



Specialist Social Security Community Legal Services in Australia Impact Report

OCTOBER 2018



**NATIONAL
SOCIAL SECURITY**
RIGHTS NETWORK

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About the Specialist Social Security Community Legal Services in Australia

There are 15 community legal centres (**CLC's**) across Australia which specialise in social security and family assistance law, policy and administration. The centres are located in all states and territories. These centres include stand-alone, state-wide, specialist centres which exclusively focus on social security law matters, centres which offer dedicated social security legal services as part of a mix of specialist legal services and geographically based/generalist centres that provide a specialist social security program as part of a suite of legal assistance services.

Specialist social security community legal services assist vulnerable and disadvantaged Australians by:

- Information and referrals, legal advice and casework, advocacy in negotiations with Centrelink and at the Administrative Appeals Tribunal (**AAT**) and non-legal support;
- Designing and delivering community legal education programs and community development activities directed at local communities, targeted groups and other professionals;
- Working collaboratively across the legal assistance sector and community sector more generally to raise awareness of social security legal issues. This includes activities such as working with social workers and financial counsellors to assist them to identify people who may be experiencing social security problems and then to provide appropriate assistance and referral to legal services as required; and
- Engaging, at a number of levels, in policy and law reform aimed at highlighting and addressing systemic issues.

CLC's providing specialist social security legal assistance receive funding from a range of sources, such as:

- The Commonwealth Government under the National Partnership Agreement on Legal Assistance Services (**NPA**);
- State and Territory Governments;
- Public purpose funds;
- Philanthropic trusts and foundations; and
- Donations from the public.



About the National Social Security Rights Network

The National Social Security Rights Network (**NSSRN**), first formed in 1990, is the peak body for CLC's that specialise in social security and family assistance law (**social security law**) and its administration by the Department of Human Services (**DHS**). The aim of the NSSRN is to reduce poverty, hardship and inequality in Australia by advocating for a social security system which is fair, adequate and well administered. The NSSRN Secretariat was established in 2014 with Commonwealth funding through the Department of Social Services (**DSS**). This funding enables the NSSRN to employ 1.5 (effective full time) staff. The NSSRN Secretariat is located in Sydney.

The NSSRN facilitates the sharing of experience and expertise between its members (the specialist social security community legal services referred to in this report) and provides a mechanism for members to work together to improve access to justice for disadvantaged people. The NSSRN draws on the direct experience of its members and the people they assist to provide input into policy and legislative processes and inform advocacy to government and policy makers.

NSSRN MEMBER CENTRES

- Townsville Community Legal Service
- Basic Rights Queensland
- Welfare Rights Centre (NSW)
- Illawarra Legal Centre
- Canberra Community Law
- Social Security Rights Victoria
- Barwon Community Legal Service
- Hobart Community Legal Service Inc
- Launceston Community Legal Centre
- Uniting Communities
- Welfare Rights Centre (SA)
- Fremantle Community Legal Centre
- Sussex Street Community Legal Service
- Welfare Rights and Advocacy Service
- Darwin Community Legal Service

ASSOCIATE MEMBER

- Northern Australian Aboriginal Justice Agency

The National Partnership Agreement Review

Thank you for the opportunity to provide a submission to the National Partnership Agreement Review.

The NSSRN, in conjunction with its members, has produced this report in response to the terms of reference for the review, to highlight the critical work undertaken by specialist social security community legal services and to document what is needed to maintain and strengthen this component of the community legal service sector.

The NSSRN consents to being identified as having made a submission and to its submission being quoted with attribution in the report of the NPA review.

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Executive Summary

The social security system plays a critical role in supporting individuals and families in Australia when they do not have the ability or means to support themselves. Social security legal matters impact members of the community when they are most vulnerable. Social security legal problems present in a multitude of ways and span across a number of pieces of complex and technical legislation. The complexity and inaccessibility of the social security system is well recognised.

Legal assistance to resolve social security problems is provided almost exclusively by the free legal assistance sector. There are few private sector lawyers who have expertise to undertake pro bono advice and casework in the area of social security law. Even in some of the larger jurisdictions where Legal Aid Commissions undertake some social security work, demand still far outstrips supply.

Specialist social security community legal services have been delivering expert and specialised legal assistance services in social security law and policy across Australia for over 30 years. Specialist social security community legal services provide integrated, efficient and effective specialist legal services which are targeted to those most in need.

The positive impact on clients and the broader community of having social security expertise developed and maintained in specialist social security community legal services is evidenced by:

Improved outcomes for clients as a result of specialist social security community legal services' engagement with the community and the provision of specialist legal assistance, as verified by independent research commissioned by N SSRN in 2014 and N SSRN's major research into the relationship between social security and domestic violence in 2018.

Increased efficiency in the justice system which specialist social security community legal services achieve by representing disadvantaged clients and assisting capable clients to advocate for themselves.

Positive changes to social security policy and the administration of the system as a result of the N SSRN and its members via policy submissions and engagement with government, based on the experience of its Member Centres' clients.

Capacity building which specialist social security community legal services provide to other legal and community organisations, harnessing their social security expertise to enable these organisations to meet the social security needs of their clients by providing training and resources, secondary consultations and referral pathways.

Funding for specialist social security community legal services is essential to ensure that this specialist expertise and its positive impacts on the ability to meet rising unmet legal need are not lost. Additional and long term funding is required to ensure that specialist social security services can be expanded and targeted to meet need. Justice Impact Statements as recommended by the Law Council of Australia should be implemented at Commonwealth level to facilitate funding to the justice system arising from the impact that laws and policies have on vulnerable people.

Specialist social security expertise and experience is required as a resource to workers in the legal assistance and other sectors to assist their clients to identify and address social security matters.

The NPA funding framework needs to be strengthened to better recognise and support the important work undertaken by specialist social security community legal services in assisting vulnerable people.

Glossary / Acronyms

AAT	Administrative Appeals Tribunal
AAT 1 st Tier	Social Services and Child Support Division
AAT 2 nd Tier	General Division
ATO	Australian Taxation Office
BCLS	Barwon Community Legal Service
CCL	Canberra Community Law
CLC	community legal centre
CLE	community legal education
DCLS	Darwin Community Legal Service
DHS	Department of Human Services
DSP	Disability Support Pension
DSS	Department of Social Services
Foundation	NSW Law and Justice Foundation
GFC	Global Financial Crisis
ILC	Illawarra Legal Centre
LAW Survey	Legal Australia Wide Survey
Member Centres	community legal centre members of the NSSRN
NPA	National Partnership Agreement on Legal Assistance Services
NSSRN	National Social Security Rights Network
ODM	Original Decision Maker
Robo-debt	Employment Income Confirmation System
Social Security Law	Social Security and Family Assistance Law
Socio-Legal Practice Clinic	SLP Clinic
SSRV	Social Security Rights Victoria
WPIT	Welfare Payment Infrastructure Transformation

1. Social security legal need in Australia

KEY POINTS

- There is significant social security legal need in Australia.
- Social security legal matters impact the most vulnerable members of the community who have complex legal needs and face significant obstacles identifying and resolving legal problems.
- Social security legal needs if unresolved may compromise the safety, rights or entitlements of members of our community
- Specialist social security community legal services cannot meet the demand for social security assistance across Australia.
- Justice Impact Statements should be introduced at a Commonwealth level, to facilitate funding to the justice system arising from the impact that laws and policies have on vulnerable people.
- Existing evidence base for measuring legal need fails to appropriately identify and measure legal need arising from interaction with social security law and its administration in Australia.

1.1 THE RESEARCH

Research conducted into legal need over the last decade demonstrates that there is significant social security legal need in Australia. According to the *Legal Australia-Wide Survey (LAW Survey)* conducted by the NSW Law and Justice Foundation (**the Foundation**) in 2008¹ and the Law Council of Australia, socio-economically disadvantaged people who have complex needs and face significant obstacles in identifying and resolving legal problems are among those most in need of assistance to address legal issues relating to social security entitlements.²

The Foundation's Final Report highlights that people whose main income was government payments did not have elevated levels of legal problems overall nor multiple legal problems, however they had a significantly higher likelihood of experiencing substantial legal problems (29.1 per cent) compared to other respondents (26.5).³

People on government payments were more likely to experience legal problems reflecting socioeconomic disadvantage. They had increased odds of problems from the following problem groups in at least one or a few jurisdictions: family, government, health, housing and rights. The high levels of government problems were largely due to problems related to receipt of government payments.⁴

1 Christine Coumarelos et al, Law and Justice Foundation of New South Wales, *Legal Australia-Wide Survey: Legal need in Australia*, 2012, p xiii.

2 The Justice Project, August 2018

3 Law Council of Australia's The Justice Project, *Final Report – Part 1, People Experiencing Economic Disadvantage*, August 2018 p 3 quoting Christine Coumarelos et al, Law and Justice Foundation of New South Wales, *Collaborative Planning Resource*, p 71.

4 Christine Coumarelos et al, Law and Justice Foundation of New South Wales, *Legal Australia-Wide Survey: Legal need in Australia*, 2012, p 177.

