



Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013

Social Security (Administration) Act 1999

I, JENNY MACKLIN, Minister for Families, Community Services and Indigenous Affairs and Minister for Disability Reform, acting under subsection 123UGA(2) of the *Social Security (Administration) Act 1999* and on behalf of the Minister for Employment and Workplace Relations and the Minister for Higher Education and Skills, make these Principles.

Dated

16th June

2013

J Macklin

Minister for Families, Community Services and Indigenous Affairs and
Minister for Disability Reform

Part 1 Preliminary

1 Name of Principles

These Principles are the *Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013*.

2 Commencement

These Principles commence on 1 July 2013.

3 Revocation of previous instrument

The *Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2012* are revoked.

4 Interpretation

(1) In these Principles:

ABSTUDY Scheme has the meaning given by subsection 23(1) of the Social Security Act.

Act means the *Social Security (Administration) Act 1999*.

crisis payment means crisis payment under Part 2.23A of the Social Security Act.

current determination means a determination that is in force, in relation to a person, under subsection 123UGA(1) of the Act.

disability support pension means disability support pension under Part 2.3 of the Social Security Act.

earned, derived or received has the meaning given by subsection 8(2) of the Social Security Act.

equivalent rate of special benefit in relation to a person, means a rate of special benefit equivalent to the maximum basic rate of youth allowance that the person would receive if they were qualified for youth allowance.

income has the meaning given by subsection 8(1) of the Social Security Act.

indicator of vulnerability has the meaning given by subsection (2).

relevant priority needs, in relation to a person (**the first person**), means:

- (a) the priority needs of the first person; and
- (b) the priority needs of each specified dependant of the person.

Note: For **priority needs**, see section 123TH of the Act.

Social Security Act means the *Social Security Act 1991*.

social security benefit has the meaning given by subsection 23(1) of the Social Security Act.

social security pension has the meaning given by subsection 23(1) of the Social Security Act.

special benefit means special benefit under Part 2.15 of the Social Security Act.

specified dependant, in relation to a person (the **first person**), means any of the following persons:

- (a) a child of the first person;
- (b) the first person's partner;
- (c) any other dependant of the first person.

subject to the income management regime means subject to the income management regime set up under Part 3B of the Act.

undertaking full-time study has the meaning given by section 541B of the Social Security Act.

youth allowance means youth allowance under Part 2.11 of the Social Security Act.

(2) For the purposes of these Principles, each of the following circumstances is an **indicator of vulnerability**:

- (a) financial exploitation;
- (b) financial hardship;
- (c) failure to undertake reasonable self-care;
- (d) homelessness or risk of homelessness.

(3) For the purposes of these Principles, a person (the **first person**) is experiencing **financial exploitation** if another person, or an entity (whether or not it has legal personality):

- (a) has acquired; or
- (b) has attempted to acquire; or
- (c) is attempting to acquire;

possession of, control of or the use of, or an interest in, some or all of the first person's financial resources, through the use of undue pressure, harassment, violence, abuse, deception, duress, fraud or exploitation.

- (4) For the purposes of these Principles, a person is experiencing **financial hardship** if:
- (a) the person is unable, due to a lack of financial resources, to obtain goods or services, or to access or engage in activities, to meet his or her relevant priority needs; and
 - (b) the lack of financial resources mentioned in paragraph (a) is not solely attributable to the amount of income earned, derived or received by the person.
- (5) For the purposes of these Principles, a person is experiencing **failure to undertake reasonable self-care** if:
- (a) the person is engaged in conduct that threatens the physical or mental wellbeing of the person; and
 - (b) the Secretary is satisfied that the person has not taken sufficient steps to address the conduct.
- (6) For the purposes of these Principles, a person is experiencing **homelessness or risk of homelessness** if the person:
- (a) does not have access to safe, secure and adequate housing; or
 - (b) does not have a right to remain, or a reasonable expectation of being able to remain, in the housing to which the person has access; or
 - (c) is using, or is at risk of needing to access, emergency accommodation or a refuge.

5 Purpose

- (1) Part 2 of these Principles sets out decision-making principles that the Secretary must comply with in either making, or deciding whether to revoke or vary, a determination under subsection 123UGA(1) of the Act, that a person is a vulnerable welfare payment recipient for the purposes of Part 3B of the Act, other than a determination made because of Part 3 of these Principles.
- (2) Part 3 of these Principles sets out decision-making principles that the Secretary must comply with in either making a determination under subsection 123UGA(1) of the Act in relation to certain persons who meet the criteria in subsection 8(1) relating to vulnerable youth or youth who have been released from gaol and when revoking a determination made because of Part 3.

