

Youth Jobs Path Program Bill 2016

Submission to Senate Education and Employment Committee

November 2016



1 Summary

ACOSS believes major reform of employment assistance for people unemployed long-term is needed to prevent the entrenchment of high levels of unemployment and poverty. It is unacceptable that in Australia there are 130,000 young people who are unemployed, and over half a million people of all ages who are unemployed long-term.

The evidence shows that paid work experience in regular jobs, supported by relevant training, can improve job outcomes for unemployed people who have not had paid work for some time, or who are searching for their first job, as well as improve living standards.

We therefore welcomed the Government's 2016 Budget announcement that funds would be diverted from the Work for the Dole program (which we consider ineffective) towards experience in regular employment, especially through expansion of wage subsidies⁴. We also raised a number of serious concerns the Youth Jobs Path Program, including the proposed 'internships'. Our concerns relate to the remuneration young people would receive while working as 'interns', and the risks of exploitation, adverse health and safety outcomes, and displacement of existing employees. We proposed adjustments to the scheme to deal with these issues and improve employment outcomes.

We refer to the Committee to the attached ACOSS Briefing on the Youth Jobs PaTH scheme, dated May 2016, which set out our concerns and proposed solutions.

The 12 week internships are a major change to employment program arrangements in Australia (and potentially to the workplace relations system as well) so the issues we raise must be considered very carefully and resolved before the program

⁴ A recent official evaluation found that participation in the program increased the probability of employment by just 2%. Department of Employment (2015), 'Work for the Dole 2014 evaluation.'



commences. We note that the Irish scheme upon which the internships are partly based has been discontinued and its British equivalent has proved controversial. It would be a pity if a scheme that has potential to improve the employment prospects of people at risk of long term unemployment through paid work experience and training in regular employment was tarnished by controversy from the outset.

We are deeply concerned that the proposed Bill addresses none of these important issues, leaving them to be resolved by administrative fiat. The Bill deals only with income test arrangements for the proposed \$200 'incentive payment' (and not that payment itself) and changes to Social Security law to facilitate a return to income support after participation in subsidised employment. These are broadly beneficial changes but they do not provide the protections and changes necessary to address the issues and concerns that many have raised over the design of the program.

The short timeframe and lack of hearings for the present inquiry amplify those concerns. It is better to take the time to design and implement a program as complex and important as this one properly, rather than stick with an arbitrary deadline to implement it by 1 April 2017. The lives and futures of young people on very low incomes are at stake.

We list below a number of issues with the program which we believe should be resolved by amending and extending the Bill rather than administrative action alone.

Finally, we recommend that the start date for the program be deferred and that it be trialled for a fixed period with any extension or adjustment to the scheme subject to the outcome of a formal evaluation.

2 Issues that must be resolved before the Youth Path program is introduced

1. The program is being designed and implemented too quickly:
 - The start date for the scheme should be deferred to provide adequate time to fully consult with stakeholders over its design, and get it right.
2. The \$200 per fortnight incentive payment is neither legislated nor indexed:



- The incentive payment should be legislated and indexed to CPI movements.
3. Payment rates and hours of work for the internships mean that many people will work for less than (the equivalent of) the minimum wage:
- Since participants will be working whether ‘employed’ or not, they should be properly remunerated.
 - Fortnightly hours for internships should be capped at 30 instead of 50, so that participants are remunerated at least to the equivalent of the relevant hourly minimum wage ⁵.
4. There is no clear legislative protection against exploitation of ‘interns’ to the extent that they are not classified as employees:
- Either participants should be classified as employees (with a wage subsidy) or the program should not allow work beyond standard working hours (averaged over a fixed period) or at times that would attract penalty rates of pay if the person was employed (such as weekends)⁶.
 - Employment service providers (or better still an independent mentor) should be required to explain to participants their rights in the workplace before an internship commences (both verbally and in writing), and offer advice and assistance in the event that those rights are at risk.
5. There is no assured financial assistance with travel costs for the compulsory training:

⁵ We understand the income support payments plus the \$200 ‘incentive payment’ would be equivalent to at least the National Minimum Wage if the person works *15 hours per week* or less, except where a young person is 20-21 years old and living at home. However, if they work *25 hours per week* they would receive less than the National Minimum Wage except where they are 17-18 years old and living away from home.

