assisting Newstart recipients with their Employment Service Provider. To this end, in October 2015 the AUWU set up a National Advocacy Service to inform Newstart recipients of their rights under social security law and assist them in their dealings with Employment Service Providers. Many of the concerns we have about the 'Employability Skills Training' program is coloured by the experiences relayed to the AUWU through the advocacy hotline.
3. The AUWU welcomes the opportunity to make a submission to the Committee Secretariat. With the official Australian youth unemployment at 12.61% at time of writing – a rate that has almost doubled since 2009 – it is imperative that the Government takes immediate action to address this crisis. The AUWU looks forward to working with the Government to this end.
4. The AUWU seeks the opportunity to consult directly with the Committee Secretariat in relation to this program. The AUWU feels strongly that having the voices of Newstart recipients heard during this process is essential in order to achieve measured and appropriate policy in this area.

Preliminary Remarks Regarding the PaTH program's Key Assumptions

5. The AUWU would like to declare its deep concern and dismay regarding the many misguided assumptions contained within the Coalition's PaTH program and the accompanying Employment Skills Training Consultation Paper drafted by the Department of Employment (hereafter, the 'consultation paper') regarding the urgent task of helping Australian youths into work.

Below is a brief list of the assumptions made by the PaTH program proposal that the AUWU would like to highlight as areas of grave

concern.¹

i. Over Confidence in the jobactive System

The vast majority of cases the AUWU receive through its hotline involve unemployed workers struggling to deal with employment service providers who routinely break the rules set out by the jobactive deed and guidelines.²

While the AUWU hotline is of course more likely to receive calls from unemployed workers displeased with their job agency, there is no question that a number of job agencies are deliberately breaking the guidelines set out by the Department. In this context, any government initiative in which employment service providers have to play a central role must be formulated with the right amount of checks and balances to ensure employment service compliance. It comes as a great disappointment to the AUWU that this consultation paper does not outline any awareness of the increasingly dysfunctional and punitive nature of the employment services industry.

The consultation paper outlines that training providers will be paid between \$403.70 and \$504.35 for each participant for each completed block of training. There is no doubt that if left unregulated as this consultation paper suggests, this financial payment will create perverse incentives for training providers and employment service providers to ignore the many reasons why unemployed workers would be better off not attending the 'Employability Skills Training' program. After all, it only takes a few unscrupulous job agencies for the proposal outlined in this consultation paper to turn into a nightmare for unemployed workers.

ii. Supply-side approach to the labour market

It is clearly apparent throughout the consultation paper that the Government's solution to Australia's youth unemployment crisis revolves strongly around the question of youth 'employability', or in other words, the 'supply-side' of the labour market.

Through its persistent focus on the need to make younger Australians more 'employable', the paper appears to be suggesting that if only young Australians had basic levels of employability then we would not have a youth unemployment crisis.

This assumption, however, is completely at odds with the reality of the Australian labour market. Currently according to the most recent data collected

¹ Due to the lack of resources of the AUWU, not all issues could be included in this report.

² Stories available upon request. Many can be found on our website, www.unemployedworkersunion.com

by the Australian Bureau of Statistics and the Department of Employment,³ there are 19 job seekers competing for every job vacancy. When you consider low-skill jobs – the sort of jobs young unemployed Australians will most realistically be considered for – this rate is even higher. Clearly, it is this dearth of low-skill jobs in the Australian labour market that has been the leading cause for Australia’s youth unemployment crisis. The problem is not with the ‘supply-side’ of the labour market, but rather with the lack of demand for labour from employers.

