The View from Other Social Science Disciplines

Street Level Leniency or Unjust Inconsistency? An Examination of Breach Recommendation Decision Making in a For Profit Job Network Agency

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Abstract
The Howard government’s Mutual Obligation reforms have placed greater requirements on jobseekers, increased compliance monitoring and imposed harsher penalties for failure. Under the restructured employment service, the Job Network, non government for profit and not for profit organizations are now involved in making breach recommendations to Centrelink. For profit agencies are confronted with potentially conflicting demands; supporting jobseekers, policing their activities and ensuring organizational profitability. This exploratory study examined breach recommendation decision making practices in a for profit Job Network provider in Victoria. Findings showed a lack of decision making procedures, inconsistent application of natural justice and evidence of strategic breaching practice. Jobseekers who fail to attend a first interview are more consistently and readily breached than others. Staff exercise considerable discretion about jobseekers with whom they are already engaged, often basing their decisions on quite different factors. Inconsistent relationships with Centrelink and potential damage to working relationships with jobseekers were of concern to staff. The study concludes that stronger requirements for investigation of individual circumstances and attention to natural justice must be built into the contractual obligations of Job Network providers.

1. Introduction
The Australian system of social security payments for the unemployed has always had elements of mutual obligation whereby payments are conditional on satisfaction of a work test requiring a recipient to demonstrate they are taking steps to find work. Since the late 1980s however, the emphasis on conditionality has increased. First, the adoption by the Hawke government of a more ‘active’ income support system after the 1985 Social Security Review, then the introduction of extended ‘reciprocal obligations’
as part of the Keating government’s Working Nation package in 1995, and finally from 1996 a series of ‘Mutual Obligation’ reforms by the Howard government (Perry, 2001; Wiseman, 2000). The shift to a more immediate and demanding form of reciprocity from the unemployed reflects critiques from the New Right that suggest rights based and even safety net welfare provisions are too passive and foster social dependency (Deacon, 2002; Fitzpatrick, 2001).

The reforms have increased the requirements placed on the unemployed, introduced harsher penalties for failure to meet them and placed a greater emphasis on compliance. For example, the unemployed can be required to sign a job search agreement, retain and lodge a jobseeker diary, participate in a training course, undertake Work for the Dole, or attend interviews with prospective employers or the Job Network provider appointed to assist them in finding work. Penalties for non-compliance, ‘breaches’ are progressive, moving from an 18 per cent reduction of payment for 26 weeks, to non-payment period of 8 weeks for a third breach in a two year period (Social Security Act 1991).

In tandem with these reforms a restructure of labor market programs and employment services occurred in 1997 opening up the existing government monopoly to further competition. The creation of the Job Network established a market based employment service comprising private for profit, community and smaller government organizational units (Considine, 1999). The Job Network scheme provides more open-ended assistance for disadvantaged jobseekers, replacing the previous range of job subsidies and training programs. Similarly these reforms reflected the position of the New Right that market based welfare would improve service delivery, efficiency and provide greater individualization of services (Considine, 1999).

The impact of the new Mutual Obligation regime has been dramatic. Between 1999/00 and 2000/01 the imposition of all breaches increased by 33 per cent and that of third breaches and a non payment period by 159 per cent. Moreover, an estimated 310 per cent increase in breaches occurred in the 3 years from 1998 to 2001 (ACOSS, 2002a). The percentages of penalties that originate from Job Network recommendations have also increased from 21 per cent in 1998/99 to 39 per cent in 2000/01 (ACOSS, 2002a). Penalties have fallen disproportionately on the most vulnerable, the young, homeless, mentally ill and indigenous people, who are least able to sustain them (ACOSS, 2000, 2001, 2002a). Condemnation of the new regime from welfare organizations and the advocacy groups has led to internal and independent reviews of its operation (Pearce, Disney and Ridout, 2002; Productivity Commission, 2002a; Moses and Sharples, 2000). Findings suggest problems with both the severity of penalties and the system of administration. For example, Pearce et al. (2002), suggest ‘failings of design and implementation of the system cause many unemployed people to suffer arbitrary, unfair or excessively harsh penalties (p. 6).
The final report of the government’s Reference Group on Welfare Reform acknowledged the increased community concern about penalizing those who could least afford it and emphasized the need to take into account individual circumstances (McClure, 2000). This report exemplifies the policy intentions embedded in the legislation that requires decisions to take account of whether an individual’s actions or failure to act were ‘reasonable.’ For example, section 601A(1) of the Social Security Act 1991 provides that: ‘If a person, who is subject to the activity test in respect of a period, refuses or fails, without reasonable excuse, to attend a job interview, the person is taken to fail the activity test’ (see also sections 601 and 603). These sections require a decision maker to consider the individual’s circumstances, in particular their state of mind at the time the failure occurred. Clearly, the process of making this type of decision is difficult to codify, requires investigation, and the exercise of discretion and judgment on the part of the decision maker.