The Foundation also found that:

*'Financially disadvantaged people overlap substantially with other disadvantaged groups. For example, 18% of financially disadvantaged people have low education levels, 8% are unemployed, 27% are 65 years or over, 10% have a disability, 3% are Indigenous, 24% are from CALD backgrounds, 6% have poor English proficiency and 12% live in outer regional or remote areas.'*⁵

The Foundation's overall analysis of the survey results concluded that socially disadvantaged groups experienced a high prevalence of legal problems and lower personal capacity to resolve them, often resulting in no action being taken and poor outcomes.⁶

In 2017-8, the Law Council of Australia's Justice Project (**The Justice Project**) embarked on an extensive review of the state of access to justice in Australia for people experiencing significant disadvantage.⁷

In its final report The Justice Project found that:

*"People experiencing economic disadvantage often experience intersectional disadvantage and face considered challenges in accessing justice..... In addition, people experiencing economic disadvantage may fail to recognise legal problems or may not know how to respond if they do. People experiencing economic disadvantage may have personal and psychological barriers which affect their capacity to resolve legal problems, or may struggle with the complexity of relevant laws."*⁸

The difficulty in spotting and dealing with a legal issue was also identified in a study that Curran and Noone undertook specifically looking at the experience of social security recipients in navigating the system. They found that many people and service providers did not recognise that their Centrelink difficulties were a legal issue and did not think about contacting a legal service.⁹

The Justice Project further found that many people experiencing economic disadvantage have social security needs which, if left unresolved, may compromise their safety, rights or entitlements.¹⁰ In relation to the social security system, difficulties often arise when people are not confident or capable of expressing themselves verbally or in writing.¹¹

In its final report, The Justice Project noted the impact of certain laws, policies and practices on driving the legal needs of people experiencing disadvantage. It highlighted as an example the 'extraordinary pressure which was placed on CLCs' arising from the rollout of Centrelink's Employment Income Confirmation System (**colloquially known as 'Robo-debt'**). Consequently, one of the recommendations of the Justice Project was to invest "significant additional resources ... to address critical civil and criminal legal assistance service gaps."¹²

5 Christine Coumarelos et al, Law and Justice Foundation of New South Wales, *Collaborative Planning Resource*, p 71.

6 Law Council of Australia's The Justice Project, *Final Report – Part 1, People Experiencing Economic Disadvantage*, August 2018 p 4.

7 Law Council of Australia, Justice Project website available at <https://www.lawcouncil.asn.au/justice-project/final-report> accessed on 11 September 2018.

8 Law Council of Australia's The Justice Project, *Final Report – Part 1, People Experiencing Economic Disadvantage*, August 2018 p 3.

9 Liz Curran & Mary Anne Noone (2008) Access to justice: a new approach using human rights standards, *International Journal of the Legal Profession*, 15:3, 195-229, DOI: 10.1080/09695950902785879 p 215.

10 Law Council of Australia's The Justice Project, *Final Report – Part 1, People Experiencing Economic Disadvantage*, August 2018 p 3.

11 Liz Curran & Mary Anne Noone (2008) Access to justice: a new approach using human rights standards, *International Journal of the Legal Profession*, 15:3, 195-229, DOI: 10.1080/09695950902785879 p 213.

12 Law Council of Australia's *Justice Project Final Report - Recommendations and Group Priorities*, August 2018 2.1.

The report also recommended the implementation of a Justice Impact Statements at Commonwealth, State and Territory government levels to facilitate the:

- smoother development of laws and policies which have downstream impacts on the justice system; and
- funding of the additional costs to the justice system arising from their introduction.¹³

1.2 SOCIAL SECURITY LEGAL NEED FAR OUTSTRIPS SUPPLY

In March 2018, there were around 4.9 million people receiving a primary social security payment and approximately 1.4 million families receiving Family Tax Benefit payments.¹⁴ Whilst not everyone interacting with the social security system will need legal assistance, CLC's providing social security legal services report significant levels of demand for their assistance and an inability to meet the full extent of demand for their services.

Beyond this, there is likely to be a significant level of hidden and unmet social security legal need arising as a result of people:

- having little knowledge of their rights at law;
- not perceiving Centrelink matters as legal problems;
- fearing retribution if they challenge Centrelink decisions;
- not being supported by the system to access the appeal process; and
- not knowing where to get help.

There are approximately 34 000 DHS staff making millions of decisions each day.¹⁵ For people reliant on social security payments, adverse decisions will have a serious impact upon their lives. It may affect a person's capacity to put food on the table due to having few or no other financial resources. Others may be the subject of decisions with equally serious consequences upon their lives, for example, DHS may allege the person owes a large overpayment (it may even be taking aggressive recovery or prosecution action).

While many social security legal issues are resolved through negotiation and upon internal review approximately 15,000 social security legal issues are referred to the AAT annually.¹⁶

In the 2016-2017 financial year, the AAT Social Services and Child Support Division (**AAT 1st Tier**), received 14 949 applications relating to Centrelink decisions and the AAT General Division (**AAT Second Tier**) received 2 532 applications relating to Centrelink decisions.¹⁷

13 Ibid, 7.3

14 Department of Social Services data, March 2018, <https://data.gov.au/dataset/dss-payment-demographic-data>

15 Department of Human Services, Annual Report 2016-2017, <https://www.humanservices.gov.au/organisations/about-us/annual-reports>

16 Department of Human Services, Social Welfare Payment Merit Review Outcomes <<https://www.humanservices.gov.au/organisations/about-us/annual-reports/annual-report-2016-17/external-scrutiny>>.

17 Ibid, Chapter 3, p7

Unlike other areas of law such as family or criminal law, there is no private sector equivalent in social security law. As a result, there are very few private sector lawyers who have expertise to provide pro bono social security legal services. This makes it difficult to find lawyers who have sufficient experience to volunteer at CLCs without extensive training. Compounding this difficulty, many top tier law firms who are major providers of pro bono services are conflicted out of social security matters because they do government work. The Australian Pro Bono Centre has reported that social security law is one of the most rejected pro bono areas.¹⁸ Accordingly, very little of this work is absorbed by the private sector. Even in some of the larger jurisdictions where Legal Aid Commissions and other CLCs also undertake some social security work, demand still far outstrips supply.

1.3 EXISTING EVIDENCE BASE FOR MEASURING LEGAL NEED IS INADEQUATE

Whilst in the experience of specialist social security community legal services there is a significant level of unmet legal need in the area of social security law, the existing evidence base or approach to measuring legal need (for example the 2008 LAW survey) has a number of methodological limitations. This is because the postcode method does not identify or measure social security legal need.

A more useful data set is likely to be drawn from the DHS data which includes data on the number of Centrelink payment rejections, internal reviews and appeals, debts raised and the demographic profile of people accessing the social security system. It is also important that any evidence based approach reflect the complexity of legal matters and client needs. Whilst some of the DHS data which would be required is publicly available, funding is required to develop a data set which more specifically identifies and assesses social security legal need in Australia.



18 Productivity Commission, *Access to Justice Arrangements*, Inquiry Report No 72, Productivity Commission, Canberra, 2014, at 812.

2. Why specialist social security community legal services are needed

KEY POINTS

- Social security law is a complex and rapidly changing area of law.
- Navigating the large Centrelink bureaucracy is very challenging, the processes are often complex and information is often difficult to obtain.
- Emerging technology creates new risk for vulnerable people who are unable to navigate the systems or whose circumstances cannot be accurately captured by the automated systems.
- Independent research commissioned by the National Social Security Rights Network found that outcomes for clients improved as a result of specialist social security rights services.
- Particularly vulnerable client groups, for example, victims of family violence, need specialist social security legal assistance.

2.1 SOCIAL SECURITY LAW IS A COMPLEX AND DYNAMIC AREA OF LAW

Social Security Social security law is a complex and fluid area of law. In reality social security law is second largest in size only to taxation law. The social security legislation was once described by a Federal Court judge as a 'labyrinth'.

The *Social Security Act 1991*, which replaced the *Social Security Act 1947*, was expounded as having been written in plain English. However the 1991 Act was soon described by a Federal Court of Australia as 'notoriously complex and difficult to interpret.' Since then, the Act has continued to grow in size and complexity. The administrative provisions were removed from the *Social Security (Administrative) Act 1999*. A *New Tax System (Family Assistance) Act 1999* and *A New Tax System (Family Assistance) (Administration) Act 1999* were enacted. In 2010, the paid parental leave scheme was established under the *Paid Parental Leave Act 2010*. The Abstudy payment scheme is separately governed by the *Student Assistance Act 1973*.

In addition, there is a raft of regulations and policy guidelines underpinning the system. *The Guide to Social Security Law* and the *Family Assistance Guide* details the policy relating to social security and family assistance law and the way the system is to be administered by DHS. There is also a separate policy manual which governs the administration of the Abstudy program.

It is well recognised that navigating the large Centrelink bureaucracy is also difficult. Many Centrelink recipients are required to be engaged with an employment service provider and comply with activity test requirements adding further complexity to the system. The Curran and Noone study found that:

“Participants in the focus groups spoke of the system being difficult to navigate, that processes were not simple and often long and time consuming, information was not openly given or presented in a way that made it easy for people to access services, people gained knowledge of how to negotiate the system through trial and error or through word of mouth amongst other people in the community rather than directly through the system itself, and often the system was inconsistent.”¹⁹

In 2014, the Productivity Commission in its Access to Justice Arrangements Inquiry also commented on the complexity and inaccessibility of the social security system.²⁰

Since that time, significant reforms which have added further complexity to the social security system have occurred or been proposed including:

- changes to the Disability Support Pension medical assessment process in 2015;
- the rollout of the Cashless Debit Card Trials over the last 12 months;
- the rollout and implementation of the Robo-debt program; and
- proposed reforms to the Community Development Program (CDP) in remote Australia.

2.2 DIGITAL TRANSFORMATION AND AUTOMATION CREATES NEW RISKS FOR DISADVANTAGED PEOPLE

While the move to digital services holds the potential for increasing ease and efficiency of access for some, it presents risks for others who cannot navigate it, or for those whose circumstances cannot be accurately or fairly captured by an automated system.