In light of the obvious shortage of jobs, it is clear that the Australian government must implement policies that will lead to the creation of more jobs within the economy. The AUWU are still awaiting such a policy to be announced. In the place of an urgent Federal job-creation policy, the Government has instead decided to persist with its ‘supply-side’ focus of making younger Australians more ‘employable’. This policy has not worked in the past to fix Australia’s youth unemployment crisis and it will not work now.

iii. **Employer-centric Approach**

Similar to the points raised in 5 (ii), the AUWU is deeply concerned about the extreme level of servility shown to employers in the consultation paper. At every turn, the *needs* of the employer are emphasized. The consultation paper suggests quite openly that the ‘Employability Skills Training’ program is primarily designed to make sure Australian youths satisfy whatever demands employers may have of them. Indeed, the influence of employer advocate groups is apparent throughout the consultation paper.

In the training model put forward by this consultation paper, there does not appear to be any acknowledgement that some employers may have unreasonable demands that should be refused. Similarly, there does not appear to be any emphasis on informing young Australians on their rights at work. In light of the widespread exploitation and abuse of younger workers in the Australian labour market, this is a shocking and telling omission.

The AUWU’s Position

6. There are a number of specific components proposed by the consultation paper that pose serious risks to the safety, confidence and financial position of unemployed workers.

The AUWU’s concerns regarding the consultation paper will be broken up into three sections: (1) Risks to Unemployed Workers;(2) Risks of Inadequate Training; and (3) Risks to the Integrity of the System.

³ ABS Unemployment figure+ ABS Underemployment figure + Latest ABS figure on Hidden Unemployment / Job Vacancies listed in the Government’s vacancy report. Figures available upon request.

7. Risks to Unemployed Workers

There are many potential risks that unemployed workers may face in the process of attending the 'Employability Skills Training' program that are not adequately addressed in this consultation paper. Below are a few of the issues the AUWU would like to bring to the Committee's attention.

- **Travel Concerns: Inadequacy of Employment Fund**

The consultation paper states that unemployed workers participating in the program will be "not expected to travel for more than 90 minutes each way to attend". To assist unemployed workers with the significant expenses relating to this extensive travel, the consultation paper states that

Existing provisions within the Employment Fund guidelines allow jobactive providers to provide assistance with transport costs to training activities.

The AUWU would like to point out in the strongest possible terms that the Employment Fund is not adequately regulated to ensure the smooth delivery of this crucial component.

Under the jobactive deed, employment service providers are under no obligation to provide unemployed workers funds from the employment fund. Furthermore, as there is no concrete incentive for employment service providers to access the employment fund to assist unemployed workers with expenses, in many cases employment service providers simply refuse to access the fund. The AUWU have received countless stories from unemployed workers detailing this precise situation.⁴

In light of the failure of the jobactive system to ensure employment service providers are *legally obligated* to access the employment fund in certain situations, the AUWU is gravely concerned that many unemployed workers will either (1) not be informed that they have access to the employment fund for expenses; or (2) will be refused access employment service providers.

The risks here are very high. Indeed, if the employment fund system continues to operate in this haphazard and unregulated fashion, it is possible that some unemployed workers will be driven into severe financial distress as a result of the travel costs imposed by this program.

What guarantees can the Coalition provide that the employment service providers will provide unemployed workers with fair access to the employment fund for this crucial expense?

The AUWU would like to note that participants in Work for the Dole are given a

⁴ Stories available upon request

supplement (although completely inadequate) to assist them with travel costs. Why is the Coalition not suggesting a similar supplement for this program?

Additionally, given that attending 25 hours of training for 6 weeks could potentially involve hundreds of dollars worth of travel, the AUWU is also concerned that the unemployed workers' Employment Fund will be unfairly depleted as a result of this training, leaving no room for other expenses.

In this way, the 'Employability Skills Training Program' will be a further hurdle for unemployed workers to get the courses they want through the Employment Fund, as they will be forced to attend this course instead.

What, for example, happens when Unemployed worker wants to do a different course?

Finally, the AUWU notes that forcing unemployed workers to travel up to 90 minutes for a training program is excessive.

- **Safety Concerns**

There are a number of safety issues that the consultation paper fails to acknowledge. The failure of the consultation paper to address this crucial area is alarming to say the least.