⁶ If a longer or more intensive period of work experience is needed, there is an option to progress to a wage subsidy.



- Participants will have to undertake 25 hours a week of training for two rounds of 3 weeks each and this will involve significant travel costs, especially in rural areas⁷.
 - ***The Work for the Dole Supplement of \$20.80 per fortnight should extend to participants in the Youth Jobs PaTH training and the internships, and should be doubled to \$41.60, at least for this purpose.***
6. There is no legislative assurance that participation in the internships will be entirely voluntary:
- **The Social Security law should specify that participation is voluntary and that no suspensions or reductions in payments will result from non-participation, non-attendance or disengagement from this element of the program⁸.**
7. There is no legislative assurance that the health and safety of participants in the internships will be adequately protected:
- Participants will not be classified as 'employees' for these purposes (though the courts may later find them to be so) so they will not always be covered by State Occupational Health and Safety laws⁹.
 - Participants will rely on their employment service provider to check that the workplace is safe and seek commitments from the employer to assure this¹⁰.
 - ***Either State Occupational Health and Safety laws should apply to participants, or employment service providers (or better still an independent mentor) should be required to:***

⁷ The Department has indicated in Senate Estimates hearings that the Jobactive Employment Fund can be used to assist with these costs, but this is at the discretion of the provider and the Fund has many other purposes.

⁸ The Department has indicated in Senate Estimates hearings that participation in internships will be voluntary and that where a person decides to leave the program they can do so without penalty and would once again become subject to their 'normal' activity requirements.

⁹ The Department indicated in Senate Estimates hearings that they could be covered in some States, where coverage extends beyond employees.

¹⁰ The providers are not separately resourced for their Youth Jobs Path activities and do not have the same authority as the relevant State inspectorates. They are employment intermediaries, not regulators.



- *explain to participants the protections available to them regarding health and safety in the workplace before an internship commences (both verbally and in writing);*
 - *offer advice and assistance in the event that health or safety are at risk; and*
 - *monitor workplace health and safety in respect of interns.*
8. Insurance coverage for participants in the internships is not equivalent to that in statutory workers compensation schemes:
- The Department has its own scheme for participants in employment programs but we understand this generally provides lesser benefits than State Workers Compensation schemes, no periodic payments, and no entitlement to rehabilitation.
 - **Either participants should be covered by State Workers Compensation schemes or equivalent coverage should be negotiated by the Department.**
9. There is no legislative assurance that ‘displacement’ or ‘churning’ will be avoided:
- The Government has indicated that internships will be monitored to ensure that existing staff are not displaced by interns, and that a succession of interns is not engaged by the same host without progressing to employment. However, it is not clear how this will be monitored and enforced¹¹.
 - **A set of rules should be formalised by Legislative Instrument to restrict the scope for ‘displacement’ and ‘churning’, and ensure that host organisations that engage in these practices cannot host more interns under the program.**

¹¹ We note that it is not anticipated that all internships would lead to regular paid employment or that all internships would lead to the creation of additional jobs (for example an intern might replace an employee who retires or leaves for another job).



10. There is no fixed 'trial period' for the program or clear evaluation strategy at this stage:

- Given that this program is experimental and has significant potential implications for people who are unemployed, along with their fellow workers, it should be trialled over a fixed period (such as two years) and lapse unless renewed by legislation.
- This legislation should require that a formal evaluation be developed and conducted in consultation with stakeholders, including quantitative and qualitative assessments of its employment impacts (both for unemployed people and other workers), and feedback from participants, hosts and employment service providers. The evaluation should be published prior to giving consideration to extending the program beyond the trial period.