For example in July 2016, key changes were made by DHS to the way in which they compared income declaration data from the Australian Tax Office (ATO) and income reported by social security recipients. This process, known as the Employment Income Confirmation System (or colloquially, Robo-debt), became entirely automated, removing the role of any human intervention. The process also involved averaging out the ATO reported income across the relevant financial year – a practice that unsurprisingly caused the significant numbers of calculated debts to be wrong.²¹ Many people reliant on social security payments simply did not earn the exact same amount of income every fortnight of the year.

19 Liz Curran & Mary Anne Noone (2008) Access to justice: a new approach using human rights standards, *International Journal of the Legal Profession*, 15:3, 195-229, DOI: 10.1080/09695950902785879 p 210.

20 Productivity Commission, Access to Justice Arrangements Draft Report, April 2014 at 439

21 It was reported that between July 2016 and September 2017, one in six debts were wrongly calculated. It is possible that this is an understatement of wrongly calculated debts, given that the onus is on the alleged debtor to prove that the estimated overpayment is incorrect. Inaction may result in the debt being raised. See Christopher Knaus, 'Centrelink forced to wipe or change one in six robo-debts', *The Guardian online*, 14 February 2018, <https://www.theguardian.com/australia-news/2018/feb/14/centrelink-forced-to-wipe-or-reduce-one-in-six-robo-debts>

In the last 9 months, approximately 20,000 people were notified of a debt or the likelihood of a debt.²² The robo-debt process reversed the onus of proof – DHS identified a possible overpayment but required the former recipient to provide evidence of payslips or bank statements that would satisfy DHS that their calculation overpayment was not correct. Despite the fact that robo-debt has been widely criticised and its legality has rightly been questioned,²³ DHS has recently trialled the measure on groups of people originally excluded due to their vulnerability – that is, people living in remote areas and people with a marked vulnerability indicator on their Centrelink file.²⁴ Due to political pressure this trial has now been placed on hold for the time being whilst action is taken to improve the process.²⁵

The above figures provide a sense of the potential scale and level of vulnerability of people who are likely to need specialist social security law services in the face of problems arising from digital transformation.

The case study below further illustrates how the complexity of the social security system can be exacerbated with automation. In this case, a just outcome was only achieved with the help of specialist legal advice and representation.

22 Department of Human Services, Questions on Notice, Question number 742, 31 May 2017, <https://parlwork.aph.gov.au/house/questions/742>

23 Terry Carney, 'Robo-Debt Illegality: A Failure of Rule of Law Protections?' on AUSPUBLAW (30 April 2018) <<https://auspublaw.org/2018/04/robo-debt-illegality/>>

24 Christopher Knaus, 'Centrelink's new robodebt trial bypasses previous safeguard for mentally ill', The Guardian, 15 August 2018, <https://www.theguardian.com/australia-news/2018/aug/15/centrelinks-new-robodebt-trial-bypasses-previous-safeguard-for-mentally-ill>

25 <https://www.sbs.com.au/news/debt-trial-for-vulnerable-people-on-hold>

CASE STUDY: ROBO-DEBT SET ASIDE ON APPEAL

Carolyn received youth allowance from Centrelink when she was a university student between 2009 and 2014. During her studies, she supported herself with seven part-time or casual jobs and reported her income every two weeks to Centrelink. When she finished her studies, she moved for work and she did not receive the initial letter generated by the Robo-debt system. She received debt notices over a period of 3 years totalling \$14 000 with a 10% penalty added and was contacted by debt collectors. Although she didn't think the debt was correct, she felt that she had to make a repayment and paid \$500 with her credit card. She continued to receive phone calls from the debt collectors.

Carolyn began to put together her payslips with the help of an accountant. She still had some payslips, but others were online and she could not access them as she no longer worked for the employer. One employer told her it had moved its corporate services overseas, and she had trouble calling the overseas service centre and getting a response. Another employer did not provide payslips in response to her request.

Carolyn appealed with the information that she was able to collect. After reassessment and review the debt was reduced to about \$8000 and the penalty removed. Some income had been double counted, as one of her employers was a business that was in fact owned by a unit trust and the Robo-debt system had treated the unit trust as an additional employer. Income from her employers had also been averaged, and this was partly removed for the period where she provided payslips. However, as she had not been able to obtain all her payslips, some of her income was still averaged.

Carolyn was referred to a specialist social security community legal service. The services' lawyer was able to obtain some of the missing payslips from her employer. The lawyer spent many hours going through the revised debt calculations and identified where averaging had still been applied and then matched this to net income recorded in her bank statements to demonstrate the averaging figures were wrong. The lawyer also provided detailed legal submissions to the AAT arguing that as averaging was not authorised by the legislation the debt was incorrect. The AAT accepted the submissions and set the debt aside.

2.3 OUTCOMES FOR CLIENTS IMPROVED AS A RESULT OF SPECIALIST SOCIAL SECURITY COMMUNITY LEGAL SERVICES

In 2014, the NSSRN released independent research which examined the impact of services provided to and the experiences of people who seek assistance from specialist social security community legal services. The study involved a delayed qualitative survey of 30 closed cases from the 2013-14 financial year and a quantitative survey of 218 clients.

The NSSRN research explored the impacts of financial instability experienced by people whose social security income was suspended, reduced, cancelled or had a debt raised. It found that some people experienced a serious decline in physical and mental health as a consequence. Some people could no longer afford medicines, some experienced an increase in existing pain levels while others reported significant weight loss. Many became socially isolated and struggled to look after children. Feeling disbelieved or misjudged by Centrelink affected self-esteem levels and the ability to relate to other people. Some people fell further into depression and some began to contemplate suicide. Thirteen of the 30 people studied had considered suicide during their dispute with Centrelink.

The report also revealed significant flow on effects from the intervention of specialist social security community legal services. The researchers found that the quality of life for clients pre-intervention was marked by financial instability, physical deterioration, social isolation and emotional struggle. The casework interviews revealed that following specialist social security community legal services' intervention:

- 20% were now able to provide for their children;
- 20% had reduced family tension;
- 20% either kept their home or were no longer homeless;
- 20% had returned to work or study;
- 30% or more were no longer considering suicide;
- 10% were eating properly;
- 10% became volunteers; and
- 6% reconnected with supports.

The report found that specialist social security community legal services fill a gap in legal and other service provision. Many (60%) of 'advice' clients had approached other organisations (Centrelink 30%, Legal Aid 18%, other CLCs 9%, the Commonwealth Ombudsman 5%) in the past regarding the problem they contacted a specialist social security community legal service about and most (77%) of these had not received the help that they needed from these organisations.²⁶

2.4 PARTICULARLY VULNERABLE CLIENT GROUPS NEED SPECIALIST SOCIAL SECURITY COMMUNITY LEGAL SERVICES, FOR EXAMPLE VICTIMS OF DOMESTIC AND FAMILY VIOLENCE

Financial security and independence is critical to the safety of victims of family violence and their capacity to rebuild their lives. Social security payments are often a critical part of this financial security.

Specialist social security community legal services are required to provide advice and ongoing assistance to ensure victims of family and domestic violence can access the financial support they are entitled to when they need it most.

NSSRN Research: The relationship between social security and domestic and family violence

Between March and June 2018, the NSSRN undertook a research project to consider the relationship between the social security system and family and domestic violence and to identify areas where support for victims of family and domestic violence could be improved. The NSSRN research found that domestic and family violence intersected with eligibility and rate of social security entitlement across a broad range of payments and issues. The NSSRN research also highlighted the complexity of laws and policies and the maze of systems victims of domestic and family violence are required to navigate when seeking assistance from the social security system.

The research found that specialist social security community legal services intervened in a range of ways to assist victims of domestic and family violence, including:

- providing advice directly to clients to support their interactions with Centrelink;
- interacting directly with Centrelink on clients' behalf; and
- providing legal assistance and representation through formal appeal mechanisms.

²⁶ Susan Bell Research, How does National Welfare Rights network add value to clients? Independent Research with clients, 2014, 9.

Specialist social security community legal services found that cases were often resolved in their clients' favour following intervention, suggesting that Original Decision Makers and Authorised Review Officers are not always getting it right the first time. The consequence of incorrect decision making is that vulnerable clients who have recently experienced domestic and family violence are forced to go through unnecessary and often drawn-out appeal processes, which significantly compounds their stress and trauma. The level of distress experienced by some clients in their interactions with Centrelink cannot be overstated.

NSSRN research found that 60% of their clients who had recently experienced domestic and family violence were homeless or at risk of homelessness. Research by the Australian Institute of Health and Welfare found that domestic and family violence often disrupts housing security and is the leading cause of homelessness for women in Australia. Specialist social security community legal services found that the situation is particularly dire for women who did not fulfil residency requirements because they are unable to secure an independent income. Despite wanting to leave, these victims of domestic and family violence are unable to secure housing and are forced to remain with their violent partner.

Victims of domestic and family violence who have shared assets with their former partner often experience additional difficulties accessing payments despite the fact that these women often do not have any control over the assets. As a result, victims of domestic and family violence may need to access crisis payments, or seek an urgent payment. NSSRN research found that Centrelink's obligation to assess whether someone is a member of a couple poses an enormous challenge to specialist social security community legal services' staff, particularly where relationships are complex or where there are complex income and assets arrangements. The system's presumption of couples sharing income has placed some women at increased risk of violence and forced them to provide limited information to Centrelink which resulted in debts being raised.