Firstly and most importantly, what safety assessments will training providers have to undertake to ensure that unemployed workers will not be placed in dangerous situations?

The consultation document states

Training is to be as work-like as possible Given participants are expected to develop work skills, it is expected that the training will mimic a work environment and encourage young people to engage in the training through interactive and scenario based learning.

With any work-like environment, there are potential risks and hazards. Clearly, there needs to be an extensive plan to ensure the safety of unemployed workers who are forced to participate in these 'work-like' conditions. What procedures will the Coalition put in place to ensure the safety of unemployed workers attending these activities?

Given the many unemployed workers who have come to the AUWU with stories of being injured at Work for the Dole⁵ – not to mention the case recently where a young unemployed worker died at their Work for the Dole site – the importance of this point cannot be stressed strongly enough.

⁵ Stories available upon request

Furthermore, what procedures will be put in place to ensure that the training providers do not use the 'work-like' conditions as an excuse to exploit unemployed workers for their own financial gain?

- **Eligibility Concerns**

The AUWU is concerned that unemployed workers who should not be attending this program due for a variety of extenuating circumstances will be forced to attend by unscrupulous employment services.

The consultation paper states

The training will be available from the first day that eligible job seekers commence in jobactive but will become compulsory from five months, unless there are extenuating circumstances. Extenuating circumstances will include:

the job seeker is already participating in an ongoing activity that is of benefit to the job seeker finding work;

the job seeker has recently completed a similar type of training;

the job seeker already demonstrably possesses employability skills, for example by having a strong employment history with positive referee reports from employers;
or

the job seeker is experiencing employment barriers such as homelessness or domestic violence that need to be addressed before the job seeker would be in a position to benefit from the employability skills training

Given the financial incentives on offer, the AUWU is deeply concerned that unscrupulous employment service providers will ignore the legitimate extenuating circumstances of unemployed workers.

Furthermore, the vague language used to describe the certain extenuating circumstance provides employment service providers with considerable discretion to decide what is or what is not an activity that will "benefit...the job seeker finding work", or what is or is not a "strong employment history", or what are or are not "employment barriers".

Given the many unscrupulous employment services that the AUWU has come into contact with, this is a grave concern.

How does the Coalition plan to eradicate this sort of unscrupulous behaviour?

For example, if an unemployed worker is studying a course that may increase their chances of employment in an area of interest to them, what guarantees are there that employment service providers will allow unemployed workers to finish this course?

What guarantees can the Coalition offer that employment service providers will fairly determine and acknowledge the extenuating circumstances of unemployed

workers?

- **Attendance, Reasonable Excuse and Compliance Issues**

The AUWU is concerned that the financial incentives offered to training providers will lead to unemployed workers being unfairly threatened to attend the 'Employability Skills Training' program even though they have a 'reasonable excuse' not to attend.

The consultation paper states

Job seekers who start the training but do not complete for a reason such as illness or to care for a family member, would also be able to re-enrol at a later suitable date

Does this mean that unemployed workers who miss a portion of the training due to sickness or for another reasonable excuse will be required to start the training again from the beginning? If so, this will place considerable pressure on employment service providers to ensure that unemployed workers attend the entire training regardless of sickness or various other reasonable excuses that arise.

As stated in the Department of Employment's consultation paper

The Department proposes to pay part on commencement and part on completion for each participant.

Clearly there will be considerable financial pressure on the training provider and employment service provider to ensure unemployed workers complete the training.

What procedures will the Coalition put in place to make sure employment service providers both inform unemployed workers of their right to a 'reasonable excuse' and honour the 'reasonable excuse' determination as a whole?

The AUWU would like to point out in the strongest possible terms that under the current jobactive system, the compliance system is broken and failing to provide the checks and balances necessary. Specifically, the Department of Human Services is not fulfilling its role of investigating each and every compliance decision before they sign off on the compliance orders sent to them by the employment service providers. This has led to employment service providers being given unprecedented power to penalise unemployed workers, which has in turn led to a culture of fear and intimidation pervading the industry.