The Job Network has introduced a new dimension into monitoring compliance with activity test requirements. In place of a government bureaucracy (the Commonwealth Employment Service (CES)), non-government for profit and not for profit organizations are responsible, under their contractual obligations, to report to Centrelink a jobseeker’s failure to comply with activity test requirements. This procedure is known as a ‘breach recommendation’ or ‘participation report’. It is then the responsibility of Centrelink to determine if a breach has occurred and the resultant penalty that should be imposed (Pearce et al., 2002). In most circumstances providers are not required to contact the jobseeker, investigate reasons for non-compliance or ascertain how compliance could be achieved (Pearce et al., 2002).

Commentators agree however, that Job Network provider staff exercise considerable discretion in deciding how to deal with a jobseeker’s failure to meet their obligations (Considine, 1999; Eardley, Abello and McDonald, 2001; Howard, 2000; Moses and Sharples, 2000). Considine suggests that in the new structure staff in all types of organizations exercise higher levels of discretion in their dealings with jobseekers than occurred within the CES under the old system. Lipsky (1980) highlighted the difficulty for street-level bureaucrats in balancing compassion and flexibility with impartiality and rigid rule-application and suggested that discretion provided the potential for bureaucrats to subvert managerial direction and establish shortcuts and simplifications that had a tendency towards leniency.

Involvement of non-government organizations in breach recommendation raises the possibility of their being subjected to contradictory demands. The role of supporting jobseekers in their efforts to find work may conflict with that of policing their activities and could also be further compromised by the organization’s drive to profitability. Some evidence suggests that providers, in particular those that are for profit, exercise neither leniency nor apply due process and relevant legal criteria before making breach
recommendations to Centrelink (Pearce et al., 2002; ACOSS, 2002a, 2002b). One indicator of this is the high rate of breach recommendations from Job Network providers to Centrelink that do not result in a breach being applied. This occurs because providers fail to substantiate their recommendations and/or that subsequently a jobseeker provides to Centrelink satisfactory evidence regarding the reason for the failure (Moses and Sharples, 2000; ACOSS, 2002a). Centrelink has suggested that cost shifting from providers to Centrelink may account for the failure to adequately investigate non-compliance (Productivity Commission, 2002a). Other indicators that suggest problems with breach recommendation decision-making are the enormous variation between providers in respect of recommended breach rates, and the significantly higher rates of recommendations made by for profit agencies compared to other organizational types (Productivity Commission, 2002a. p142). It is suggested that the structure of the Job Network system itself and the resultant contractual relationships create incentives for high breach rates (Pearce et al., 2002). Payment of up front fees, fixed caseloads and payment by results may lead providers to adopt a strategic approach, utilising breach recommendations to clear difficult clients off their books (Pearce et al., 2002). Views differ however, on the extent to which such strategic breaching practices are used. The Productivity Commission draft report (2002a) concluded that no evidence of strategic breaching or improper practices existed. However, Pearce et al., suggest that ‘the system has concentrated excessively on achieving high breach rates and penalties rather than encouraging active efforts to find work’ (cited in ACOSS, 2002b, 6) and conclude that some agencies are able to maximize their opportunity to increase their revenue by quickly breaching a jobseeker. They illustrate this point with findings that the breach rate for jobseekers who fail to start Intensive Assistance support is 40 times higher than for those in other situations (Pearce et al., 2002).