Many victims of domestic and family violence reported having had their lives disrupted and payments stopped, often because they have been unable to report their income or meet other requirements due to the actions of a violent partner. Victims of domestic and family violence may also face debts, particularly where care arrangements for children have changed because of a family breakdown. Economic abuse relating to domestic and family violence can continue post-separation. In many cases, NSSRN research found that Centrelink did not recognise domestic and family violence as contributing to 'special circumstances' allowing Centrelink debts to be waived.

Specialist social security community legal services are necessary to work with victims to gather evidence and documents required to address a victim's situation. Specialist social security community legal services are an essential resource for victims of domestic and family violence, with the advice and ongoing assistance provided by these services often critical to the resolution of a victim's legal problem.

3. Who is assisted and what services are provided

KEY POINTS

- Specialist social security community legal services assist priority clients identified by the NPA.
- Specialist social security community legal services deliver efficient and effective social security legal services to those most in need.
- Specialist social security community legal services provide services tailored to the needs of their clients and provide expert legal assistance to agencies helping people with social security problems.
- Specialist social security community legal services collaborate with community and other organisations to reach vulnerable people and provide holistic services.

Client of CLC's providing specialist social security legal services are some of the most socio-economically disadvantaged individuals in Australia. These clients either rely on social security payments or are seeking to access social security payments to meet their basic living expenses, such as housing, food, utilities and health care. However, social security payments, such as the Newstart Allowance for jobseekers, are not sufficient to meet the basic standard costs of living for many Australians relying on these payments.²⁷ The Australian Council of Social Service (ACOSS) reports the rates of social security are well below the poverty line.²⁸

3.1 SPECIALIST SOCIAL SECURITY COMMUNITY LEGAL SERVICES' CLIENTS ARE DISADVANTAGED AND VULNERABLE

Social security legal matters impact the most vulnerable members of the community and is recognised by the NPA as a priority legal area. Recent expert analysis shows that Australia's social security system is more targeted to the poor than any other Organisation for Economic Co-operation and Development (OECD) country.²⁹

Services provided by specialist social security community legal services are targeted to people most in need, consistent with the priority client groups recognised by the NPA.

3.2 WHAT SERVICES ARE PROVIDED?

Specialist social security community legal services deliver efficient and effective legal services to those most in need. They provide a range of services and modes of service delivery tailored to the needs and capabilities of clients and the geographic and other contexts in which they are provided. Specialisation and the volume of matters handled by specialist social security community legal services enable them to maintain currency with social security law and processes thereby creating efficiencies and reducing time spent on researching the law

27 Peter Saunders and Megan Bedford, *New Minimum Income for Healthy Living Budget Standards for Low-Paid and Unemployed Australians*, Social Policy Research Centre, Report, August 2017.

28 ACOSS (2017) *ACOSS Snapshot – Social Security in Australia: Current Trends* https://www.acoss.org.au/wp-content/uploads/2017/05/ACOSS-snapshot_social-security-spending_Final.pdf

29 Peter Whiteford [2016] 'Assessing Developments and Prospects in the Australian Welfare State' Presentation to OECD, 16 November, Crawford School of Public Policy, ANU.

and navigating the system, enabling more complex work to be undertaken and enabling the identification of trends and systemic issues.

Specialist social security community legal services collaborate with other free legal assistance service providers and the community sector more broadly to ensure that clients are provided with holistic support. Further, referrals from non-legal support services allow for early interventions in social security law matters. Specialist social security community legal services also provide expert legal advice to agencies assisting people with social security problems.

3.2.1 Discrete legal assistance services

Specialist social security community legal services provide a range of discrete legal assistance services including information, referral, legal advice, legal task assistance and non-legal assistance to assist socio-economically disadvantaged people. Discrete legal assistance services are aimed at assisting clients to better understand their issue and their associated rights, obligations and options, and to equip those who are able to do so to advocate on their own behalf. Such assistance is provided via telephone advice services, skype, face to face appointments, client, outreach services or clinics. Social security advice which is often complex and lengthy may be reinforced with written advice or other information for example, social security factsheets and template letters.

Specialist social security community legal services provide discrete services in a wide range of areas including:

- claiming and receiving payments;
- social security eligibility and payment;
- Abstudy matters;
- rejected applications;
- debts – calculations and liability;
- debt recovery;
- debt waiver and write offs;
- resident requirements;
- member of a couple assessments;
- activity testing and penalties;
- the employment services system;
- Family Assistance and child care payments;
- concession cards, allowances, supplements and other payments;
- income and assets tests;
- compensation rules;
- portability of payments;
- International agreements;
- challenging decisions;
- complaints to the Commonwealth Ombudsman; and
- compensation from Centrelink, Act of Grace payments and ex gratia payments.

Specialist social security community legal services liaise and advocate with Centrelink to:

- resolve delays in the processing of claims;
- obtain further information about a person's situation so as to provide comprehensive and accurate advice; and
- advocate for payments to be reinstated, urgent payments to be made, debt withholdings to be reduced or suspended.

Other discrete legal assistance tasks undertaken by specialist social security community legal services include:

- writing letters to Centrelink for clients to take in to assist them to engage with Centrelink and explain their circumstances; including applying for a particular payment or appealing a decision;
- writing letters/contacting third parties to explain the Centrelink issue;
- completing application for review forms and drafting submissions in support of the appeal;
- reviewing and advising on Centrelink's debt calculations, Authorised Review Officer (ARO) internal review decisions and Freedom of Information (FOI) documents; and
- completing applications for review to the AAT.

The following case studies demonstrate the effectiveness of such services in resolving social security legal problems. In these cases income security was only realised with the help of specialist legal advocacy.

CASE STUDY: AGE PENSION GRANTED AFTER SPECIALIST SOCIAL SECURITY COMMUNITY LEGAL SERVICE CONTACTED CENTRELINK

Helen was referred to a CLC from the Commonwealth Ombudsman's office. She was a 72 year old widow who had applied for the Age Pension and was still waiting some six months later for a decision on her claim. Her circumstances were straightforward however her claim had been referred to the complex assessment team within Centrelink for assessment as she and her daughter had a trust bank account with her granddaughter.

The specialist social security community legal service advocate provided advice to Helen about Centrelink's new claim, complex assessment and complaint processes. The service advocate assisted Helen by contacting Centrelink to request urgent processing of the claim. Two days later, Helen's Age Pension was granted and she received arrears of over \$10 000.

CASE STUDY: PAYMENT AND DIGNITY RESTORED AFTER SPECIALIST SOCIAL SECURITY COMMUNITY LEGAL SERVICE INTERVENTION

Sam was an Aboriginal client of a specialist social security community legal service. Just prior to the service assisting Sam to resolve her housing situation matter she introduced Eddie, her son to them. Eddie had not received any Centrelink payments for a number of years and was without an income. He was reluctant to leave the house and did not trust outsiders. His mental health was deteriorating and he had become disengaged from his community. Without any income to pay the rent he was at serious risk of becoming homeless.

Sam's relationship with the service facilitated a good relationship with her son. The service assisted Eddie to apply for Centrelink payments by accompanying him to the local Centrelink office and advocated for him in order to ensure that his payments were granted. Eddie received some of the payments early in order to assist him while he had no income at all and had to live independently while his mother and sister resided in a refuge. The service assisted him to provide medical evidence required to waive activity requirements for his payments but also facilitated contact between him and a Cultural Arts program to enable him to enrol in an art course and receive a scholarship to attend. This will facilitate ongoing access to income support and assist him with his education.

3.2.2 Casework

3.2.2.1 Individual casework

Specialist social security community legal services provide casework services which are targeted to people experiencing financial hardship and disadvantage. A significant portion of their casework services are directed at assisting people to appeal Centrelink decisions either at the internal review stage (the Authorised Review Officer level), or before the AAT (1st Tier or 2nd Tier) including through providing representation at AAT conferences and hearings. In some instances, specialist social security community legal services will also run cases in the Federal Court.

Some specialist social security community legal services also provide duty lawyer services at the AAT (Brisbane, Canberra, and Adelaide). Duty lawyer services increase access to justice for vulnerable individuals assisting people who may not have previously accessed legal assistance.

In many matters, the involvement of a specialist legal professional acting for the client leads to earlier resolution of the matter through collecting relevant evidence and advocacy with Centrelink. However where early resolution is not achieved, considerable technical legal and fact gathering work is required to run cases on appeal.

By way example, the following case study shows what is involved in a typical case run by a specialist social security community legal service.

CASE STUDY: DSP GRANTED AFTER LONG RUNNING CASE SUCCESSFULLY RESOLVED

Step 1: John contacts a specialist social security community legal service for the first time. He rings during an advice shift and a volunteer takes the call. The volunteer obtains a brief idea of John's issue: he lives in a regional area, has had his claim for Disability Support Pension (DSP) rejected, is not receiving Newstart Allowance and has no other source of income to live on. The volunteer enters John's details into the service database and an urgent telephone appointment is made with a lawyer.

Step 2: The lawyer from the service rings John and obtains further instructions about his matter:

- John was severely injured at work during the 1990s and received a lump sum compensation payment of \$950 000 in 2001.
- He suffers from chronic pain and has not been able to work since his accident.
- John invested the funds but they lost value during the 2008 financial crisis.
- John withdrew the funds from his investment and invested in a business which failed.
- He was then hospitalised at various points and then completely ran out of money.
- He moved in with his niece because he had no money to pay for rent, food or bills. His niece is paying for his medical expenses.
- He claimed DSP six weeks prior to contacting the service and found out two days ago that his claim had been rejected. He does not understand why his claim was rejected as he provided medical evidence of his injuries and ongoing health issues.