When this fundamentally flawed system is combined with the 'Employability Skills Training' program, there is a high risk of unscrupulous employment service providers taking advantage of the unprecedented powers given to them. This will likely lead to employment service providers unfairly penalising

unemployed workers (or the unfair use of the threat to penalise). The AUWU have received countless cases of this occurring under the current system.

What procedures will the Coalition put in place to ensure that this does not occur under the 'Employability Skills Training' program? What procedures will the Coalition put in place to ensure that the payments offered to training providers do not become perverse financial incentives?

- **Undermine Confidence**

The AUWU is concerned the employer-centric focus of the 'Employability Skills Training' [see section 5(iii)] will seriously undermine the confidence of unemployed workers to question their employer, leading to potential risks of exploitation or injury at work.

The consultation paper states that the training providers must demonstrate that

they have the endorsement of one or more local employers and/or one or more industries more broadly

that they can develop and deliver training to meet employers' needs

that they can deliver training that instils in young people the behaviours and employability skills that employers expect in the recruitment process and in the workplace

how they will work effectively with employers and jobactive providers to prepare job seekers for work experience (especially the voluntary internships under Youth Jobs PaTH) and for work, and assist job seekers into work

how they will obtain feedback from employers, jobactive providers and job seekers on the effectiveness of their training and indicate how they will use that feedback to continuously improve their training.

It is clear that communicating the needs of employers to unemployed workers is the central aim of the 'Employability Skills Training' program. However, it is clear that there are a number of things that unemployed workers need to know before going into a workplace that are not necessarily in the employers interest, most obviously information relating to workers rights.

How does the 'Employability Skills Training' program prepare unemployed workers for unscrupulous employers that might take advantage of them in a variety of different ways? Considering that young unemployed workers represent one of the most vulnerable cohorts of Australians and the many examples of unscrupulous employers taking advantage of them, this is an essential point that requires immediate attention of the Coalition in its formulation of the 'Employability Skills Training' program.

8. Risks of Inadequate and Ineffective Training

It is unclear how the 'Employability Skills Training' program differs from other courses offered to younger Australians through employment service providers. In what ways is this 'Employability Skills Training' going to succeed where other training did not?

- **Vague Terminology of Training**

The consultation paper contains very little regarding what the training will actually look like. There are very few directives on how the training must be delivered. Instead, there are a number of vague suggestions on how the training *should* look. This raises many concerns about the quality of the training proposed.

The consultation paper states

Job seekers will gain practical experience in basic employability skills such as teamwork, communication, personal presentation, reliability and digital literacy. Training in these skills will be hands-on and as work-like as possible. Training providers may propose to deliver the training in the context of a particular industry's work environment (e.g. retail, hospitality, construction) or in the context of a mix of industries

The discretion given to training providers here opens up the possibility that training providers will take advantage of government funds without providing a good service to unemployed workers.

Furthermore, the consultation paper states

The Department will prescribe the overarching principles and topics to be covered by the training, while the training provider will develop the required training materials and methodology

What procedures will the Coalition put in place to ensure that the methods and materials developed by the training provider will be sufficient?

Additionally, the fact that the training will be 'non-accredited' adds to fears that this program will not be of a high quality and will only serve to take unemployed workers away from more useful activities.

9. Risks to the Integrity of the System

The consultation paper does not outline any procedures to ensure training providers and employment service providers do not cynically exploit and break the rules of the 'Employability Skills Training' program for their own advantage. Considering the extent of bad employment service behaviour uncovered in the past, this omission is of grave concern to the AUWU. Below are a few issues the AUWU would like to bring to the Committee's attention.

