

# How well does Australia's social security system support victims of family and domestic violence?



**NATIONAL  
SOCIAL SECURITY**  
RIGHTS NETWORK

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NSSRN notes that some people prefer to identify as victims of violence and others as survivors of violence. When NSSRN uses the term 'victim' this is intended to mean both victims and survivors.

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# Introduction

Family and domestic violence is a national emergency, affecting thousands of people - predominantly women - every day. Domestic violence is about coercion and control, and includes emotional and financial abuse as well as physical assault.

For people escaping domestic and family violence, social security is critical. Centrelink support is vital in helping people affected by violence get to safety and start rebuilding their lives. But many people who spoke to our caseworkers and lawyers across the country said they felt the social security system had failed them when they most needed support.

Caseworkers from the NSSRN network of community legal centres speak to thousands of people every year who are affected by domestic violence and assist them with social security issues of all kinds.

Our report draws on this depth of frontline experience to examine the Australian social security system from the point of view of people affected by domestic and family violence, and to offer a roadmap for positive change.

Download the full report here: [www.nssrn.org.au/dv](http://www.nssrn.org.au/dv)

## Case studies

When Mia\* got divorced from her violent husband, she applied for income support but was rejected by Centrelink, forcing her to remain in the same rented house as her abuser with her three children. She had no money at all. Her ex-husband worked but would not give her any money unless she begged and he would routinely humiliate her before he gave her a few dollars.

Samira's drug-abusing husband threatened to choke her to death if she didn't tell Centrelink she was single. She was too scared to go to the police. After he died from an overdose, she was worried about getting into trouble for giving Centrelink false information and too embarrassed to tell anyone about his violence. She's now facing prosecution.

Lisa's violent husband forced her to give him the compensation she'd been awarded after a serious accident. She applied to Centrelink for support, but was told she wasn't eligible, leaving her in debt and struggling to support her three small children.

Claudia's partner was sent to jail for attacking her, leaving her in the family home to care for her five young children. Centrelink rejected her claim for a crisis payment because she told a Centrelink worker he might return home when he was released.

Phyllis separated from her partner following domestic violence, taking their child and her child from a previous relationship with her. Despite having an AVO in place, the abuse continued post-separation, and her partner falsely told Centrelink that both of the children were living with him. He received Family Tax Benefit while she had no income at all.

Basia and her 10-year-old daughter were living with her mother. She was seriously ill and had no savings or source of income. She applied for Family Tax Benefit, but Centrelink told her they could not process her claim until her violent ex-partner signed the paperwork confirming the child was living with her. She could not get in contact with him, and ran up custody-related legal bills of almost \$30,000.

When Elizabeth's husband was sent to jail for assaulting her, Centrelink decided she was not eligible for a crisis payment, despite her having no savings. She eventually got the payment. However the struggle to understand and claim what she was entitled to took over five months. During this time she had no income for herself or her five children, but went through sixty-two separate pieces of correspondence, telephone calls or face-to-face meetings with Centrelink.

\*All names changed to protect privacy

# Executive Summary

Family and domestic violence is common and its impact is far reaching. It occurs across all ages, and socioeconomic and demographic groups, but predominantly affects women and children.

Access to social security income is a critical component of the National Plan to Reduce Violence against Women and their Children: 2010-2022, and the broader strategy to support women to leave and not return to violent relationships. Moreover, social security accessed at times of greatest vulnerability can be critical to victims of violence re-establishing themselves so they may rebuild their lives and move on.

Between March and June 2018, the National Social Security Rights Network (NSSRN) undertook a research project to consider the relationship between the Australian 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 social security system's response to family and domestic violence has improved enormously since the early 1970s, as have other community and government services, now including targeted measures to respond to family and domestic violence. Despite significant efforts to increase support to people who are experiencing or have recently experienced family and domestic violence, however, some significant issues remain.

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. In most cases, violence had been perpetrated by partners or ex-partners, but also by parents, siblings, adult children, other family members and carers. More than one third of cases involved a debt, often incurred without the debtor being aware they were not being paid the correct payment or rate of payment.

In many instances, cases were resolved in the client's favour following NSSRN members' intervention, suggesting that Original Decision Makers and Authorised Review Officers are not always 'getting it right the first time'. The consequence of those decisions is that vulnerable clients who have recently experienced family and domestic violence are forced to go through unnecessary and often drawn-out appeal processes, adding significantly to their stress and trauma. In some instances, cases were not resolved because clients had become so stressed or fatigued by the appeal process they felt they could not continue despite a high likelihood of success. The level of distress experienced by some clients as a result of their interactions with Centrelink cannot be overstated.

One of the most striking observations from the research was the high proportion of cases that intersected with homelessness or risk of homelessness: 60% of cases. The situation was particularly dire for women who did not fulfil residency requirements because, despite wanting to leave, their inability to secure independent income meant they were unable to secure housing and stayed with the violent perpetrator.