Part 2 Decision-Making Principles – decision to make, vary or revoke a vulnerable welfare payment recipient determination

6 Application

- (1) This Part does not apply where the Secretary is deciding whether to make a determination that a person is a vulnerable welfare payment recipient for the purposes of Part 3B of the Act, where any of the criteria in subsection 8(1) of Part 3 of these Principles apply to the person.
- (2) This Part does not apply to a determination that a person is a vulnerable welfare payment recipient for the purposes of Part 3B of the Act, where that determination was made because of Part 3 of these Principles.

7 Decision-making Principles

- (1) Subject to subsections (2), (3), (4), (5) and (6), in making a determination under subsection 123UGA(1) of the Act about a person, or in considering whether to vary or revoke a current determination about a person, the Secretary must consider whether:
 - (a) the person:
 - (i) is experiencing an indicator of vulnerability; or
 - (ii) is subject to the income management regime but is likely to experience an indicator of vulnerability if the person does not become subject to a determination under subsection 123UGA(1) of the Act or does not remain subject to a current determination (as applicable); and
 - (b) the person:
 - (i) is applying appropriate resources to meet some or all of the person's relevant priority needs; or
 - (ii) is subject to the income management regime but is likely not to apply appropriate resources to meet some or all of the person's relevant priority needs if the person does not become subject to a determination under subsection 123UGA(1) of the Act or does not remain subject to a current determination (as applicable); and
 - (c) if the person is experiencing an indicator of vulnerability, or, if the person is subject to the income management regime but is likely to experience an indicator of vulnerability if the person does not become subject to a determination under subsection 123UGA(1) of the Act or does not remain subject to a current determination (as applicable) – whether income

management under section 123UCA of the Act is an appropriate response to that indicator of vulnerability; and

- (d) income management under section 123UCA of the Act is assisting, or will assist, the person to apply appropriate resources to meet some or all of the person's relevant priority needs.

Note: For **relevant priority needs** — see subsection 4(1).

- (2) For paragraph (1)(a), in considering whether a person is experiencing an indicator of vulnerability, or is likely to experience an indicator of vulnerability, in relation to a person who is:

- (a) the subject of a current determination; and
- (b) being considered for a new determination under subsection 123UGA(1) of the Act;

the Secretary may act on the basis of relevant documents and information in his or her possession.

- (3) The Secretary is not required to consider the matters mentioned in paragraphs (1)(b) to (d) if satisfied that the person is:

- (a) not experiencing an indicator of vulnerability; or
- (b) not likely to experience an indicator of vulnerability if the person does not become subject to a determination under subsection 123UGA(1) of the Act or does not remain subject to a current determination (as applicable).

- (4) The Secretary is not required to consider the matters mentioned in paragraphs (1)(c) and (d) if satisfied that the person is:

- (a) applying appropriate resources to meet some or all of the person's relevant priority needs; or
- (b) likely to apply appropriate resources to meet some or all of the person's relevant priority needs if the person does not become subject to a determination under subsection 123UGA(1) of the Act or does not remain subject to a current determination (as applicable).

- (5) For paragraphs (1)(c) and (d), the Secretary may be satisfied that income management under section 123UCA of the Act is an appropriate response and will assist the person to meet some or all of his or her relevant priority needs despite the fact that the person is willing to enter, or has entered, into a voluntary income management agreement with the Secretary under section 123UM of the Act.

- (6) For paragraphs (1)(c) and (d), in considering whether income management under section 123UCA of the Act is an appropriate response and is assisting, or will assist, the person to meet some or all of his or her relevant priority needs, the Secretary must have regard to the following matters:

- (a) all the relevant personal circumstances of the person;

- (b) any services (however described) that are available, or that can be made available, to the person;
 - (c) if the person is, or has been, subject to the income management regime, any changes that have occurred to the person's personal circumstances during the period in which the person was subject to the income management regime;
 - (d) if the person is, or has been, subject to the income management regime, the likely impact on the person, and on any specified dependent of the person, of a determination being made about the person under subsection 123UGA(1) of the Act; and
 - (e) if there is a current determination about the person and the Secretary proposes to vary or revoke that determination, the likely impact on the person, and on any specified dependent of the person, of the proposed variation or revocation (as applicable).
- (7) Subsection (6) does not prevent the Secretary from having regard to matters other than the matters mentioned in that subsection.