- **Risk of Churning**

The consultation paper states

Job seekers who participate in training for the full 75 hours but do not achieve the required learning outcomes would be able to re-enrol once more but with another training provider.

Here there are significant risks of employment services and training providers cynically churning unemployed workers through the 'Employability Skills Training' program multiple times in order to receive multiple payments.

Indeed, from a certain perspective it is actually not in the financial interests of these organisations to provide unemployed workers with the 'required learning outcomes' as unemployed workers resitting the program due to failure to achieve the required outcomes could lead to another payment being received by the provider.

What procedures will the Coalition put in place to ensure this sort of cynical behaviour does not occur?

- **Risk of Quid Pro Quo Arrangements**

The consultation paper states that

Jobactive providers and their related entities will be eligible to be appointed to the employability skills training panel but will not be able to refer job seekers from their own caseload to a training program provided by them or a related entity

While this is a welcome attempt to prevent rorting of the system, there are a few potential holes in the system that could still be exploited.

For example, what is stopping agencies developing friendly relations with each other and creating a quid pro quo relationship?

Furthermore, the consultation paper states

Accordingly, it is proposed that only Registered Training Organisations (RTOs) will be eligible to apply to deliver the employability skills training, but that sub-contracting arrangements with specialist youth organisations (such as not-for-profit and community organisations) who might be better able to engage with young job seekers will be encouraged. These sub-contracting arrangements would be similar to existing third-party arrangements which are allowable under the Standards for Registered Training Organisations 2015.

Who will these third party organisations be? What sort of quality assurances will they provide? What is preventing third party organisations begin set up with

agreements with employment service providers to maximise provider revenue in a quid pro quo arrangement?

- **Online Rort Risks**

The consultation paper states that

It is expected that the training will be delivered in person rather than online.

The rather weak language here opens up the possibility that employment services might offer online courses instead of a proper course. What's stopping unscrupulous agencies and training organisations putting them online anyway?

10. **AUWU recommendations**⁶

- The PaTH program should be abolished in favour of Government job creation to address lack of jobs in the Australian economy. The AUWU would like to see Government investment in programs that actually create jobs, such as apprenticeships and various job create schemes
- Introduce a flat-rate Travel Allowance to assist with expenses relating to traveling to 'Employability Skills Training' program.
- If the Employment Fund is being used, the Coalition must introduce procedures to ensure employment service providers are *required* to provide funds to assist unemployed workers with travel expenses and other costs associated with attending the 'Employability Skills Training' program. Additionally, the level of Employment Fund should be increased to compensate the amount taken for travel expenses.
- Introduce an education component to inform unemployed workers of their rights to request money from the employment fund (if it is being used), as well as their rights to a 'reasonable excuse' and to not attend the training as a result of 'extenuating circumstances'.
- Reduce maximum travel time to 30 minutes.
- Introduce an extensive Risk Assessment program for the 'Employability Skills Training' program to ensure the safety of unemployed workers.
- Introduce component in the 'Employability Skills Training' program informing unemployed workers of their rights at work.
- Introduce procedures to ensure employment service providers acknowledge reasonable excuses for not attending. The AUWU suggests

⁶ Due to lack of resources, not all AUWU recommendations could be included in this report.

the Coalition create an education program and independent complaints process to address this important issue.

- Introduce procedures to ensure employment services acknowledge the 'extenuating circumstances' that make unemployed workers ineligible for the 'Employability Skills Training' program. The AUWU suggests the Coalition create an education program and independent complaints process to address this important issue.
- Introduce procedures to ensure that the training offered is of a high quality and provides unemployed workers with concrete skills.
- Introduces procedures to prevent deliberate churning of unemployed workers. The AUWU suggests the creation of an independent watchdog to review and regulate the employment services industry and training providers to address this important issue.
- Introduce procedures to prevent rorting of the system by unscrupulous employment services providers and training providers. The AUWU suggests the creation of an independent watchdog to review and regulate the employment services industry and training providers to address this important issue.