

EXPLANATORY STATEMENT

Social Security (Parenting payment participation requirements – classes of persons) Specification 2016 (No. 1)

The *Social Security (Parenting Payment participation requirements – classes of persons) Specification 2016 (No. 1)* (the Specification) is made by the Minister for Employment (the Minister) under subsection 500(2) of the *Social Security Act 1991* (the Act).

The Specification specifies a class of persons for the purposes of paragraph 500(1)(ca) and subsection 500(2) of the Act, which will support the Supporting Parents to Plan and Prepare for Employment programme (ParentsNext) announced as part of the 2015–16 Budget. ParentsNext will offer early intervention assistance to help parents to identify their education and employment related goals and to achieve these goals by participating in activities and connecting to relevant local services.

ParentsNext will commence on 4 April 2016, after the cessation of the Helping Young Parents and Supporting Jobless Families trials. The Specification will commence on 1 April 2016 to facilitate the transition of participants from the trials to the new programme; however, for practical purposes ParentsNext will officially commence on 4 April 2016. ParentsNext will target a cohort of parents with high levels of labour market disadvantage. The Specification identifies the new cohort of parents as one class of persons for the purposes of the Act. The class of persons identified in the Specification will be known as the “Participating Parent” class.

The Specification will also revoke the *Social Security (Parenting payment participation requirements – classes of persons) (DEEWR) Specification 2011 (No. 1)* (the Original Specification) which supported the Helping Young Parents and Supporting Jobless Families trials by specifying two classes of persons for the purposes of paragraph 500(1)(ca) and subsection 500(2) of the Act.

Background

Helping Young Parents and Supporting Jobless Families trials

The Helping Young Parents and Supporting Jobless Families trials commenced in 2012 as early intervention measures targeting vulnerable groups of parents living in 10 socio-economically disadvantaged locations. Many of the parents who were assisted through these measures faced a high risk of long-term unemployment, reliance on income support and intergenerational unemployment. The measures provided early contact ensuring earlier identification of the parents’ and families’ needs and barriers to employment and provided tailored assistance through linkages to the most appropriate local services, while recognising and taking into consideration their family responsibilities. The trials have been successful in helping young parents and jobless families, and will be replaced by a single ParentsNext programme on 4 April 2016. ParentsNext is aimed at building on and combining the successful aspects of the trials.

ParentsNext

As part of the Growing Jobs and Small Business package announced in the 2015–16 Federal Budget, a new Supporting Parents to Plan and Prepare for Employment programme (to be known as ‘ParentsNext’) will commence on 4 April 2016. ParentsNext Project providers will support eligible parents with young children to plan and prepare for future employment. ParentsNext will build on the successful elements of the Helping Young Parents and Supporting Jobless Families trials and will also be implemented in 10 disadvantaged locations. ParentsNext will adopt the compulsory participation model of the Helping Young Parents trial (see below) while including parents in the targeted cohort who have a youngest child aged five years old and who are about to enter into activity tested job search requirements, parents with high labour market disadvantage and parents who have left school before completing Year 12.

Overview of the Specification under the *Social Security Act 1991*

The purpose of the Specification is to specify a new class of persons for the purposes of paragraph 500(1)(ca) and subsection 500(2) of the Act. Subsection 500(2) of the Act provides the Minister with the power to specify a class of persons required to meet participation requirements for Parenting Payment.

In Australia, joblessness among families is a significant social and economic problem resulting in one of the highest proportions of children living in jobless families in the OECD.¹ ParentsNext will target a cohort of parents identified as having high levels of labour market disadvantage. The Participating Parent cohort is based on the cohorts targeted in the Helping Young Parents and Supporting Jobless Families trials; however it focusses on early activation of those with the greatest and most immediate needs. ParentsNext aims to assist this new cohort to prepare for and ultimately participate in the labour market to help prevent long-term and intergenerational welfare reliance.

The Specification supports ParentsNext by identifying the new cohort as a class of persons for the purposes of the Act. The new class of persons identified in the Specification will be known as the ‘Participating Parent’ class. Participating Parents will be those who reside in 10 socially and economically disadvantaged locations in Australia, who have a youngest PP child (the child of a parenting payment recipient) aged between six months and six years (but not including six years), who have been in receipt of parenting payment for at least six months continuously, who have not been receiving the pensioner education supplement for the previous three months and who have no reported earnings from employment in the previous six months.

ParentsNext Project providers will operate in 10 Local Government Areas. These Local Government Areas have been selected for reasons relating to social and economic disadvantage; high unemployment, high proportions of the population in receipt of income support payments (including long-term welfare dependency), increasing numbers of unemployment beneficiaries, and relatively low educational attainment.

Establishing ParentsNext in the same 10 locations as those in the Helping Young Parent trials will also ensure that progress made during the trials can continue. This includes continued

¹ OECD, 11/7/2014, Children in families by employment status:
http://www.oecd.org/els/family/LMF_1_1_Children_in_families_by_employment_status_Jul2014.pdf

servicing of trial participants and building on the established links and relationships between local community services and programmes.