The lawyer asks John if Centrelink has told him that he is subject to a compensation preclusion period and if so, the period of time. John doesn't know and doesn't understand what this means. The lawyer also asks John whether he has appealed the decision to an ARO. John says that he has and that he thinks he has received a decision confirming the rejection of his claim for DSP but doesn't remember receiving a decision letter. As the lawyer is not in a position to advise John without this information, she obtains the client's permission to contact Centrelink to obtain further information.

Step 3: The lawyer contacts Centrelink and obtains the following information:

- The date that John's DSP claim was rejected.
- The rejection of the DSP claim was not appealed to an ARO, it has been referred back to the Original Decision Maker (ODM) who had affirmed her decision to reject the claim
- The claim for DSP was rejected because the client is subject to a compensation preclusion period from November 2001 until July 2022 (this means that the client is precluded from receiving a Centrelink payment for a further 4 years).

Step 4: The lawyer contacts John and explains the situation. The lawyer advises John that if he has special circumstances the preclusion period may be reduced. She takes further instructions and provides advice about the appeals process and the type of evidence that will be required to prove special circumstances. John says that he will need help gathering the evidence and appealing to the ARO. The lawyer agrees to take John's matter to the next casework meeting where decisions are made about the service's capacity to take on new cases. In the meantime, the lawyer asks John to obtain his bank statements.

Step 5: The lawyer contacts John and informs him that the service can take on his case and that a client agreement and the relevant authorities will be sent to him. The lawyer obtains the contact details for the client's treating health professionals. The lawyer also asks for the contact details for John's former accountant so as to obtain documents relating to the failed business venture, however John cannot remember the details and will need to get back to the lawyer.

John says that he has gathered most of his bank account statements from the past two years but he doesn't have his bank account statements from any earlier periods. He doesn't have access to a photocopier so he will send in the originals to be photocopied and sent back.

Step 6: The lawyer prepares letters requesting information about John's various health conditions to his GP, psychologist and physiotherapist and sends the letters after receiving the signed authorities from the client.

Step 7: The lawyer receives the bank account statements and finds that:

- Apart from a number of small deposits the bank balance has been nil for nearly 6 months;
- Prior to this there were large cash withdrawals of between \$500 and \$1000 every 5 or 6 days going back to the first date of the bank account statements;
- All the other withdrawals were for household items and the payment of bills.

Step 8: John rings the lawyer and provides the contact details for his former accountant. The lawyer asks John about the \$500 - \$1000 cash withdrawals. John explains that he used to pay his rent in cash. In response to the lawyer's question, John says that he paid \$450 a week in rent before moving to his niece's house.

The lawyer asks John to obtain rent receipts but also says that this amount only explains part of the cash withdrawals. John then says that he owed money to a friend whose car John had damaged in a car accident, and he was paying this off on a fortnightly basis. The lawyer asks John if there was an agreement between John and his friend to repay the loan, John says there was no loan agreement, but he'll ask his friend if he is willing to talk to the lawyer.

The lawyer also asks for any documents John has relating to the investment that reduced in value due to the 2008 Global Financial Crisis (GFC). John says that he will look amongst his papers but suggests asking his former accountant.

Step 9: The lawyer prepares a letter to John's former accountant seeking details about the failed business venture and information about John's investments.

Step 10: Two weeks go by and the lawyer has not had a response from the former accountant or from John's treating health professionals. The lawyer rings John, but when he doesn't answer, she leaves a message.

Step 11: A further week goes by, and the lawyer has not heard from John, from the treating health professionals or from the former accountant. The lawyer leaves messages for John and sends emails to the treating health professionals and the former accountant.

Step 12: A few days later, the lawyer receives a call from John's niece, Karen and learns that John has been in hospital for two weeks due to high blood pressure and a suspected heart condition. She says that John will call the lawyer from the hospital in a few days.

Step 13: John rings the lawyer from the hospital. He is extremely upset and starts to cry whenever he tries to explain what is going on. Karen is with him and he asks the lawyer if she can talk to Karen. The lawyer hears Karen ask John “is it okay if I tell her about the other thing?” and John replies “yes”.

Karen tells the lawyer that John is really distressed, partly because he is worried about his heart, but also because he feels guilty for not being completely honest with the lawyer. She says until recently that John had a severe addiction to prescription painkillers, which he developed in the years after his workplace injury due to chronic and severe pain. The addiction became so out of control that John sought out illicit drugs and then developed an addiction to heroin, which was brought under control through a methadone program and then a return to a strictly controlled regime of prescription painkillers.

Karen explains that before he commenced the methadone program John was using his compensation funds to pay for his heroin addiction and that this was one of the main reasons he had run out of money. John then asks to get on the phone and explains that the cash withdrawals the lawyer had noticed in his bank account statements were for the purchase of illicit drugs, not to pay rent or repay a loan. He said he had been too embarrassed to reveal his addiction to the lawyer before this time.

The lawyer advises that an addiction to painkillers and to illicit drugs may be regarded as a special circumstance which could reduce the compensation preclusion period and asks if she can obtain information about his addiction from his GP and psychologist. John agrees, but also adds that he used to see a pain specialist who can provide more detailed information about the history of his addiction. He can't remember the details of the pain specialist but says that he was located in another regional town.

Step 14: The lawyer writes further letters to the GP and psychologist seeking information about John's addiction, after conducting an internet search, she locates a pain specialist in a nearby regional town. She rings John to check it this is his specialist and leaves a message.

Two weeks later, the lawyer received a further letter from the GP which contains a complete account of her knowledge of John's addiction and provides the lawyer with further information about his other health conditions, including his mental health.

Step 15: John calls the lawyer after being released from hospital and they discuss the letter from his GP. John agrees that the GP has described his addiction and other health issues correctly but says that he has only been seeing the GP for 3 years, so she can't comment on his earlier addiction to painkillers and heroin. They also discuss that John will not be able to stay much longer with his niece due to financial issues.

The lawyer is concerned that the only evidence they have is from the GP and that there had been no response from the other health treating professionals or the former accountant. However as it has now been nine weeks since his claim for DSP was rejected (there is a 13 week limitation period) they agree that rather than waiting to obtain further evidence, John should appeal the decision to reject his DSP claim to an ARO and that the lawyer would prepare submissions to the ARO and attach the letter from the GP. In the meantime, the lawyer will also contact the other health care professionals and the former accountant again.

Step 16: The lawyer prepares brief submissions, attaches the letter from the GP, and emails these to DHS. She marks the submission for urgent consideration due to John having no source of income and possibly becoming homeless. The lawyer rings Centrelink to check the submission has been received.

About one week later, the lawyer contacts Centrelink to check on the progress of the appeal to the ARO. Centrelink informs her that the matter has been allocated to an ARO.

After another week, the lawyer again contacts Centrelink and is told there has been no change since the previous week.

John contacts the lawyer a week later and says that he has received a phone call from the ARO. The ARO had asked him some questions about his circumstances but had not made a decision.

A week later, the lawyer contacts Centrelink again to check if the ARO has made a decision, but there has been no progress. She is told she will need to wait at least another week.

John rings the lawyer and says that he has received a decision from Centrelink informing him that his appeal has been partially successful and that his preclusion period has been reduced to 3 March 2021. The ARO has reduced the preclusion period on the basis of special circumstances relating to John's addiction. However, as the evidence relates only to the past 3 years and there is no evidence about the earlier period of addiction or from the former accountant, the ARO saw no reason to further reduce the preclusion period.

Step 17: The following day the lawyer rings John to discuss the decision,, She advises John that if they are able to obtain evidence from the pain specialist and the former accountant they will have reasonable prospects of succeeding on appeal to the AAT (Tier 1). John instructs the lawyer to appeal.

Step 18: The lawyer writes to the pain specialist and leaves a message for the former accountant. The lawyer starts to prepare submissions to the Tribunal based on the evidence she has to hand and organises a long telephone call with John for the purposes of drafting a detailed witness statement.

Step 19: About two weeks later, the lawyer receives a letter from the former accountant providing a brief account of the business venture, that it had never turned a profit, and attaching the financial documents. The lawyer incorporates this into her draft submission to the Tribunal.

Step 20: A week later the lawyer receives a copy of the documents requested by the Tribunal from Centrelink. The lawyer reviews the documents and rings John to obtain some further instructions regarding a claim for Newstart Allowance John had made 8 years previously, presumably following the impact of the GFC on his investments and documents including in the Tribunal papers relating to the investments.

Step 21: After not hearing from the pain specialist, the lawyer contacts the surgery and leaves a message. The lawyer leaves 3 more messages over the next month.

Step 22: With the hearing date coming up in a week, the lawyer finalises her submissions based on the evidence she has including the new information about the investments and submits it to the Tribunal.

Step 23: The lawyer attends the Tribunal on the hearing date and John attends by phone. The Tribunal invites the lawyer to make further submissions. The lawyer explains that there has been challenges obtaining further evidence about John's addiction in the earlier period and asks the Member to take this into account. The Member then takes evidence from John including questioning him about his investments and failed business venture. The Tribunal reserves its decision.

Step 24: About 2 weeks later, the lawyer receives a written decision from the Tribunal. The decision of the ARO is affirmed and the preclusion period is not further reduced. In his decision, the Member explains that he was not persuaded that John's decision to withdraw his de-valued investments and invest them in a business venture was a sound or reasonable decision and that without evidence of John's addiction prior to 3 years ago, he could not find that there were special circumstances warranting a further reduction in the preclusion period.