Indicators suggest that Job Network providers do not take into account jobseekers circumstances, and are subject to conflicting demands. A recent report has recommended that tighter procedures be instigated to ensure Job Network providers adequately investigate reasons for non-compliance and jobseeker circumstances (Pearce et al., 2002). However, little understanding exists of the way staff of Job Network providers reach decisions about breach recommendations. The present study investigated the decision making surrounding breach recommendations and the exercise of staff discretion in a for profit Job Network provider. Understanding more about decision processes in the for profit sector can inform ways to improve practices to ensure they reflect natural justice and legislative intent. The study asked the following questions; 1) what if any procedural guidelines inform breach recommendation decision making in for profit agencies? 2) To what extent do staff exercise discretion in breach recommendation decision-making? 3) What factors inform their exercise of discretion?
2. Method

The study uses qualitative methods of data collection and analysis. Its aim is to explore the terrain of decision making, to identify and describe the insider’s perspective of processes (Bouma, 2000; Punch, 1998, 242). Qualitative research seeks to generate meanings and capture the perceptions of participants, using an inductive or grounded theory approach. It draws on an interpretivist paradigm examining the social world as it is perceived or understood by participants. This type of research acknowledges that individuals are experts on their own lives and does not prejudge or impose pre-existing categories on their actions. Unlike quantitative research it does not start with any preconceptions about the phenomena being studied, nor seek to test theory. Its questions and strategies for data collection are not informed by preexisting theory. Qualitative research is most useful for understanding phenomena about which little is known, exploring basic constituents and developing theory that can then be tested by more traditional quantitative methods.

Sample

The sample frame was the six offices of a for profit Job Network provider in one Victorian region. The organization specializes in providing Intensive Support Assistance and has an Australia wide network of offices. This sample was accidental as it was drawn from an available group to whom the researchers had access as a result of informal connections with the organization’s manager.

Eleven of the 15 staff employed by the provider to deliver Intensive Assistance to jobseekers agreed to participate in the study. Ten staff were female and one male. They had been employed in their current position from 3 to 60 months with an average of 19 months. All staff had previous experience in the employment industry that ranged from 15 to 132 months with a mean of 60 months. Four staff had previously worked for the CES. The caseload of jobseekers to whom they delivered Intensive Assistance ranged from 30 to 150 people with a mean of 120.

Data Collection

A semi-structured interview schedule with 23 questions was designed to collect data from staff. The schedule had a mix of open and closed questions and sought information about the organization’s decision making procedures and training in regard to breach recommendations, staff members’ understanding of what is meant by reasonable excuse and factors that affected their decision making. In addition staff were asked to make a decision and outline the reasons for it in respect of two case scenarios depicting jobseekers who had failed to meet specified requirements. Pilot interviews were conducted with two staff from a not for profit Job Network provider that also specialized in delivering Intensive Assistance. As a result changes were made to the schedule including more background information in the case scenarios.
All interviews were conducted during August and September 2001. Most were face to face in the organization’s offices but due to logistical difficulties two were conducted by phone. Interviews lasted an average of fifty minutes during which notes were taken as well as an audiotape made.

**Data Analysis**

Tapes of the interviews were reviewed and summarized, these were then read and reread together with the notes taken during the interviews. Data from the open-ended questions and responses to case scenarios were coded and a thematic analysis undertaken using a constant comparative method (Taylor and Bogden, 1984; Franklin and Jordan, 1997). Specifically, the responses were read to develop a set of objectively defined and mutually exclusive response categories. As additional data was analyzed it was often necessary to expand and create new categories to accommodate responses that did not fit into existing ones. The aim was to develop and catalogue the least number of categories that would adequately summarize the data. Descriptive statistics were used to analyze data from closed questions.