The first criterion for determining eligibility for the Participating Parent class of persons is that the person must reside in one of the 10 locations. These locations are the Local Government Areas of Logan and Rockhampton in Queensland, Playford in South Australia, Bankstown, Wyong and Shellharbour in New South Wales, Greater Shepparton and Hume in Victoria, Burnie in Tasmania and Kwinana in Western Australia.

The second criterion for determining eligibility for the Participating Parent class of persons is that the person must have been receiving parenting payment (partnered or single) for a continuous period of at least six months prior to the day of the assessment of eligibility.

Parents must be in receipt of parenting payment for a continuous period of at least six months to ensure that ParentsNext Project providers can focus on assisting parents who are at higher risk of long-term welfare dependency. Parents who are in receipt of welfare payments for a shorter period of time (less than six months) are not required to participate.

The third criterion that must be met by a person to fall within the Participating Parent class is that the parent must have a PP child aged between six months and six years (not including age six).

The Helping Young Parents trial demonstrated that parents on parenting payment with young children can competently undertake activities. Helping Young Parents participants were initially engaged by face to face interviews when their youngest child was six months of age. Once the child reached 12 months of age the parent was then required to participate in two compulsory activities. This early engagement and intervention was found to be effective in assisting parents to plan for and then, once their child was 12 months of age, participate in activities to meet their identified goals. ParentsNext will adopt the Helping Young Parents method of graduated engagement and require eligible parents to participate from when their youngest PP child is six months old. Unlike the Helping Young Parents trial which required parents to participate in two compulsory activities, ParentsNext will require parents to participate in one compulsory activity.

The initial contact, when the youngest child is six months of age, will be used to establish a rapport between the parent and their ParentsNext Project provider and promote planning for goals and future activities. Until their youngest child reaches 12 months of age parents will be required to undertake a 'light touch' compulsory activity. Likely activities for parents with children under 12 months of age would be identifying short-term and long-term employment related goals, identifying pathways to achieve these goals (including relevant education options) and exploring possible child care options. These light touch activities will allow parents to actively plan for and think about future employment while providing flexibility around their caring responsibilities. Should these parents wish to undertake more intensive activities they will be supported to do so.

A further eligibility requirement is that the person must not have been in receipt of a pensioner education supplement in the three month period prior to the eligibility assessment day. Because ParentsNext is aimed at parents at risk of long-term welfare dependency, parents in receipt of the pensioner education supplement will not be eligible because they are demonstrating that they are already actively participating in education. If a parent ceases to receive this supplement for a period of three months and meets the other eligibility criteria, they will be assessed for eligibility to receive assistance under ParentsNext.

The final main criterion for the Participating Parent class of persons is that the person has not engaged in work in the six months prior to the eligibility assessment day. Parents who are in or have recently been in paid work have a demonstrated attachment to the labour market and are not considered at high risk of long-term welfare dependency. These parents therefore do not require assistance under ParentsNext.

In addition to the above criteria, Participating Parents must also be parents assessed as meeting one of three particular risks of long-term welfare dependency discussed below.

The first additional criterion is that the person will be an early school leaver. For the purposes of ParentsNext an early school leaver is under 22 years of age and has not completed the final year of secondary school or an equivalent level of education. There is strong evidence of the association between educational attainment, employment prospects and individual and family social and economic wellbeing. Low educational attainment contributes to the risk of long term welfare dependency for parents and their children.

The second additional criterion is that the person will have a youngest PP child who is five years of age; parents with a youngest PP child aged five will be subject to activity tested participation requirements including job search, once that child turns six years of age. Participating in ParentsNext will place this cohort in a better position to find employment once their youngest child turns six years of age and they become subject to job search requirements.

The third additional criterion is that the person will have been assessed as eligible for ParentsNext by the Job Seeker Classification Instrument (JSCI) tool. The JSCI is a tool used by the Department of Human Services to measure a person's relative level of disadvantage based on the expected level of difficulty in finding employment because of the job seeker's personal circumstances and labour market skills. If a parenting payment recipient meets the main criteria and the JSCI assessment reveals that the parent has high labour market disadvantage they are identified as needing the early intervention that will be provided by ParentsNext.

There is a second category of persons in the Participating Parent class. A person will be in the Participating Parent class of persons if, on 31 March 2016, the person is in the 'teenage parent' class as defined in section 4 of the *Social Security (Parenting payment participation requirements – classes of persons) (DEEWR) Specification 2011 (No. 1)*. Only those persons who are in the teenage parent class and who have been identified as eligible for the trial on 31 March 2016, will be transitioned into ParentsNext.

Including teenage parents in the Participating Parent class of persons will ensure that this cohort continues to connect with local services and participate in activities to meet their educational and employment goals.

Explanation of the provisions

Section 1 – Name of instrument

Section 1 provides that the name of the Specification is the *Social Security (Parenting payment participation requirements – classes of persons) Specification 2016 (No. 1)*.

Section 2 – Commencement information

Section 2 provides that the Specification will commence on 1 April 2016.

Section 3 – Revocation of previous instrument

Section 3 of the Specification provides that the Original Specification is revoked. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary such instrument. Subsection 33(3) of the *Acts Interpretation Act 1901* applies to the Act.

