

Department of Employment and Workplace Relations (DEWR)  
DEWR submissions portal  
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## ***EJA response to DEWR discussion paper on employment services complaints service***

### **About Economic Justice Australia**

1. Economic Justice Australia (EJA) is the peak organisation for community legal centres providing specialist advice to people on their social security issues and rights. Our members across Australia have provided people with free and independent information, advice, education and representation in the area of social security for over 30 years.
2. EJA provides expert advice to government on social security reform to make it more effective and accessible. Our law and policy reform work:
  - strengthens the effectiveness and integrity of our social security system
  - educates the community
  - improves people's lives by reducing poverty and inequality.

### **Overview**

3. EJA has provided significant input to the review of the employment services complaints service through the Leaving People with Nowhere to Go issues paper<sup>1</sup>, the Merits Review of Mutual Obligation Decision briefing paper (previously provided to DEWR), and through stakeholder meetings with DEWR and relevant officials.
4. These briefings were informed by our member centres' interactions with people affected by the suspension and cancellation of activity tested payments because of mutual obligation compliance failures.
5. EJA's position is informed by a social security and human rights lens, and in employment services, our policy advocacy has centred on improving access to administrative justice.

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<sup>1</sup> <https://www.ejaustralia.org.au/leaving-people-with-nowhere-to-go-eja-issues-paper-on-complaints-processes-in-employment-services/>

6. The effective treatment of complaints requires the application of administrative justice, defined as: the correct application of correct rules to correct data; the capacity to form a judgment that the decision may be wrong; clear and accessible information about administrative justice rights; capacity to know the basis for the decision; capacity to explain your case, including a capacity to correct errors of fact and errors of application of rules; and capacity to appeal and overturn decisions and seek redress.<sup>2</sup>
7. According to administrative law, where a complaint relates to a social security decision, the person should have access to reasons for the decision and should be provided with information about avenues for review.
8. We are pleased with DEWR's positive engagement with the concerns we identified in our Leaving People with Nowhere to Go issues paper, and we welcomed the newly launched service with a media release.
9. We are also pleased to note the new complaints service provides better adherence to the Commonwealth Ombudsman's Better Practice Guide<sup>3</sup>.

This submission focuses mainly on the discussion paper questions:

- What worked well?
- What information about complaints would you like to see made public as part of the public reporting service?
- What do you want from our new complaints service?

## **What worked well?**

10. We have received positive feedback from our members and other stakeholders on the refreshed complaints process, primarily because complaints are no longer directed back to the employment service provider in the first instance. This marks a real improvement in the complaints process that will bring tangible benefits to employment services participants and system governance as a whole.

## **What information about complaints would you like to see made public as part of the public reporting service?**

11. Transparency about the way that complaints have been handled is fundamental to ensuring the complaints service is effective.
  - Recommendation 1: That DEWR publish a 3 monthly report listing complaints by provider name, employment region, and as a percentage of overall caseload, including: complaint type (e.g. use of employment fund, use of compliance framework, inappropriate contact, etc.), and action taken to resolve the issue.

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<sup>2</sup> Henman, 2021: Administrative Justice in a Digital World: Challenges and Solutions <https://academic.oup.com/edited-volume/38690/chapter-?redirectedFrom=fulltext>

<sup>3</sup> [https://www.ombudsman.gov.au/\\_data/assets/pdf\\_file/0025/290365/Better-Practice-Complaint-Handling-Guide-February-2023.pdf](https://www.ombudsman.gov.au/_data/assets/pdf_file/0025/290365/Better-Practice-Complaint-Handling-Guide-February-2023.pdf)

- Recommendation 2: That the reports include information on structural policy issues and visibility on how DEWR intends to use the feedback in policy reform processes.

## **What do you want from our new complaints service?**

12. There are additional steps needed to ensure the complaints process continues to improve including:

- Recommendation 3: That DEWR link complaints to the employment services performance framework and introduce penalties for providers about whom there are ongoing complaints.
- Recommendation 4: That DEWR use Services Australia customer service line feedback to inform service improvements within the scope of the complaints service.
- Recommendation 5: That the government align this complaints process with that of the New Disability Employment Services, including through the provision of consistent information products.
- Recommendation 6: That DEWR require employment services providers to channel complaints received internally to the DEWR complaints process, or at least to report to DEWR on how they were handled.
- Recommendation 7: That DEWR actively promote access to Authorised Review Officers to ensure that review of all decisions includes all issues relevant to mutual obligation decisions.
- Recommendation 8: That DEWR monitor the effectiveness of the complaints service from the perspective of people affected to inform ongoing evaluation and improvements to the complaints service.

Thank you for the progress you have made on the complaints service to date, and we look forward to working with you to provide access to administrative justice in employment services.

## **Contact**

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