Key messages

- + There are currently 130,000 young people who are unemployed and over half a million people of all ages who are unemployed long-term. ACOSS' goal is to prevent people disadvantaged in the labour market from being locked out of employment.
- + The evidence shows that work experience in regular jobs, supported by relevant training, can improve outcomes for unemployed people who have not had paid work for some time, or (in the case of many young people) are searching for their first job.
- + Current policy settings require young people who are unemployed for more than six months to participate in Work for the Dole or another approved activity for up to 25 hours per week for 6 months of the year. Participants receive just \$10.40 a week on top of their income support payment for participating. Work for the Dole programs have been demonstrably ineffective at getting people into paid work and we have advocated for their roll-back. A recent official evaluation found that this \$300 million program improves the probability of paid employment by just 2%.
- + The Budget sets a new youth employment policy direction, diverting funding from Work for the Dole programs to a new 3 stage youth employment program involving six weeks of work preparation training, 'internships' of up to 12 weeks, and wage subsidies of up to six months.
- + The change in direction is welcome, especially the expansion of wage subsidies, but the internship component must be carefully designed to protect young people from exploitation and maximise employment outcomes.
- + Specifically, the number of hours in internships should be capped, or the \$100pw 'incentive' payment increased, to ensure that the combination of income support and incentive payments provides the equivalent of a minimum hourly wage or training wage (if accredited training is provided).

- + Participants in internships should be mentored, and protections put in place to prevent exploitation and ensure their health and safety are not compromised.
- + Participation in an internship must be genuinely voluntary, with the option to leave without penalty at any stage.
- + Safeguards should also be in place to prevent 'churning' of people through internships, and displacement of existing workers.

Summary of the proposed PaTH program

The Budget includes a new \$751.4 million initiative to help 100,000 young people into jobs, called the Youth Jobs PaTH program ('Prepare, Trial, Hire'). The program is to be funded through changes to the current Work for the Dole program and savings from existing wage subsidy programs.

Key elements of the proposed new scheme include:

- + A compulsory pre-employment skills training program which is focused on general skills including working with a team, IT and job preparation (stage 1, from 1 April 2017).
- + An internship program with up to 120,000 placements/4 years for jobseekers registered with a JobActive provider for more than 6 months. The Government's intention is for jobseekers to work with employers to design internship placements of between 4 and 12 weeks with jobseekers working 15-25 hours per week. Participants would receive an additional \$200 a fortnight and participating employers would get an upfront payment of \$1000. Despite the description of the measure as 'voluntary' in the budget papers, penalties may apply for non-participation if the internship forms part of an Employment Pathway Plan.
- + A Youth Bonus wage subsidy of between \$6500 (for the most job ready jobseekers) and \$10,000 (for those assessed as least job-ready) for jobseekers under 25 years, to provide paid work experience for up to six months.

Most of the funding for the new program would come from redirecting current expenditure on compulsory Work for the Dole programs. Under the proposed policy, Work for the Dole would be restricted to Stream A jobseekers (those assessed as being the most job ready or least disadvantaged in the labour market) who have been with a JobActive provider for 12 months (i.e. long-term unemployed). The remainder of the funds will be derived from reducing funding to the existing wage subsidy program by paying subsidies for 6 instead of 12 months and through reduced estimates of demand (saving of \$204.2 million).

Our assessment

The shift away from the ineffective Work for the Dole program towards a new approach is welcome. However, the Government must ensure that the PaTH program is well targeted, prevents young people from being exploited and leads to real employment outcomes. This applies especially to the internship component

Training should be linked to work experience

Policy settings should ensure that the compulsory training stage is useful and linked to real job opportunities. Ideally, it should be designed in dialogue with the young person and employer and connected with work experience.

Payment during internships should be adequate

Participants should be paid the hourly equivalent of the minimum wage, or where appropriate training is provided, the National Training Wage. This could be achieved either by capping the weekly hours of the internship or by increasing the proposed \$100pw payment for participants.