Section 4 – Definitions

Section 4 contains interpretative provisions. In particular, ‘location’ is defined to be the Local Government Areas of Logan and Rockhampton (QLD), Playford (SA), Bankstown, Wyong and Shellharbour (NSW), Greater Shepparton and Hume (VIC), Burnie (TAS) and Kwinana (WA).

Section 5 – Class of persons – Participating Parent

Section 5 provides the eligibility criteria for the class of persons and consists of six specific criteria that a person must meet to be in the ‘Participating Parent’ class (subsections 5(a) to (f)). The person is required to meet all of the criteria on the day that the relevant delegate is making an assessment of whether the person meets the criteria.

Subsection 5(1)(a) provides for the requirement that the person resides in one of the locations which are defined in Section 4.

Subsection 5(1)(b) requires the person to have been receiving parenting payment (partnered or single) for a continuous 6 month period immediately prior to the day that the person is being assessed.

Subsection 5(1)(c) specifies that the person’s youngest PP child be aged between 6 months and 6 years (not including age 6 years). One of the qualification provisions for parenting payment is that a person has at least one PP child (subsection 500(1)(a) of the Act). PP child is defined by section 500D of the Act to be:

- For a person who is a member of a couple, a child of the person who has not turned 6 and the person is the principal carer of the child. (Subsection 5(15) of the Act provides that a person is a principal carer of a child if the child is a dependent child of the person and the child has not turned 16); or
- For a person who is not a member of a couple, a child of the person who has not turned 8 and the person is a principal carer of the child.

Subsection 5(1)(c) thereby limits the class of persons to persons whose youngest PP child is aged between six months and under six years.

Subsection 5(1)(d) limits the class of persons to people who have not been receiving a pensioner education supplement three months prior to the day that the person is being assessed. ParentsNext intends to assist parents to prepare for employment and one of the objectives of the programme is to assist parents to identify their education related goals.

Accordingly, if a person is receiving a pensioner education supplement they will be undertaking some form of study. If a person meets the requirement of subsection 5(1)(d) and the person subsequently starts to receive a pensioner education supplement, they will not be exited from the programme.

Subsection 5(1)(e) requires a person, in the previous six months prior to the day of being assessed, not to have engaged in work. Work is defined in section 4 to be:

- work which generates employment income; or
- work where the person carries on a business, the business has been reported to the Department of Human Services to be generating a profit.

This subsection is aimed at people who have not been in paid work for the six months prior to their assessment. This identifies parents who may be at high risk of long term employment and would benefit from participating in ParentsNext. If a person who meets the requirement of subsection 5(1)(e) subsequently does start work, they may be exited from ParentsNext if the paid work is determined to be stable (average of at least 30 hours per fortnight) and likely to be ongoing. This decision is made at the discretion of the relevant ParentsNext Project provider.

Under subsection 5(f) the person is required to meet one of the following three high risk or high priority criteria in addition to the criteria listed above;

- the person is an early school leaver (defined be a person who is less than 22 years old and to have not completed the final year of secondary school or equivalent);
- the person has a youngest PP child aged five years; or
- has been assessed by the Job Seeker Classification Instrument (JSCI) as a person who is eligible for assistance from the programme.

The JSCI is an instrument that identifies the needs of a job seeker by collecting information using a combination of factors, questions and scores. A JSCI assessment identifies the nature and degree of a person's labour market disadvantage.

Subsection 5(2) provides that a person who is in the 'teenage parent' class of the Original Specification on 31 March 2016, the person will also be in the specified class of persons for the purpose of subsection 500(2) of the Act. This includes those persons who are in the 'teenage parent' class at that time and who have been identified as eligible for the trial. This gives effect to the policy intention that persons eligible to receive assistance under Helping Young Parents will continue to receive assistance under ParentsNext.

Subsection 5(3) has the effect that a person will cease to be in the specified class of persons if the person:

- relocates outside the 10 locations; or
- has a youngest PP child who turns six years of age.

Consultation

Extensive consultation was undertaken in 2011 in relation to the design of the Helping Young Parents and Supporting Jobless Families trials which is being continued in ParentsNext. Stakeholders included Australian Young Pregnant and Parenting Network, TAFEs, secondary schools, health service providers, local and state government representatives, agency programme providers, peak organisations, and university researchers.

Subsection 18(2)(c)(iii) of the Legislative Instruments Act 2003 provides that consultation may be unnecessary or inappropriate where an instrument gives effect to a Budget measure that imposes, revokes or alters an obligation. The Specification supports the ParentsNext programme which is part of the Growing Jobs and Small Business package announced in the 2015-16 Budget. The Specification imposes obligations upon Participating Parents to meet the requirement to participate in one compulsory activity, as described above. In addition, the Specification alters obligations imposed on those parents who are transferring from the teenage parent class to the Participating Parents class. The obligation on these parents has been altered so that they will be required to participate in one compulsory activity rather than two, also as described above.