Part 3 Decision-Making Principles – decisions relating to certain persons who are vulnerable youth or have been released from gaol

8 Decision-making Principles – determinations relating to certain persons who are vulnerable youth or have been released from gaol

- (1) Despite anything in Part 2 of these Principles, but subject to subsection (2), the Secretary must make a determination under subsection 123UGA(1) of the Act about a person, if the person is:
- (a) under 16 years old and receiving a special benefit; or
 - (b) at least 16 years old but under 22 years old and receiving youth allowance, disability support pension or a payment under the ABSTUDY Scheme at a rate of payment calculated on the basis the person is independent as a result of meeting the criteria in subsection 1067A(9) of the Social Security Act relating to persons for whom it is unreasonable to live at home; or
 - (c) under 25 years old and has, within the last 13 weeks, received a crisis payment where the person qualified for crisis payment under section 1061JG of the Social Security Act because the person was released from gaol.
- (2) The Secretary is not required to make a determination under subsection 123UGA(1) of the Act about a person who meets the criteria in subsection (1) if the Secretary is satisfied that:
- (a) being subject to income management under section 123UCA of the Act would place the person's mental, physical or emotional wellbeing at risk, including that the person:
 - (i) is not able to meaningfully engage in the income management process due to mental health issues; or
 - (ii) does not have the capacity to comprehend the operation of income management; or
 - (iii) is experiencing serious instability in their housing or living situation and income management would affect their ability to direct funds to housing; or
 - (b) the person is undertaking full-time study; or
 - (c) the person is actively involved in employment or study, the person is applying appropriate resources to meet their relevant priority needs and, within at least 4 of the last 6 fortnights, the person has received less than 25% of:

- (i) the maximum basic rate of youth allowance or disability support pension, or the maximum fortnightly rate of a payment made under the ABSTUDY Scheme (as applicable); or
 - (ii) if the person has received crisis payment, the maximum basic rate of the social security pension or social security benefit payable to the person as provided by subsection 1061JU(4) of the Social Security Act; or
 - (iii) if the person is receiving special benefit, the equivalent rate of special benefit; or
- (d) the person is subject to the income management regime under section 123UFA of the Act (voluntary income management).

9 Decision-making Principles – revocation of determination made in relation to certain persons who are vulnerable youth or have been released from gaol

- (1) In deciding whether to revoke a determination under subsection 123UGA(5) of the Act where the current determination was made about a person because of the criteria in subsection 8(1), the Secretary may revoke the current determination if:
- (a) the person no longer meets the criteria in subsection 8(1) which allowed the current determination to be made and the person has requested that the determination be revoked; or
 - (b) remaining subject to income management under section 123UCA of the Act would place the person’s mental, physical or emotional wellbeing at risk, including that the person:
 - (i) is not able to meaningfully engage in the income management process due to mental health issues; or
 - (ii) does not have the capacity to comprehend the operation of income management; or
 - (iii) is experiencing serious instability in their housing or living situation and income management would affect their ability to direct funds to housing; or
 - (c) the person is undertaking full-time study; or
 - (d) the person is actively involved in employment or study, the person is applying appropriate resources to meet their relevant priority needs and, within at least 4 of the last 6 fortnights, the person has received less than 25% of:
 - (i) the maximum basic rate of youth allowance or disability support pension, or the maximum fortnightly rate of a payment made under the ABSTUDY Scheme (as applicable); or

- (ii) if the person has received crisis payment, the maximum basic rate of the social security pension or social security benefit payable to the person as provided by subsection 1061JU(4) of the Social Security Act; or
 - (iii) if the person is receiving special benefit, the equivalent rate of special benefit; or
 - (e) the person has been subject to a determination under subsection 123UGA(1) of the Act made about the person because of the criteria in subsection 8(1) for a period or periods totalling at least 12 months and the person:
 - (i) has successfully engaged in a supportive relationship that provided mentoring, coaching or case management that included a transition to independence and the Secretary is satisfied that the person is likely to continue doing so such that the person does not need to remain subject to the income management regime; or
 - (ii) has demonstrated the skills and ability to manage their money and to live independently and the Secretary is satisfied that the person is likely to continue doing so such that the person does not need to remain subject to the income management regime.
- (2) In deciding whether to revoke a determination under subsection 123UGA(5) of the Act where the current determination was made about a person because of the criteria in subsection 8(1), the Secretary must only have regard to the matters mentioned in subsection (1).