Validity of qualitative research is ensured through its method of data collection and analysis. Four requirements are suggested - that the measurement methods are reliable; that the study can be replicated; that the study has internal validity; and that the study has external validity of findings (Franklin and Jordan, 1997). The use of semi-structured interviews gave the opportunity to probe and clarify answers and crosscheck answers which provided a good test of reliability (Minichiello et al., 1995). The opportunity to query ambiguous or unclear responses during the interviews provided a process to ensure internal validity. Limitations of the study were its restriction to one organization and the inability to triangulate data by using multiple methods of data collection.

**3. Findings**

**Organizational Procedures and Guidelines**

All staff indicated that the organization had no specific procedural guidelines for making decisions about breach recommendations. Rather staff relied for guidance on the generic Integrated Employment System procedural manual issued to all Job Network providers and contact with either Centrelink officers or the Job Network Liaison Officer (JNLO). Half the staff had attended training offered by Centrelink on breach recommendations in 1999. Staff were updated on Centrelink’s procedural requirements and legislative changes by their manager or the organization’s head office. In addition they kept up to date with changes by attendance at JNLO quarterly meetings and bi-monthly organizational meetings on Intensive Assistance, observing changes notified via the IES computer system, viewing Centrelink or ACOSS web sites, reading newspaper articles and consulting colleagues.
Organizational Breach Practices

Despite the lack of organizational procedures, decision making about breach recommendations followed two very distinct situation specific pathways. If a jobseeker failed to attend the first interview with the organization after being referred for Intensive Assistance all staff indicated they would attempt to contact them via telephone to determine why they had not attended. If the jobseeker was not contactable or failed to notify the agency within 24 hours of not attending the interview, staff automatically forwarded a breach recommendation to Centrelink. This procedure was practised uniformly throughout the organization and in these situations very little staff discretion was exercised. In contrast no standard procedures were used by staff where a jobseeker had already engaged with the organization but failed to comply with a prescribed activity such as attending a course, or an interview with their case manager or an employer. In this type of situation, the varying practices and different factors taken into account by staff in making breach recommendations clearly demonstrated that staff exercised considerable discretion.

Variability in Staff Decision Making

Where staff were working with a jobseeker, considerable variability was found in their decisions and the factors they took into account. In response to each of the two scenarios presented four and six staff respectively were unequivocal and said they would recommend a breach and seven and five respectively said they would not. Thus in total for both two scenarios ten staff indicated they would make breach recommendations and twelve that they would not. Generally similar factors influenced a staff member’s decision making in both scenarios. In ten of the twelve instances where the decision was not to recommend a breach, staff indicated they would require additional information before they could make a final decision. This was not the case where staff decided to recommend a breach.

Variability in staff decision-making was demonstrated further in response to a question that sought their understanding of what constitutes a reasonable excuse. For example, reasons such as ‘I slept in’ or ‘I had to take my mother shopping’ were used to exemplify reasonable excuses whereas other staff saw similar reasons as being unreasonable.

Differences in the number of weekly breach recommendations made by staff and the rate that Centrelink applied them was another indication of the various approaches taken by staff. Staff made a mean of three breach recommendations a week, one staff member made none, seven staff made two recommendations and three staff made five. Estimated percentage of recommendations actioned by Centrelink ranged from 25 per cent to 90 per cent with a mean of 50 per cent. Those staff that made fewer recommendations had a higher success rate.

Amongst all staff however there was a strong culture of giving a jobseeker ‘one chance’ and warning rather than reporting if it was the first failure to
meet requirements. This approach was summed up by one staff member who said that they would allow a jobseeker the: ‘... benefit of the doubt for the first time: second time, no leniency’.