While consultation was not considered necessary in accordance with subsection 18(2)(c)(iii) of the Legislative Instruments Act 2003, the Department has made contact with the Australian Council of Social Service, National Welfare Rights Network and the National Council for Single Mothers and their Children regarding ParentsNext implementation.

The Department has also consulted with the Department of Human Services and the Department of Social Services due to their role in the implementation of ParentsNext. They had no comments on the Specification.

Regulatory Impact Analysis

A Regulatory Impact Analysis has been conducted for the Specification and it was assessed as having no regulatory impact under the Regulatory Burden Measurement Framework.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Social Security (Parenting payment participation requirements – classes of persons) (Employment) Specification 2016 (No. 1) (the Specification)

This Specification is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The *Social Security (Parenting Payment participation requirements – classes of persons) Specification 2016 (No. 1)* (the Specification) is made by the Minister for Employment (the Minister) under subsection 500(2) of the *Social Security Act 1991* (the Act).

The Specification specifies a class of persons for the purposes of paragraph 500(1)(ca) and subsection 500(2) of the Act, which will support the Supporting Parents to Plan and Prepare for Employment programme (to be known as ‘ParentsNext’) announced as part of the 2015–16 Budget.

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The Specification will also revoke the *Social Security (Parenting payment participation requirements – classes of persons) (DEEWR) Specification 2011 (No. 1)* (the Original Specification) which supported the Helping Young Parents and Supporting Jobless Families trials by specifying two classes of persons for the purposes of paragraph 500(1)(ca) and subsection 500(2) of the Act.

Background information

Helping Young Parents and Supporting Jobless Families trials

The Helping Young Parents and Supporting Jobless Families trials commenced in 2012 as early intervention measures targeting vulnerable groups of parents living in 10 socio-economically disadvantaged locations. Many of the parents who were assisted through these measures faced a high risk of long-term unemployment, reliance on income support and intergenerational unemployment. The measures provided early contact ensuring earlier identification of the parents’ and families’ needs and barriers to employment and provided tailored assistance through linkages to the most appropriate local services, while recognising and taking into consideration their family responsibilities. The trials have been successful in helping young parents and jobless families, and will be replaced by a single ParentsNext programme on 4 April 2016. ParentsNext is aimed at building on and combining the successful aspects of the trials.

ParentsNext

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Compliance

Under ParentsNext, as in the Helping Young Parents trial, all participants will be required to attend regular interviews, sign a Participation Plan which contains a compulsory activity and participate in that compulsory activity. Parents who do not participate as required may have their income support payments suspended under section 42SB of the *Social Security (Administration) Act 1999*, until they re-engage. Once a parent re-engages their income support payments are back paid in full.

Overview of the Specification under the *Social Security Act 1991*

The purpose of the Specification is to specify a new class of persons for the purposes of paragraph 500(1)(ca) and subsection 500(2) of the Act for ParentsNext.

In Australia, joblessness among families is a significant social and economic problem resulting in one of the highest proportions of children living in jobless families in the OECD.² ParentsNext will target a cohort of parents identified as having high levels of labour market disadvantage. The Participating Parent cohort is based on the cohorts targeted in the Helping Young Parents and Supporting Jobless Families trials; however it focusses on early activation of those with the greatest and most immediate needs. ParentsNext aims to assist this new cohort to prepare for and ultimately participate in the labour market to help prevent long-term and intergenerational welfare reliance.

The Specification supports ParentsNext by identifying the new cohort as a class of persons for the purposes of the Act. The new class of persons identified in the Specification will be known as the ‘Participating Parent’ class. Participating Parents will be those who reside in 10 socially and economically disadvantaged locations in Australia, who have a youngest PP child (the child of a parenting payment recipient) aged between six months and six years (but not including six years), who have been in receipt of parenting payment for at least six months continuously, who have not been receiving the pensioner education supplement for the previous three months and who have no reported earnings from employment in the previous six months.

² OECD, 11/7/2014, Children in families by employment status:
http://www.oecd.org/els/family/LMF_1_1_Children_in_families_by_employment_status_Jul2014.pdf

ParentsNext providers will operate in 10 Local Government Areas. These Local Government Areas have been selected for reasons relating to social and economic disadvantage; high unemployment, high proportions of the population in receipt of income support payments (including long-term welfare dependency), increasing numbers of unemployment beneficiaries, and relatively low educational attainment.

Establishing ParentsNext in the same 10 locations as those in the Helping Young Parent trials will also ensure that progress made during the trials can continue. This includes continued servicing of trial participants and building on the established links and relationships between local community services and programmes.

The first criterion for determining eligibility for the Participating Parent class of persons is that the person must reside in one of the 10 locations. These locations are the Local Government Areas of Logan and Rockhampton in Queensland, Playford in South Australia, Bankstown, Wyong and Shellharbour in New South Wales, Greater Shepparton and Hume in Victoria, Burnie in Tasmania and Kwinana in Western Australia.

The second criterion for determining eligibility for the Participating Parent class of persons is that the person must have been receiving parenting payment (partnered or single) for a continuous period of at least six months prior to the day of the assessment of eligibility.