The Budget papers indicate that the Government intends for young people to participate in internships for 15-25 hours per week. The national minimum wage is currently \$17.29 per hour or \$656.90 per 38 hour week (before tax). Lower rates apply to young people under 21 years. For example for a 19 year old the national minimum is 82.5% of this or \$14.26 per hour.¹

- + A young person receiving Youth Allowance (Other) and living at home, who participates in the internship phase would receive their base income support payment (\$142.60 a week) and the proposed \$100 incentive payment (a total weekly income of \$242.60). This would provide the equivalent of 17 hours a week at the minimum wage.²
- + A young person receiving Youth Allowance (Other) and living away from home, who participates in the internship phase would receive their base income support payment (\$216.60 a week) and the proposed \$100 incentive payment (a total weekly income of \$316.20). This would provide the equivalent of 22 hours a week at the minimum wage.³
- + For young people receiving the Newstart Allowance (on current policy settings, for those above 22 years of age, \$263.80 per week) and the \$100 per week

¹ Youth minimum rates vary according to age and the particular Award that applies. The rate quoted here is for a 19 year old employed in a job for which no specific Award applies.

² This will vary up or down depending on the age of the young person.

³ This will vary up or down depending on the age of the young person.

incentive payment, total income would be equivalent to \$364 a week, or 21 hours a week at the minimum wage.

Internships should be voluntary

The internships should be genuinely voluntary so that if a young person decides that an internship is not useful for them, they can discontinue without additional financial penalties (beyond the cessation of the additional \$100 a week payment for participation), even if the activity is agreed in their Employment Pathway Plan.

The risk of exploitation or harm should be minimised

Importantly, funding for the internships program should not be used to support long, unpaid internships that do not lead to permanent jobs for disadvantaged young people. To ensure this, as well as the capping of hours, the following safeguards should also apply:

- + Appropriate payment for participants (discussed above).
- + Employers who are 'churning' people through internships or not regularly converting internships into paid employment opportunities should be barred from the program.
- + Occupational health and safety protections should apply to young people participating in internships as well as protections against bullying and harassment.
- + Interns and sponsoring employers should be properly mentored, and this function should be properly resourced. Mentors would play a role in monitoring the above requirements.
- + Reasonable excuse provisions should apply so that young people who are unable to attend the workplace during their internship phase due to sickness are not penalized.
- + JobActive providers must be adequately resourced and incentivised to support young people to negotiate and participate in the internship process.
- + An effective complaints process should be established and adequately resourced and appropriate remedies available for young people who are being exploited in the program.
- + Exclusion of employers from the program where they have recently reduced their workforce or the risk of displacement of existing workers is high (discussed below).

Adverse impacts on the labour market should be minimised

Under current policy settings, unemployed people registered with JobActive providers can participate in unpaid work experience placements for up to 4 weeks, with employers who offer ongoing work potentially eligible for a wage subsidy. Employers are excluded from participating in the scheme if they have downsized their workforce in the previous 12 months or plan to do so during the placement or if the placement would result in the replacement of existing workers or a reduction of their hours. Similar safeguards should apply to the proposed internship program.

Providing 30,000 places a year, places in the PaTH program fall far short of the number of young unemployed people (there are currently 137,000 young people receiving unemployment payments). This means it is unlikely to have a major impact on reducing youth or long term unemployment in isolation, but the limited scope of the program also reduces the risk of labour displacement. The risks of labour displacement in low-skilled work posed by currently uncapped backpacker visas (240,000 last year) is far greater than those posed by the PaTH program.

Finally, we are concerned that while the Government is moving away from Work for the Dole approaches under its PaTH program for young people, the policy would remain in place for those in remote Aboriginal communities under the Community Development Program and for jobseekers registered with JobActive providers for more than 12 months. The Community Development Program legislation remains before the Senate and would require people in certain remote areas (mainly Aboriginal and Torres Strait Islander peoples) to participate in 25 hours per week of compulsory Work for the Dole activities and outsource social security functions to employment providers, instead of Centrelink. ACOSS remains strongly opposed to this proposal.

Conclusion

The youth PaTH program sets a positive new direction but consultation with key stakeholders, including unions, welfare and youth organisations, employers and jobseekers, should be undertaken to ensure we get the policy settings right so that the potential benefits are maximised and the risks are kept to a minimum.