**Styles of Decision Making**

Staff fell into two broad types of decision makers. Just under half were likely to seek out additional information whilst the other group made decisions on the information available to them. This latter group, ‘the enforcers’, whilst usually willing to overlook a jobseeker’s indiscretion the first time it occurred showed no leniency after that. They demonstrated a negative view of human nature and tended to assume the worst of jobseekers. They were interested in compliance and had a business focus. This approach is exemplified by the following comments from staff:

‘If I’m talking to them, I say to them, ‘unless you’re in hospital with a broken leg, then I expect you to be here, and if you’re not then I advise Centrelink’

‘I’d give a second chance, if didn’t turn up, then breach him’

‘Only way to get through is to recommend a breach’

‘Nothing forthcoming from his side I would breach him’

‘I need turnover to occur, financially, if people aren’t coming in, I want them off the case load’.

Those staff that sought out more information before making decisions did so for various reasons. They fell into three sub-groups reflecting the different factors each was willing to take into account in reaching a decision. The first sub-group, ‘the truth seekers’, were interested in obtaining the truth; additional evidence that would back up the jobseeker’s explanation for their indiscretions. For example, if a jobseeker claimed to have been ill, they would be required to provide a medical certificate, or if they claimed their car had broken down, a mechanic’s report would be required. This approach is exemplified by the following comments:

‘Talk to jobseeker, get two sides’

‘I don’t let people off the hook for no reason, each case is taken on its merits’

‘I would breach if the jobseeker agrees and confirms information’.

The second sub-group, ‘the history seekers’, sought information about the jobseeker’s history and life experience. They realized the impact that adverse social situations or personal characteristics could have on a jobseeker’s ability to comply with activity test requirements. Accordingly, in their
decision making they took into account the jobseeker’s vulnerability, social disadvantage and previous endeavors to obtain work. This approach is exemplified by the following comments:

‘Basically, I look at the history of the candidate. Different factors come into it, they might be homeless or have some sort of drug issue’

‘I think a lot of the time people probably get breached when it’s not really their fault … a lot of people get sent to Intensive Assistance that really shouldn’t be here’

‘One person, I put in a couple of breaches for, I didn’t realise he was homeless, so I contacted Centrelink, and had the breaches revoked’.

The final sub-group, ‘the worthiness testers’, were interested in finding out more about the jobseeker’s motivation to find work and their effort to comply with requirements. This sub group made decisions based on judgements about a jobseeker’s efforts to comply or make contact with their case manager. The jobseeker’s worthiness as a job seeker rather than anything else was being assessed. This is exemplified in the following comments:

‘As long as they have contacted me, that’s all. I don’t really care what they say, in fact, I often say it doesn’t matter and you don’t have to give me a reason, because people make things up’

‘I would never breach someone who was a genuine jobseeker and just couldn’t get a job. I would not let anyone else breach them either’.

Factors Affecting Decision Making
The various styles of decision making reflected the personal values and views of human nature held by staff. One staff member stated that her values meant she never made breach recommendations. She said, ‘I come from a social justice position. I think if I had known I would have to breach people, I would probably never have taken this job’.

A majority of staff expressed the view that it was easier to make the decision to breach a jobseeker with whom they had not yet formed a working relationship. This was particularly relevant to those jobseekers that failed to attend the initial Intensive Assistance interview. Recommending a breach was perceived to have both negative and positive consequences for working relationships with job seekers. Sometimes the relationship improved, as the experience meant the jobseeker was more compliant with activities. However, more commonly highlighted were the negative effects where a breach led to a ‘bad rapport’, with the jobseeker who often became ‘defensive’, ‘cold’, ‘not as open’, ‘disruptive’, and ‘generally not trusting’. Eight staff said that jobseekers often became angry directing their aggression towards Centrelink or Job Network provider staff. Staff sought to overcome
the negative ramifications by warning jobseekers of their contractual requirements to notify Centrelink of failure to comply with requirements, endeavoring to reduce the jobseeker’s perception that Job Network staff were responsible for the breach. For example, one staff member stated: ‘I never let my people know I breached them, Centrelink is the bad person, I never tell them.’