Parents must be in receipt of parenting payment for a continuous period of at least six months to ensure that ParentsNext Project providers can focus on assisting parents who are at higher risk of long-term welfare dependency. Parents who are in receipt of welfare payments for a shorter period of time (less than six months) are not required to participate.

The third criterion that must be met by a person to fall within the Participating Parent class is that the parent must have a PP child aged between six months and six years (not including age six years).

The Helping Young Parents trial demonstrated that parents on parenting payment with young children can competently undertake activities. Helping Young Parents participants were initially engaged by face to face interviews when their youngest child was six months of age. Once the child reached 12 months of age the parent was then required to participate in two compulsory activities. Case studies of Helping Young Parent participants provided by the Department of Human Services demonstrated that in many cases this early engagement and intervention was found to be effective in assisting parents in their planning and preparation for work – in particular by identifying pre-vocational barriers to work early (issues such as isolation, homelessness and mental health) and linking the parents to local services to address these. ParentsNext will adopt the Helping Young Parents method of graduated engagement and require eligible parents to participate from when their youngest PP child is six months old. Unlike the Helping Young Parents trial which required parents to participate in two compulsory activities, ParentsNext will require parents to participate in one compulsory activity.

The initial contact, when the youngest child is six months of age, will be used to establish a rapport between the parent and their ParentsNext Project provider and promote planning for goals and future activities. Until their youngest child reaches 12 months of age parents will be required to undertake a ‘light touch’ compulsory activity. Likely activities for parents with children under 12 months of age would be identifying short-term and long-term employment related goals, identifying pathways to achieve these goals (including relevant education options) and exploring possible child care options. These light touch activities will allow

parents to actively plan for and think about future employment while providing flexibility around their caring responsibilities. Should these parents wish to undertake more intensive activities they will be supported to do so.

A further eligibility requirement is that the person must not have been in receipt of a pensioner education supplement in the three month period prior to the eligibility assessment day. Because ParentsNext is aimed at parents at risk of long-term welfare dependency, parents in receipt of the pensioner education supplement will not be eligible because they are demonstrating that they are already actively participating in education. If a parent ceases to receive this supplement for a period of three months and meets the other eligibility criteria, they will be assessed for eligibility to receive assistance under ParentsNext.

The final main criterion for the Participating Parent class of persons is that the person has not engaged in work in the six months prior to the eligibility assessment day. Parents who are in or have recently been in paid work have a demonstrated attachment to the labour market and are not considered at high risk of long-term welfare dependency. These parents therefore do not require assistance under ParentsNext. If a parent ceases to engage in paid work for a period of at least six months, as long as all other eligibility criteria are met, they will be able to participate in ParentsNext.

In addition to the above criteria, Participating Parents must also be parents assessed as meeting one of three particular risks of long-term welfare dependency. Parents with particular risks include early school leavers, parents with high labour market disadvantage, and parents who will be soon subject to the participation requirements under the Act (and therefore also the full compliance regime under the *Social Security (Administration) Act 1999*) due to the age of their youngest PP child.

The first additional criterion is that the person will be an early school leaver. For the purposes of ParentsNext an early school leaver is under 22 years of age and has not completed the final year of secondary school or an equivalent level of education. There is strong evidence of the association between educational attainment, employment prospects and individual and family social and economic wellbeing. Low educational attainment contributes to the risk of long term welfare dependency for parents and their children.

The second additional criterion is that the person will have a youngest PP child who is five years of age; parents with a youngest PP child aged five will be subject to activity tested participation requirements including job search, once that child turns six years of age. Participating in ParentsNext will place this cohort in a better position to find employment once their youngest child turns six years of age and they become subject to job search requirements.

The third additional criterion is that the person will have been assessed as eligible for ParentsNext by the Job Seeker Classification Instrument (JSCI) tool. The JSCI is a tool used by the Department of Human Services to measure a person's relative level of disadvantage based on the expected level of difficulty in finding employment because of the job seeker's personal circumstances and labour market skills.

If a parenting payment recipient meets the main criteria and the JSCI assessment reveals that the parent has high labour market disadvantage they are identified as needing the early intervention that will be provided by ParentsNext.

There is a second category of persons in the Participating Parent class. A person will be in the Participating Parent class of persons if, on 31 March 2016, the person is in the ‘teenage parent’ class as defined in section 4 of the *Social Security (Parenting payment participation requirements – classes of persons) (DEEWR) Specification 2011 (No. 1)*. Only those persons who are in the teenage parent class and who have been identified as eligible for the trial on 31 March 2016 will be transitioned into ParentsNext.

Including teenage parents in the Participating Parent class of persons will ensure that this cohort continues to connect with local services and participate in activities to meet their educational and employment goals.

Human rights implications

The Specification engages the following human rights:

- the right to social security – article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and article 26 of the Convention on the Rights of the Child (CRC)
- the right to an adequate standard of living – article 11 of ICESCR and article 27 of the CRC
- the right to work – article 6 of ICESCR and article 11 of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)
- the right to education – article 13 of ICESCR, article 10 of CEDAW and article 28 of the CRC
- the right to equality and non-discrimination - articles 2, 16 and 26 of the International Covenant on Civil and Political Rights (ICCPR) and article 2 of the CRC
- the obligation to consider the best interests of the child in all actions concerning children – article 3 of the CRC.