The lawyer immediately rings John to advise him of the decision and of his right to appeal to the General Division of the AAT (Tier 2). She also advises that if they can obtain further evidence from the pain specialist and provide a clear explanation as to why the business venture was a sound investment, he has a reasonable chance of succeeding at the Tribunal. John says he's exhausted and that he doesn't want to go on. John says he will talk with Karen and get back to the lawyer. The lawyer cautions John that he only has 28 days to appeal the decision to the Tribunal and that he should not delay his decision too long.

Step 25: After not hearing from John for a week, the lawyer contacts him, he says he is still undecided and that he's not feeling well. She suggests that in order to preserve his appeal rights, he should appeal the decision and then withdraw it if he later changes his mind. John agrees. His lawyer lodges the appeal online.

Step 26: Two weeks later, John contacts the lawyer and tells her that he feels well enough to proceed. The lawyer advises John of the process and what further evidence she needs to gather.

Step 27: The lawyer leaves another message for the pain specialist and contacts the former accountant to obtain more information about whether the failed business venture was a good investment decision. The former accountant says that the business venture seemed like a good idea at the time. The lawyer contacts John to discuss further the business venture and John offers to have another look among his papers for any documents which might further shed light. Following the phone call, John sends to the lawyer a document he found from the owner of the business he invested in. The document describes the business and its profit-making capacity in glowing terms.

Step 28: The lawyer attends the Tribunal's preliminary conference. She mentions that since the Tier 1 hearing she has received further evidence regarding John's business venture which arguably demonstrates that his investment in the business was sound. The lawyer for DHS agrees to examine the document and to obtain instructions as to whether a settlement can be reached.

Step 29: The following day, the lawyer prepares a detailed letter to the DHS lawyer, restating the previous arguments for reducing the preclusion period, and attaches the document from the owner of the business. The lawyer invites the DHS lawyer to contact her to further discuss the evidence. The lawyer contacts John to advise him of the next steps.

Step 30: On the day of the second Tribunal conference, the DHS lawyer says that he has received instructions that the additional evidence provided is not persuasive. It is agreed that the case will be set down for hearing. Dates for serving the documents and evidence are set.

Step 31: The lawyer commences preparing the documents. In the meantime she receives a phone call from the pain specialist who advises that she does not have time to prepare a report. She does confirm, however, that John was a patient of hers for many years, that she helped him manage his pain between 2005 to 2012 and was aware that he was using illicit

drugs as well as taking his pain medication. Subject to availability she agrees to appear as an expert witness.

Step 32: The lawyer completes the documents and serves them on the DHS lawyer. On receiving notice of the hearing date, she emails the pain specialist who agrees that she will be able to give evidence on that date but only by telephone. The lawyer emails the Tribunal with this request, explaining that the pain specialist is located in a regional town and is unable to travel to Sydney.

Step 33: The lawyer holds a long telephone conversation with John to prepare him for the hearing and explains the evidence that she will be presenting. John decides that he will travel to Sydney for the hearing as Karen will be able to accompany him and provide him with support.

The day before the hearing, John arrives in Sydney and meets with the lawyer face to face for the first time. The lawyer takes him again through the hearing process.

Step 34: On the day of the hearing the lawyer attends the Tribunal with John. She presents opening statements and then the pain specialist is dialled in to provide evidence. The specialist provides evidence that due to John's addictions, his decision making capacity would have been impaired at the time he invested in the business venture. The DHS lawyer cross-examines the pain specialist. The lawyer also calls John to give evidence, who is cross-examined by the DHS lawyer. The Tribunal Member reserves her decision.

Step 25: Five months' later, the lawyer receives a decision from the Tribunal. The compensation preclusion period is waived from the date of the hearing and the matter referred back to DHS to assess John's eligibility for DSP.

Step 26: Two weeks later, John contacts the lawyer to say he has received a letter from Centrelink granting him DSP. The lawyer asks John to contact her when he received his first payment. She advises him he should be receiving arrears.

Ten days' later John contacts the lawyer stating that he has received his first payment and that he has received approximately \$11 000. The lawyer calculates that this is the arrears expected. She informs John that now that his matter has been resolved she will close his case at the service.

3.2.2.2 Systemic casework

While casework is focused on meeting the needs of individual clients, specialist social security community legal services also undertake systemic litigation in response to underlying problems which have a broader impact.

In the following case study, a specialist social security community legal service represented Susan at the AAT Tier 2 after seeing many people incurring debts as a result of the dual reporting requirements for family tax benefit and social security payments and the failure of the system to account for the different reporting requirements.

CASE STUDY: PARENTING PAYMENT DEBT 90% WAIVED ON APPEAL

Susan was overpaid \$37 000 over a four year period and Centrelink subsequently raised a Parenting Payment debt. Centrelink decided the debt arose because Susan had failed to report her husband's employment income which would have affected her rate of Parenting Payment throughout the period.

When Susan applied for Parenting Payment she declared her husband's income and Centrelink failed to place her on fortnightly reporting. Susan reported her husband's annual income estimate every year during the debt period as required by Family Tax Benefit.

Susan believed that Centrelink knew about her husband's income because she had declared his income initially and updated the family income every year. On this basis she appealed the decision to raise the debt.

Susan was successful in having the debt varied at AAT (Tier 1) however Centrelink appealed the matter. The service represented Susan at the AAT (Tier 2) providing detailed oral and written submissions on the inadequacies of the Centrelink correspondence and its administration of Susan's payments and the law. The appeal was successful with approximately 90% of the debt waived.

Specialist social security legal services have been able to rely on the AAT findings about the inadequacies of the Centrelink correspondence and its administration of the dual reporting requirements in the above case to assist other clients with similar cases to successfully obtain debt waiver. This has also provided the NSSRN and its members with a solid platform for ongoing discussions with DHS about systemic changes to their customer communications to prevent such debts from arising.

3.3.3 Non-Legal Support

Specialist social security community legal services provide flexible, integrated and holistic services in recognition that their clients face interrelated or complex legal and non-legal needs. Specialist social security community legal services have strong relationships with a range of community organisations including financial counselling services, specialist disability services, mental health services, youth organisations, Aboriginal organisations, health centres, multicultural services, homelessness services, family violence services and emergency support services.

Social security community legal services work with social workers, disability advocates, health professionals and other professionals to assist clients and provide targeted referrals to community support for clients to obtain:

- specialist help and support for family and domestic violence issues;
- medical and mental health assistance;
- assistance with obtaining employment;
- counselling and support for difficult personal and family issues;
- practical help and support, for example, food parcels, home help services;
- help with financial and budgeting issues; and
- other emotional and social support and practical assistance as needed.

In addition some specialist social security community legal services have social or community workers embedded into their organisation to assist people who are off payment or otherwise in need of community support while their social security legal problem is being resolved or to address associated non-legal issues.

An example of this is the Socio-Legal Practice Clinic (SLP) run by Canberra Community Law (**CCL**). The SLP Clinic combines intensive legal and social work case advocacy to assist disadvantaged and vulnerable people who have urgent Centrelink problems. Clients usually come to the SLP Clinic with complex problems that they have not been able to get help with anywhere else. This is generally because there are social issues, such as family violence, disability or personal crisis, underpinning the legal problem or obstructing the solution.

The following case study is an example of how the SLP Clinic was able to assist in a matter where multiple factors intersect (race, class, gender and disability) resulting in a particularly difficult experience of disadvantage.

CASE STUDY: INCOME SECURITY ACHIEVED WITH HOLISTIC SERVICE

Nancy is an Aboriginal woman who contacted CCL because she had no source of income and had run out of money. She had a car accident over 5 years prior and after lengthy court proceedings, she received some personal injury compensation. Because of this, she was unable to apply for Centrelink income due to a preclusion period being in place for another 3 years. However, Nancy had used up her compensation money through repaying her mortgage as she could not work because of her significant pain issues and very fragile mental health. Desperate for funds to survive, she had withdrawn most of her superannuation.

Her very fragile emotional state and need for her to be connected with support services, such as emergency relief led to her referral to the CCL's SLP clinic.

The social worker invested particular time and energy in listening to Nancy, talking with her about her experiences and being present at all meetings between Nancy and the lawyer. The social worker was instrumental in creating trust and rapport with Nancy and channelled extra resources into keeping in contact with her between meetings over the phone.

The contribution by the social worker allowed the lawyer to obtain very detailed instructions from Nancy over the course of many interviews, including her experience of domestic violence. Based on the evidence and arguments that the lawyer was able to present, the AAT (Tier 1) agreed to waive Nancy's preclusion period on the ground of special circumstances.

The SLP Clinic continued to work with Nancy to put together a DSP application, including collected detailed evidence from her treating psychologist. Nancy was approved for DSP a few months later and now has security of income.

3.3.4 Community legal education, collaboration and engagement

Specialist social security community legal services undertake a range of community legal education (CLE) and community development activities. CLE programs are a cost effective prevention strategy designed to make sure people know about the law, their rights and responsibilities and the avenues they can use to enforce their rights.

In addition, NSSRN works in conjunction with its members to develop specialist social security factsheets and other information products to fill particular gaps in social security legal information and to assist some individuals to resolve social security matters themselves.

CLE EXAMPLES

Darwin Community Legal Service (DCLS) is involved in a regular radio program, Law Spot, with Top End Aboriginal Bush Broadcasting Association Radio, presenting segments on social security issues.

CCL runs 'How to Spot a Legal Issue' training sessions to assist community workers to identify and refer clients experiencing social security legal problems.

Illawarra Legal Centre (ILC) works with the University of Wollongong to teach social workers about social security law and advocacy.

Specialist social security community legal services regularly collaborate with other legal assistance services as well as with non-legal service providers. Community engagement with the social support sector has led to the development of better referral pathways and improved 'wrap around' services.