Most staff were aware of requirements by Centrelink to provide supporting documentation or additional information to substantiate their breach recommendations. However many expressed frustration with the inconsistencies they encountered in their dealings with Centrelink. Centrelink officers had different practices and interpretations of privacy requirements. This meant in some instances Centrelink were unwilling to provide Job Network staff with additional information about a jobseeker’s circumstances held by Centrelink. When this occurred some staff felt they were left with no alternative but to recommend a breach and let Centrelink ‘sort it out’.

In addition some Centrelink officers utilised codes on the computer system that meant reasons for a breach recommendation not being applied were not made available. Job Network staff were also concerned about some Centrelink officers requesting from them information about a jobseeker that duplicated that already held by Centrelink. Another source of frustration were delays by Centrelink that meant some breach recommendations were not actioned within the prescribed time frame and were automatically lapsed. Job Network staff also expressed concern about the number of jobseekers that were not correctly classified and thus inappropriately referred for Intensive Assistance. For example instances were cited where jobseekers were not available due to illness, or were eligible for alternative benefit support such as disability support pension or to be transferred to the Community Support Program.

4. Discussion
The findings of this study are consistent with previous research that shows Job Network providers exercise considerable discretion informed by personal values in making decisions about jobseekers who fail to comply with activity test requirements (Considine, 1999; Eardley et al., 2001). The study shows, however, that discretion is more likely to be exercised where staff are already engaged with a jobseeker than in relation to newly referred job seekers with whom no relationship had yet been formed.

Considerable variability regarding the way discretion is exercised was found amongst staff in the for profit agency studied. Just under half the staff suggested they would investigate the circumstances of an indiscretion further before making a decision. Conflicting understanding of the criteria of ‘reasonableness’ were demonstrated. These findings are consistent with previous studies that suggest staff of Job Network providers have inconsistent levels of knowledge and skills regarding the application of the activity test and do not always investigate an individual’s circumstances
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(Department of Employment, Workplace Relations and Small Business, 2000; Pearce et al., 2002). Staff that did investigate further took a variety of stances on the information they sought and took into account. Overall staff displayed four decision making styles - enforcement of the law as perceived on the evidence immediately available; decision making after investigation to confirm the truth of the situation; inquiry to uncover any obstacles to compliance presented by the persons life situation; or inquiry in order to assess the worthiness of the jobseeker.

It is clear that the rules of natural justice were not being correctly applied in all instances, meaning that some jobseekers are subject to unjust decision-making processes. This study builds on the existing knowledge regarding variability of decision-making and rates of breach recommendations between types of Job Network providers by demonstrating considerable variability of decision-making within a Job Network provider. This means that, even within one organization, jobseekers experience inconsistent treatment.

The lack of organizational procedures and in house training in respect to decision making demonstrated by this study is a major issue that contributes to inconsistent decision making styles and outcomes for jobseekers. At present however, aside from notions of natural justice, there is no imperative for Job Network agencies to investigate the circumstances behind a job seeker’s failure to meet requirements. This must be addressed contractually by building into contracts with the Job Network requirements to develop sound decision-making procedures, implement quality assurance mechanisms to monitor implementation and to provide regular training on aspects of policy and legislative intent.

The final report of the Productivity Commission review of the Job Network, released in September 2002, acknowledged, that despite strict contractual obligations to report all jobseeker failures to comply with activity test requirements, Job Network providers exercise considerable discretion in reporting non compliance. The report saw this as a legitimate role for Job Network providers. It considered they were a valuable source of information about jobseekers compliance, and well placed to exercise discretion, having the ability to consider single incidents of failure in the broader context of a jobseeker’s overall compliance. Although the Productivity Commission accepted some issues did need to be addressed its recommendation was concerned only with defining the scope of discretion. It failed to consider either the complexity of exercising discretion or the necessity to ensure procedural aspects of decision-making reflected the rules of natural justice (Productivity Commission, 2002b, 14.3). Indeed, another recommendation of the report that less monitoring of job network agencies should occur suggests that issues such as this would continue to be left to the discretion of agencies.