The right to social security and right to an adequate standard of living

Article 9 of the ICESCR recognises the right of every person to social security. The right to social security requires States Parties to establish a social security system and, within their maximum available resources, 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. Article 26 of the CRC recognises the right of every child to benefit from social security, taking into account the resources and circumstances of both the child and the person responsible for the child.

Article 11 of the ICESCR recognises the right of every person to an adequate standard of living including adequate food, water and housing, and to the continuous improvement of living conditions. Article 27 of the CRC also recognises the right of the child to an adequate standard of living for the child’s physical, mental, spiritual, moral and social development.

The Committee on Economic, Social and Cultural Rights has stated that limitations on this right must be proportional and the least restrictive alternative should be adopted where several types of limitations are available, and even where such limitations are permitted, they should be of limited duration and subject to review. The Committee on Economic, Social and Cultural Rights is a body of independent experts that monitor the implementation of the

ICESCR and the views of the Committee are influential but not binding on States Parties to the Covenant.

The statutory scheme for imposing participation requirements on parenting payment recipients engages the right to social security and the right to an adequate standard of living.

Legitimate objective

The objective of ParentsNext is to encourage and assist parents in receipt of parenting payment in 10 socio-economically disadvantaged locations to progress towards their education and employment goals. This is a legitimate objective because the attainment of educational qualifications and preparation for work will assist parents to find employment and reduce their risk of long-term welfare dependency – both of which are concerns in the 10 locations identified. The Helping Young Parents trial has demonstrated that it has been effective in meeting the objectives of increasing educational attainment. The ParentsNext programme will build on the positive outcomes of the trial.

Increased participation in education

The development and implementation of ParentsNext is based on evidence of increased participation in education by parents in the previous Helping Young Parents trial. Departmental analysis has shown that the proportion of Helping Young Parents participants undertaking study increased by 15 percentage points to 39 per cent over their participation to 30 June 2013. By 30 June 2013, more than 250 parents in Helping Young Parents exited the measure due to having completed Year 12 or equivalent qualification and more than 40 young parents had started a new job.

Helping Young Parents trial participants in areas of high unemployment obtained the most benefit, with almost half of trial participants participating in education compared with 32 per cent of a similar group of young parents who were not participating in the trial. Participants reported that their increased awareness and use of Jobs, Education and Training Child Care Fee Assistance, through the trial, had greatly helped them to participate in education.

Under the Helping Young Parents trial, the minimum education level requirement was to attain a Year 12 or equivalent qualification. However, operational data from Human Services shows some young parents have been willing to enrol in higher-level education courses, such as Certificates III and IV, diplomas and degrees. This highlights the benefits of the trial in increasing participants' education levels, and it is these benefits that ParentsNext aims to replicate and to increase.

Increased engagement

Since the implementation of the Helping Young Parents and Supporting Jobless Families trials in 2012, Human Services officers have provided qualitative evidence to the Department of Employment that parents participating in the trials have shown a positive increase in their engagement with Human Services and interest in engaging with local services following the development of a Participation Plan tailored to their own and their families' needs.

Limitations are reasonable and proportionate

Any limitations there may be to the right to social security and the right to an adequate standard of living, due to imposing compulsory requirements directed at further education or overcoming other barriers to employment for parenting payment recipients, are reasonable in view of the evidence outlined above. The limitations are also proportionate for the reasons discussed in detail below.

Parents who fall within the ‘Participating Parent’ class of persons in the Specification will be required to attend interviews, enter into and sign a Participation Plan which contains at least one compulsory activity and participate in that compulsory activity. Parents have an active say on the selection of the compulsory activity as the activity must be agreed to by both the Participating Parent and their ParentsNext Project provider. In determining the suitability of a compulsory activity the parent’s barriers to employment and family circumstances will be considered. Activities may include (but are not limited to): updating existing skills or gaining recognition of prior skills, training or further study, particularly Year 12 or Certificate III qualifications for early school leavers (parents who have not completed the final year of secondary school or equivalent qualification and are under 22 years of age); preparation for job search or employment, for example, by participating in employment services; referrals to locally available parenting services; and referrals to appropriate services to address non-vocational barriers to employment, for example, through confidence building, health care or counselling.

If, however, a parent who falls within the ‘Participating Parent’ class of persons fails to attend required appointments, sign a Participation Plan with one compulsory activity, or participate in their compulsory activity, without a reasonable excuse, they may have their income support payment suspended.

A reasonable excuse can include, but is not limited to, where the person or their close family member has suffered a serious illness, or where the person could not make contact with their ParentsNext Project provider to advise that they could not make a scheduled appointment. The Department of Human Services will determine if a parent’s income support payment is to be suspended after a request for suspension is made by a ParentsNext Project provider. When making a determination that a person has a reasonable excuse, the Department of Human Services as the decision maker must also take into account a range matters, including but not limited to, whether the person had access to adequate or safe housing, their literacy and language skills, unforeseen caring responsibilities or whether they were affected by an illness, impairment or condition. The matters a decision maker must take into account are outlined in the *Social Security (Reasonable Excuse – Participation Payment Obligations) (DEEWR) Determination 2009 (No. 1)*.