In particular, specialist social security community legal services engage with non-legal service providers to embed legal services and provide early intervention. For example, ILC has established a number of outreach services including at the Wollongong Homeless Hub and Berkeley Community Centre, and has established relationships with employment service providers.

3.3.5 Policy and law reform

Due to the volume of social security legal work undertaken by specialist social security community legal services they are in a position to identify trends and systemic issues in social security law and its administration. Specialist social security community legal services undertake law policy and law reform work independently and through NSSRN. For example, Social Security Rights Victoria (SSRV) made a written submission to and appeared in person before the 2017 Senate Standing Committee on Community Affairs Inquiry into the Design, scope, cost-benefit analysis, contracts awarded and implementation associated with the Better Management of the Social Welfare System Initiative.

The legal policy and law reform undertaken by NSSRN is drawn from the direct experience of its members and is aimed at ensuring that the social security system is well targeted to need and improves the lives of the people it serves.

In collaboration with its members, NSSRN provides detailed submissions to all Government and Parliamentary inquiries and other consultations relevant to social security law. The NSSRN provides specialist advice on the likely impact of proposed legislation and also assists other community organisations which do not specialise in social security law to contribute their clients' experience to the law reform and policy development process. NSSRN members also engage with government and participate in consultations at a local level.

The NSSRN also represents the interests of its members' clients through participation in biannual meetings with DSS and DHS and its membership of the DHS National Multicultural Advisory Group and the DHS Welfare Payment Infrastructure Transformative (WPIT) Civil Society Advisory Group.

In partnership with its members, the NSSRN also produces major research and survey reports which reflect systemic trends amongst its members' clients and makes recommendations for improvements to the system. For example, the DSP research undertaken in 2017-18 in partnership with one of its member, Basic Rights Queensland (BRQ), provided a unique snapshot of the experiences of people claiming DSP since the introduction of the new medical assessment process and has been referenced by disability organisations in their work to improve access to DSP.

The NSSRN's most recent research into the relationship between social security and domestic violence undertaken in partnership with one of its members, the Welfare Rights Centre (NSW), has made practical recommendations on how to improve the social security system for victims of family and domestic violence, most of which have been agreed with in principle by DHS. The NSSRN is working with government to implement positive changes, particularly where common views are held.

4. Outcomes and impacts of accessible specialist social security law assistance and advocacy

KEY POINTS

- Specialist social security community legal services report positive outcomes for clients in assisting them with a wide range of social security problems.
- Specialist social security community legal services increase the capacity of other community legal services and community support workers to identify and help clients with social security issues through the provision of training and resources, secondary consultations and referral pathways.
- In conjunction with its members, NSSRN influences government policy and the administration of the social security system through policy submissions based on the experiences of its member clients.

Accessible specialist social security legal assistance and representation has positive outcomes and impacts for clients, other CLCs, the wider community and for the government and justice system.

4.1 OUTCOMES AND IMPACTS FOR CLIENTS

Rapid changes to social security law and policy, rapid technological changes, automation and digitalisation make it difficult for disadvantaged people to navigate Centrelink processes and effectively deal with the complexities of the social security system. Specialist legal services' expertise in social security law and the system has resulted in improved outcomes for clients as verified by independent research commissioned by NSSRN in 2014³⁰ and NSSRN's major research into the relationship between social security and domestic violence in 2018.

NSSRN research indicated that the overall impact of assistance by social security specialist community legal services is that it prevents cascading legal problems which would result from clients being cut off from payments, including evictions, non-payment of fines and financial stress on families which may exacerbate family violence. Further specialist social security community legal services reported positive impacts for clients in having their issues heard by an empathetic ear and being provided with the advice and guidance needed to enable them to take action on their own behalf. Outcomes were also improved through early intervention. Impacts include having payments granted, incorrect debts set aside, debts waived, payment cancellations/suspensions lifted, waiting periods set aside or reduced and social security entitlements maximised.

According to the 2014 research, the assistance provided by specialist social security community legal services has more than just a financial impact, it has a significant impact on clients' lives. In particular, clients had reported feeling suicidal as a result of their dispute with Centrelink, however, once they were financially stable, most of these clients were able to reconnect with family and friends. Some of the clients were able to return to work, study or undertake volunteer activities.

30 Susan Bell Research, above n 27.

According to the clients questioned for this research, specialist social security community legal services did more than help them win their case. They did four other things for them which contributed to the quality of life and lifestyle improvements: they listened to them, they believed them, they supported them through the process, recognising their emotional and physical stress and they treated them with respect.

The following case studies provide a snapshot of the diverse and impactful casework specialist social security community legal services' undertake:

CASE STUDY: DSP GRANTED AFTER COMPENSATION PRECLUSION PERIOD WAIVED ON APPEAL

James became a quadriplegic in a car accident in the late 1990's and received \$5.8 million in compensation a couple of years later. He was told that he would be precluded from receiving any Centrelink payments until 2096 (when he would be 133 years old). James required around the clock care and in the subsequent 10 years he spent \$2.1 million on carers. During that time, one of those carers took financial advantage of him using his money for personal gain. James also lost some money on bad investments. As a result of these events and the high cost of his care, James had been forced to sell his house leaving him with about \$50,000 and a few unrealisable assets.

James was very distressed by his financial circumstances that he did not pay for items which would have increased his quality of life including repairs to his wheelchair and car. In 2011, desperate, James reapplied for Centrelink payments requesting that the remainder of his preclusion period be waived. After having his application rejected, James sought the assistance of a specialist social security community legal service.

The service took detailed instructions from James and worked with his accountant and social worker to gather the necessary evidence to support his appeal before the AAT. It drafted detailed legal submissions setting out James' personal circumstances and the arguments for why the preclusion period should be waived. The service also made oral submissions at the AAT hearing. The appeal was successful and James was granted the Disability Support Pension.

The service's intervention gave James some financial security and significantly reduced his stress levels. He is now in a secure housing and shares a carer with other residents living in the accommodation.

CASE STUDY: PAYMENT GRANTED WITH BACKPAY AFTER INCOME MAINTENANCE PERIOD SET ASIDE

Michael is a young man experiencing homelessness. At times he couch surfs and at other times he sleeps rough. Although clean and sober he has a history of drug addiction and was managing to maintain sobriety despite experiencing homelessness.

Toward the end of last year, Michael was offered a casual job which he took up enthusiastically. His new income meant that he no longer had to rely on Centrelink benefits. However after working for some weeks he became sick with the flu. While he was recovering, Michael was contacted by his new employer and told he should not return to work. Michael waited for a few weeks and then applied for Newstart Allowance once he had run out of money. Michael was told that he would first need a separation certificate from his employer. When the employer finally did provide one, the employer claimed that Michael had left work voluntarily. Relying solely on the information provided by the employer, Centrelink imposed an 8 week non-payment penalty period on Michael from the date of the late separation certificate, meaning he was prevented from receiving any income. Michael became increasingly desperate because he did not even have enough money to buy food, let alone to do things like pay for a phone credit or transport.

The specialist social security community legal service advised Michael that he had appeal rights in relation to the Centrelink non-payment period and took further instructions and communicated with Centrelink on his behalf. The service advised Michael that Centrelink appeared to have made errors in the dates for which it calculated the non-payment period. This miscalculation had significantly extended the non-payment period to which Michael was subjected well beyond 8 weeks. The service also advised Michael on whether or not the non-payment period should have been applied to his circumstances in the first place. The service then assisted Michael to put in an urgent request for a review of the Centrelink decision to impose the 8 week non-payment period. An ARO assessed the situation and agreed with the service's submissions overturning the decision at first instance. Michael was granted the Newstart Allowance and he was given a back payment for the payments he had missed.

CASE STUDY: DISABILITY SUPPORT PENSION GRANTED ON APPEAL

Charles suffered from a rare autoimmune disorder, had severe mobility issues and difficulty with cognition. He had been refused DSP by Centrelink at first instance and again on internal review. A specialist social security community legal service assisted Charles to make an application to the AAT (Tier 1) and represented him at the hearing providing detailed written submissions on the available medical evidence. The AAT agreed with the written submissions that the medical evidence had been misinterpreted in relation to the underlying condition which made Charles highly susceptible to infection, on one occasion almost fatally. The AAT determined that Charles was 'severely impaired' by his condition and agreed with the service's submission that the impairments warranted the granting of DSP, which was backdated 12 months to the date of the claim.

CASE STUDY: SPECIAL BENEFIT RESTORED AND BACKPAID

Imran's Special Benefit was cancelled with a date of effect 6 months earlier. This meant that in addition to having no income Imran also had a debt of just over \$5000.

Centrelink cancelled the payment on the basis that Imran's wife had gifted the property in which she lived with their son. The property was a modest unit, which was originally purchased in the name of Imran's wife and their son. Imran's children had put up the money for the deposit. The intention was for Imran and his wife to take over the mortgage repayments after they had established themselves in Australia. However neither Imran nor his wife got a job in Australia. Therefore they could not contribute to the mortgage. The mortgage was paid for primarily by their son who also lived in the unit with them.

As their son was paying the mortgage Imran and his wife thought it was only fair that the unit be transferred into his name. However Centrelink considered this to be a gift and cancelled Imran's Special Benefit. Imran's wife does not receive Social Security as she is subject to a 10 year Assurance of Support.

A specialist social security community legal service represented Imran at the AAT. The AAT accepted our Member Centre's submission that the unit was effectively always owned by Imran's son, meaning no gift took place. Centrelink did not appeal, Imran's Special Benefit payment was restored and he was paid arrears of just over \$16 000.