However, aspects of decision-making procedure were raised by a Senate Community Affairs References Committee report on participation requirements and penalties system (2002). The committee was established
to consider provisions to extend participation requirements to single parents and the older unemployed contained in the Family and Community Services Legislation Amendment (Australians Working Together and other 2001 Budget Measures) Bill, 2002. The committee’s report drew attention to the provisions in this Bill regarding breach decision-making and imposition of penalties for single parents and older workers subject to a participation agreement which are quite different from, and pay more attention to procedural fairness, than those applicable to Newstart or Job Search Allowance recipients found in the Social Security Act, 1991. The Bill clearly specifies the process of breach decision making, requiring that reasonable steps be taken to contact the person and that regard must be taken of the reasons for non-compliance. It also provides that if, after failing to comply with a requirement, a single parent then does so within 13 weeks, any penalty imposed will be revoked. The committee suggested that such provisions should extend to all Newstart and Job Search recipients. Also, in proposing that the recommendations made in the Pearce et al., (2002) Independent Review be implemented the committee accepted that closer attention should be paid to procedural fairness and greater effort made to ensure more through and objective investigation of circumstances behind non-compliance. Whether these recommendations will be acted upon is not clear at the time of writing, but it is significant that a minority report was prepared by government members of the committee that expressed opposition to the findings of the report.

An issue raised by this study is the inconsistent and often frustrating relationship between staff of Centrelink and the Job Network provider staff. If the decision-making capacity of Job Network staff is to improve it is important they receive constructive feedback from Centrelink on their shortcomings. Attention must also be paid to clarifying for all staff organizational relationships in respect of privacy legislation. It makes little sense for Centrelink and Job Network providers not to share information about a jobseeker that is likely to impact on their job search efforts or work capacity. This issue was addressed in the final Productivity Commission report (2002b) which recommended protocols be developed for sharing personal information about jobseekers between key government bodies and Job Network providers and between providers themselves.

It would also seem that greater attention should be given, at the initial referral stage, to fully understand a jobseeker’s circumstances and determine if Intensive Assistance is the appropriate disposition. This may reduce the number of inappropriate referrals and the possibility that a jobseeker is breached simply to remove them from the Job Network provider’s books. Further refinement of the Job Seeker Classification Index used by Centrelink staff to assist in referrals and greater attention to targeting support for jobseekers recommended by the final Productivity Commission report may address this issue.

This study supports the conclusions of Pearce et al., (2002) that strategic breaching to remove potentially ‘non productive’ jobseekers from the books
is occurring. This is more likely to occur in the earlier stages of a jobseeker’s engagement with the organization. Although no procedural rules existed it was the practice of all staff to exercise little discretion in relation to newly referred jobseekers who failed to keep an appointment and treat them more summarily than longer-term clients. It is notable however, that such practices were not reported as being specifically encouraged by organizational procedures and were not a dominant feature of the organization’s culture. Recommendations have already been made to reform structural factors in the Job Network system that provide incentives for strategic breaching to occur by, for example, removing fixed case loads and providing providers with the opportunity to re-refer unsuitable jobseekers (Productivity Commission, 2002a, 2002b; Pearce et al., 2002).

However, conflicting demands appear to be structurally inherent in the current competitive market based system of employment services. Contradictions between the profit motive, supportive and policing roles of Job Network providers were evident. Reconciling these conflicting roles and attaining a balance between them continues to be a major issue for the employment service system. More comprehensive assessment and better targeting of employment programs may assist in achieving this balance by ensuring jobseekers receive support commensurate with their needs and are not required to meet unrealistic expectations. Incentives to work with more difficult disadvantaged jobseekers may be one strategy to avoid practices to remove them from the books.

This study suggests that the Federal Government as the purchaser and Job Network providers as the provider must give more attention to ensuring consistent and just decision-making practices. In the short term, it suggests the importance of welfare professionals and advocacy groups ensuring that jobseekers are aware of their rights to seek internal and external review of breach decisions. Such reviews will help ensure, for the individual that natural justice and an investigation of individual circumstances occurs before an adverse decision is made or implemented.

References