Further, should a parent not attend an appointment they will receive a telephone call from their ParentsNext Project provider to determine why they were not able to attend before a request for suspension of payment is sent to the Department of Human Services.

This method of re-engagement through suspension of income support payments (with full back pay) is modelled on the Helping Young Parents and Supporting Jobless Families trials.

By linking participation to income support payments, the right of certain parents to social security and an adequate standard of living may be limited. However, the linking of participation to income support payments acts as a re-engagement mechanism to ensure parents are actively participating in the initiative and are focussing on the long term outcomes

for themselves and their children. Limiting the right to social security in this way allows the Specification to meet its objective of continuing to provide assistance to young parents and their families to overcome barriers to educational attainment and preparing for employment.

Furthermore, when a suspension does occur, the payment will be reinstated with full back pay once the parent attends a rescheduled appointment or commences to participate, (subsection 42SB(4) of the Administration Act). Any limitation on the right to social security is therefore proportionate because no penalty is applied and back pay is provided once a parent complies with their participation requirements. Further, a parent's receipt of Family Tax Benefit will not be affected by any suspension that could apply to persons classified by the Specification.

To the extent that the Specification limits a person's right to social security and an adequate standard of living, the limitation is reasonable because those persons who genuinely cannot comply with their participation requirements will not have their payments suspended and, furthermore, any proposed suspensions will be assessed on a case by case basis. Additionally, the suspension is not automatic and it is recognised that persons specified in the relevant class may require additional assistance. Opportunities are given to those parents to rectify any failure to attend an appointment or comply with their activities contained in their Participation Plan.

The right to work

Article 6 of ICESCR recognises the right of every person to the opportunity to gain a living by work which they freely choose or accept and Article 11 of CEDAW provides for equality of men and women in employment, including the right to free choice of profession and employment.

The Specification promotes this right by increasing the opportunities of the specified parents to gain employment. One of the objectives of the Specification is to prepare the specified parents who have not recently worked, for their future participation requirements (under the Act) to look for work, when their youngest child turns six years of age. Persons who fall within the 'Participating Parent' class of persons in the Specification will be required to attend interviews with a ParentsNext Project provider and participate in suitable activities that will assist them to use the years prior to their youngest child turning six to prepare themselves to be in the best possible position to find work once their child goes to school. ParentsNext Project providers will assist these parents by referring them to services that can help them to update existing skills or gain recognition of prior skills and prepare for job search or employment, for example, by participating in employment services – although the parents will not be forced to look for or accept employment. Parents with severe barriers to employment may also be referred to services such as counselling or rehabilitation to address their barriers to employment.

The Specification promotes the right to work because persons who fall within the class of persons specified in the Specification will be assisted to identify and address any barriers that limit their right to work. Relevant parents will not be forced to look for or accept employment.

The right to education

Article 13 of ICESCR recognises the right of every person to education. Relevantly, it recognises that secondary education, including technical and vocational secondary education,

should be made generally available and accessible to all. Article 28 of the CRC recognises the right of children to education and Article 10 of CEDAW provides for the equality in access to education for women and for the organisation of programmes for girls and women who have left school prematurely.

The Specification promotes the right to education by providing support for parents, some of whom are also children themselves, to continue their education. Parents who fall within the 'Participating Parent' class of persons in the Specification, especially those who are identified as early school leavers (parents who have not completed the final year of secondary school or equivalent qualification and are under 22 years of age) will receive support from their ParentsNext Project provider to assist them in identifying education or training for the purpose of attaining or working towards a Year 12 or Certificate III equivalent qualification. This assistance would include referral to education and training courses outlined in their Participation Plan. Parents will also be assisted to address literacy and numeracy skills deficits through suitable activities and programmes.

The effect of the Specification is that the right to education of parents falling within the 'Participating Parent' class of persons and their children will be promoted.

The right to equality and non-discrimination

The right to equality and non-discrimination is protected by articles 2, 16 and 26 of the International Covenant on Civil and Political Rights (ICCPR) and article 2 of the CRC.

This is a fundamental human right that is essential to the protection and respect of all human rights. It provides that every person is entitled to enjoy their rights without discrimination of any kind on the basis of a number of prohibited grounds, and that all people are equal before the law and entitled without discrimination to the equal and non-discriminatory protection of the law.

The ICCPR defines 'discrimination' as a distinction based on a personal attribute (for example, race, sex or religion), which has either the purpose (called 'direct' discrimination), or the effect (called 'indirect' discrimination), of adversely affecting human rights. The UN Human Rights Committee has explained indirect discrimination as 'a rule or measure that is neutral on its face or without intent to discriminate', which exclusively or disproportionately affects people with a particular personal attribute. Views of the Committee are influential but not binding on States Parties to the ICCPR.

Articles 2, 3, 4 and 15 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) further describes the content of these rights, describing the specific elements that state parties are required to take into account to ensure the rights to equality for women.