4.2 SPECIALIST SOCIAL SECURITY COMMUNITY LEGAL SERVICES ARE AN IMPORTANT RESOURCE FOR THE BROADER COMMUNITY LEGAL ASSISTANCE SECTOR AND TO HEALTH, DISABILITY AND COMMUNITY SERVICES SECTORS

The NPA directs that 'legal assistance service providers should focus their services on people experiencing financial disadvantage' and further that, where appropriate, they should 'plan and target their services to people who fall within one or more of the (listed) priority client groups.'³¹ Therefore, almost by definition, people who are recipients of social security payments, or who are seeking to access social security entitlements, are a key target for assistance under the NPA. A significant percentage of all the vulnerable and disadvantaged people assisted by legal assistance services across Australia are likely to be in receipt of, or seeking to access, social security payments. Some of these people will encounter legal and related issues in relation to their social security entitlements.

Social security falls under Commonwealth law. The NPA states "[I]legal assistance service providers should focus on assisting people with civil law problems that are likely to have a significant adverse impact if not resolved. For example, where there are implications for a person's safety, health and wellbeing, access to government benefits and pensions, or homelessness." Social security law matters are listed as one of the key Commonwealth civil law areas.³²

31 National Partnership Agreement of Legal Assistance Services 2015-2020 at B-1

32 Ibid at B2-3

Workers from a range of organisations outside of the legal assistance sector are active in identifying and supporting people who are experiencing problems in relation to their social security payments. The Law Council of Australia in its Justice Report³³ notes that Noone and Curran “found that neither income support recipients or service providers were aware that the right to access social security was part of a legislative regime, or that legal recourse was possible where relevant processes were not followed.’ For many people, their problems with Centrelink are only raised as part of a range of matters discussed with a legal or non-legal advisor, or only come to light because the advisor acted as a ‘problem noticer’³⁴ and identified the social security issue. The Law Council also notes the critical role of disability advocates and disability support services in assisting people with disability at every stage of their involvement with the justice system, and recommends ‘adequate resources for legal assistance services to engage in sustainable partnerships with advocacy organisations and disability support services.’

For all the reasons above, it is imperative that the broader community legal assistance sector and other health and community service sectors have access to specialised social security law expertise and support that is provided by specialist social security community legal services. Access to this expertise enables other workers to more effectively provide services to clients by making appropriate referrals, providing relevant information and advice, and providing ongoing assistance and support to their clients. There is evidence that external lawyers and health and community workers are currently seeking this assistance from specialist social security community legal services. And that as they become more aware of the specialist services more workers will seek their assistance.

By way of example, SSRV provided assistance, primarily secondary consultation and provision of resources, to at least 140 external legal professions, health and community workers. From 1 July to 10 September 2018 more than 60 workers have been assisted. This aspect of SSRV’s work has been supported through project funding from the Victorian Government and the Victorian Legal Services Board. Further recognising the important role played by other professionals and that resourcing them is an effective way to reach more people in need of advice and assistance, in its 2018-2021 Strategic Plan SSRV has prioritised building the capacity and capability of other professionals, enabling them to better identify and assist people experiencing, or who may encounter, social security problems. To this end, SSR has the following projects underway:

- Worker telephone assistance service;
- Intersection between family violence and social security project;
- Project to develop tools to assist other professionals to identify clients who may be at risk of social security problems; and
- Integrated Services Partnership Project with the Victorian Financial and Consumer Rights Council to facilitate closer working relationships and build capability of financial counsellors in Victoria and SSRV.

The NSSRN believes that there is a very strong case to be made for providing increased funding to specialist social security community legal assistance services to ensure that centres with specialist social security expertise and experience are available as a resource to other legal and related service providers, thereby extending and improving access and assistance for vulnerable and disadvantaged social security recipients, and supporting early intervention and the provision of integrated client services where appropriate.

33 The Justice Report, above, n 2.

34 Coumarelos, above, n 4.

4.2.1 Outcomes and impacts for other CLC and legal assistance workers and organisations

Specialist social security community legal services act as a resource to and work collaboratively with other CLCs and free legal assistance providers to share expertise, strengthen referral pathways and raise awareness of social security issues. Specialist social security community legal services play an important role in harnessing their expertise to support other CLCs and free legal assistance providers in meeting the needs of clients through providing training and resources, secondary consultations and referral pathways.

As noted above, SSRV is currently assisting a number of Victorian CLCs with social security rights projects to build capacity, awareness and skills in identifying and responding to social security issues and to address systemic issues.

Welfare Rights Centre (NSW) provides social security training to other CLC lawyers at the quarterly meetings of Community Legal Centres NSW, the state peak body for CLC's.

Specialist social security community legal services regularly collaborate with other CLCs and other legal organisations in the sector. This collaboration results in better referral pathways for all organisations involved and ultimately better outcomes for disadvantaged and vulnerable clients.

4.2.2 For wider social, community, health services workers and organisations

Specialist social security community legal services are highly effective in building capacity within the community to identify and assist people with social security issues. Their CLE work is directed to community sector providers and other professionals. This includes delivering talks and training workshops and developing resources which can be used by professionals to assist their clients, such as SSRV's soon to be launched DSP Toolkit.

Participants attending CLE activities run by specialist social security community legal services regularly report that they feel much better equipped to identify social security legal issues that their clients may be experiencing and have a much better understanding as to how and when their client should be referred for specialist legal assistance. As noted above, this is critical work as community organisations are important spotters of social security legal issues and play an important role in ensuring that vulnerable and hard to reach people have access to the specialist legal assistance they need to resolve their social security problems.

Specialist social security community legal services also extend their reach into the community through participating in interagency meetings with community organisations. For example, the Barwon Community Legal Service (BCLS) co-ordinates a local network which meets four times a year. Representatives of the local community groups together with local Centrelink branch managers and various other Centrelink staff attend. Through local interagency meetings, specialist social security community legal services are able to share their social security expertise, raise awareness of social security issues and assist in addressing problems occurring at a local level or with communities of interest.

Specialist social security community legal services also provide outreach services at community organisations including homeless shelters. These outreach services have proved to be a highly effective way of reaching vulnerable and disadvantaged people who otherwise would not have access to a specialist social security community legal service. The provision of outreach services has resulted in cross-referrals of clients where the staff from other organisations cannot provide any further support or do not have the expertise to provide the required assistance to clients.

Specialist social security community legal services' engagement with the broader community allows for early intervention and positive outcomes for clients.

4.3 FOR THE GOVERNMENT AND JUSTICE SYSTEM

Specialist social security community legal services and the NSSRN influences Government policy and the administration of the social security system through policy submissions based on the experiences of specialist social security community legal services' clients. Specialist social security legal services work closely with NSSRN to identify systemic issues and trends in the social security system and provide feedback to Government. The importance of this work has been recognised by the Productivity Commission which noted in its report that 'in many cases, strategic advocacy and law reform can reduce demand or legal assistance services and so be an efficient use of limited resources.'³⁵

By way of example, whilst the NSSRN completely opposed the introduction of the Robo-debt system, it provided extensive advice to Government which has influenced the administration of the system to reduce the negative impacts on people affected by it.

Specialist social security community legal services also ensure efficiency in the justice system by representing disadvantaged clients and by assisting capable clients to advocate for themselves. The provision of legal assistance also reduces delays caused by self-represented parties who lack knowledge of social security law and tribunal procedures and may not be properly prepared to present their case, thereby increasing the operational efficiency of the AAT and its ability to discharge its statutory functions.

4.4 COLLABORATIVE SERVICE PLANNING

Specialist social security community legal services bring their expertise and experience to collaborative service planning forums, ensuring that social security recipients and the legal issues that they may encounter are recognised and incorporated in needs' assessment and planning activities.

In Victoria, SSRV, BCLS and the Victorian Legal Aid Economic and Social Entitlements Unit have begun meeting with a view to developing a shared understanding of legal need (or social security services in Victoria) and to consider how they may better collaborate to address the social security legal needs experienced by priority clients and communities.

35 Productivity Commission of Australia, Access to Justice Arrangements Inquiry (2014) Final Report, Vol 2, 709.

5. What is needed to maintain and strengthen the specialist social security services component of the community legal service sector

KEY POINTS

- Specialist social security community legal services require more funding to meet existing and unmet legal need.
- Long term funding sources and arrangements are required to ensure that specialist social security community legal assistance services are expanded and maintained.
- Collaborative service planning processes should consider the need to provide specialist legal services to priority groups in line with Commonwealth priorities and other measures to strengthen and secure specialist social security community legal services.

This report highlights the significant unmet social security legal need in Australia and the important role specialist social security legal services play in assisting disadvantaged people with social security legal problems.

The current funding is insufficient and as a result the specialist security community legal services are currently struggling to meet demand.

The NSSRN makes the following recommendations:

1. Further funding is required under the NPA to maintain and strengthen specialist social security community legal services.
 - a) Funding under the NPA should be long-term and sustainable to allow for planning within organisations and across the sector.
 - b) This funding should recognise the value and expertise of existing specialist social security providers and the significant advantages which flow from having a concentration of social security lawyers embedded in these services.
2. Additional funding is required under the NPA to:
 - a) develop an evidence base to identify social security legal need in Australia; and
 - b) undertake further evaluation work to measure the impact of specialist social security legal assistance in Australia.
3. The collaborative service planning should occur at various levels and should:
 - a) consider the mix of legal assistance services available **including the need to provide specialist legal services to priority groups in line with Commonwealth priorities**; and
 - b) include appropriate representation from specialist legal national networks/national peak bodies/statewide specialist/local specialist services as relevant
4. The NPA review should consider other available measures to strengthen and maintain specialist social security community legal services.



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