The Specification, by specifying a particular group of parents who will comprise mostly young people, early school leavers and females, engages with the right to equality and discrimination. ParentsNext will target the specified parents, many of whom are under 22 years of age (and who have been in receipt of parenting payment for six months at the relevant time). The distinction between recipients based on age, age of youngest child and living in one of the 10 identified locations constitutes direct discrimination on the basis of a personal attribute and therefore limits the right to equality and non-discrimination. Justification of the limitation is below.

The measure will also be restricted depending on the age of the child – that is, to parents who have children between six months and six years (not including age six years).

The programme may also be indirectly discriminatory on the basis of sex, as the vast majority of those affected by the Specification are likely to be female. Where a measure impacts on particular groups disproportionately, it establishes prima facie that there may be indirect discrimination. Because there may be indirect discrimination against females, this limits the right to equality and non-discrimination. Justification of the limitation is below.

Justification for targeting young parents with young children, and in particular female parents

Restricting the eligibility for ParentsNext to a particular group of parents who will comprise mostly young people, early school leavers and females with a youngest child between six months and six years (not including age six years) of age is legitimate differential treatment given the particular issues faced by this group of people. Differential treatment will be legitimate where it is aimed at achieving a legitimate purpose, is based on reasonable and objective criteria, and is proportionate to the aim to be achieved.

In Australia, joblessness among families is a significant social and economic problem resulting in one of the highest proportions of children living in jobless families in the OECD.³ At any one time there are around 11,000 teenage parents on parenting payment. Around 80 per cent of these parents have not completed Year 12 or equivalent qualifications and over 25 per cent have primary school as their highest level of education. Women make up the largest proportion of parents heading jobless families.

It is well documented⁴ that teenage parents who are unemployed are far more likely to have poor employment prospects, low educational attainment, low incomes, poor health and low educational and employment outcomes for their children—contributing to the risk of long term welfare dependency for themselves and their children. Evidence shows that long periods out of the workforce increase the risk of difficulties in returning to paid work. There is also increased risk of experiencing disadvantage and a lower quality of life.

If parents on income support are assisted to gain employment related skills and education earlier, as well as using the time when their children are young to stabilise their family life, they are more likely to gain ongoing employment and to move off income support.

To the extent that the Specification may limit the right to equality and non-discrimination on the basis of age, age of youngest child, living in one of the 10 identified locations and gender, this is legitimate differential treatment considering the particular issues faced by this group of people. Further, it is reasonable and proportionate to the policy objective of assisting parents of young children to improve their family wellbeing, educational attainment and employment prospects. ParentsNext will assist parents to identify their barriers to education and employment, to develop a plan to address those barriers and to participate in the agreed activities, thereby increasing their capacity to study or work in the future. This recognises that the right to education and the right to work are essential for realising other human rights

³ OECD, 11/7/2014, Children in families by employment status:
http://www.oecd.org/els/family/LMF_1_1_Children_in_families_by_employment_status_Jul2014.pdf

⁴ See for example Whiteford, P. (2009). Family Joblessness in Australia, Paper commissioned by the Social Inclusion Unit of PM&C, Canberra.
<http://apo.org.au/research/family-joblessness-australia>

(such as the right to an adequate standard of living) and that the workforce participation of parents creates benefits for their children. As already demonstrated, there is a range of evidence from the Helping Young Parents and Supporting Jobless Families trials that shows they were effective in increasing young parents' participation in education and in increasing engagement with local services. ParentsNext has been developed to build upon that success.

Rights of the Child

The obligation to consider the best interests of the child is contained in article 3 of the CRC. The objective of ParentsNext is to encourage and assist parents of young children (youngest child between six months and six years, not including age six years) in receipt of parenting payment to progress towards their education and employment goals. This is a legitimate objective because the attainment of educational qualifications and preparation for work will assist parents to find employment in the future, therefore reducing the risk of long term welfare dependency for participating parents and their children.

Regular contact with ParentsNext Project providers will assist parents to identify their goals and a plan or pathway to reach these goals. During discussions, ParentsNext Project providers will assist parents in identifying any barriers to participation, which may include caring responsibilities and family concerns. In addition to educational and employment related barriers, family circumstances and the children of a participating parent will always be considered before agreement on a compulsory activity. Participation in ParentsNext will connect parents, and by proxy their children, with local services and community organisations which will assist and support them to meet their identified needs.

As outlined earlier, the Helping Young Parents and Supporting Jobless Families trials revealed that parents participating in the trials showed increased interest in engaging with local services following the development of a Participation Plan tailored to their own and their families' needs.

For the reasons above, ParentsNext will indirectly promote the rights of the child through targeted assistance to their parents.

Conclusion

The Specification is compatible with human rights because it promotes the right to work, the right to education, and the right to social security and an adequate standard of living. To the extent that it may limit the right to social security and an adequate standard of living by enabling the suspension of payments for failure to participate, or limit the right to equality and non-discrimination, those limitations are for legitimate objectives, reasonable, necessary and proportionate to the objectives of the Specification.