The social security system includes particularly harsh treatment of New Zealand permanent residents who arrived in Australia on or after 26 February 2001 and fall into the non-protected Special Category Visa holder category. Consequently, even if their circumstances change, New Zealanders are not eligible for social security payment. This places women from New Zealand at particular risk of violence, as they are more likely to find themselves unable to leave given they cannot access income support.

The research found that Centrelink's obligation to assess whether a person is a member of a couple continues to pose enormous challenges for staff, particularly where relationships are complex, are 'on again/off again', or where there are complex income and assets arrangements (which may take considerable time to disentangle post-separation). The system's presumption of couples sharing income placed some women at increased risk of violence and/or pushed them to provide limited information to Centrelink which resulted in debts being raised. Cases included men refusing to share income, stealing partners' money, withholding information about assets or forcing their partners to provide misleading information to Centrelink.

The consequences of family and domestic violence can be long lasting, including the ongoing impact of economic abuse post-separation. The research identified a number of cases where women had received sizeable compensation payments and, as a result, were subject to lengthy compensation preclusion periods during which they could not receive social security payment. Over time, their violent partners had coerced them to allow access to those funds but, post-separation, refused to repay them or provide any other financial support despite their ongoing inability to access social security income.

Centrelink did not recognise the history of family and domestic violence in these cases as a reason to waive the remaining portion of the preclusion period. Similarly, in many cases Centrelink did not recognise family and domestic violence as contributing to 'special circumstances' allowing debts to be waived, including where the person had no idea they had been receiving incorrect payments. The review considered the utility of Crisis Payment, which can be paid to support a person leaving a violent relationship, finding its intended function was undermined in many cases by a number of factors, including length of time allowed to claim for crisis payment, frequency and amount of payments, and issues around eligibility.

Having children adds considerable complexity to relationships where there is family and domestic violence. Care of children, whether it is classified by social security as 'residence' or 'percentage of care' remains a weapon used by perpetrators to continue family and domestic violence post-separation. Misleading claims about child residence by perpetrators are not uncommon.

Generally, Centrelink staff members do an impressive job supporting people to access their social security entitlement, often in difficult circumstances. The designation of expert positions in the Department of Human Services (DHS) and the Department of Social Services (DSS) would further help to achieve real impact, along with a mechanism coordinating the interface between those Departments including access by community and other government agencies.

The research suggests that more staff support is needed to ensure consistent, high quality levels of service. The report recommends consideration of ways to increase the availability of safe spaces for disclosure of family and domestic violence, and an increased emphasis on staff training so that they are able to assist clients with complex needs and/ or requiring greater levels of support.

The case data indicates that access to social workers remains pivotal to the effective management of issues relating to family and domestic violence, particularly when access to social workers is granted quickly and on-site. A greater reliance on information and communication technologies (over face-to-face interactions) has left many clients feeling unsupported and stressed by requirements to manage much of the claim process themselves, inhibiting disclosure of violence. These issues are amplified for those with limited access to, or understanding of, computer-based technologies.

While not necessarily typical of the majority of victims of family and domestic violence seeking social security entitlements, many clients in this report reported a sense of the social security system having failed them when they most needed support, including some staff appearing to act as gatekeepers and not facilitating their access to the system. This perception is at odds with the social security system's mandate to operate as a safety net to support vulnerable people. The social security system remains a critical support mechanism for victims of family and domestic violence. It is vital that this overarching purpose is not lost in both the development of laws and policy, and during daily considerations about how specific laws and policies relate to individual cases.

Read the full report here: [www.nssrn.org.au/dv](http://www.nssrn.org.au/dv)



# Recommendations

## DEFINITION OF FAMILY AND DOMESTIC VIOLENCE

1. That the note at 1.1.D.235 of the Guide to Social Security Law on 'Domestic and/or family violence (CrP)' stating "This definition applies to CrP" be removed to allow the definition of family and domestic violence to be applicable across the *Social Security Act 1991* beyond Crisis Payment.
2. That the definition of family and domestic violence (referred to in Recommendation 1) be referenced in the Guide to Social Security Law, particularly where there is mention of special circumstances.
3. That a definition and/or examples of economic abuse be included in the Guide to Social Security Law.
4. Member of a Couple
5. That the Guide to Social Security Law be amended to include clarification of the reasons why the presence of family and domestic violence may indicate that:
  - a. Two people living together may not be a member of a couple; and/or
  - b. Section 24 of Act (allowing discretion to treat a person as not being a member of a couple for a special reason) may be appropriately applied.
6. That the Guide to Social Security Law be amended to include the issue of family and domestic violence, including economic abuse, as an important indicator to be considered when determining:
  - a. Whether a person is separated and living under the one roof; and/or
  - b. Whether the application of section 24 of the Act (which allows discretion to treat a person as not being a member of a couple for a special reason) may be appropriately applied.
7. That the Guide to Social Security Law be amended to include clarification of the impact of financial abuse and the rationale that financial abuse may be an indicator of a lack of commitment suggesting that:
  - a. Two people living together may not be a member of a couple; and/or
  - b. Section 24 of the Act (which allows discretion to treat a person as not being a member of a couple for a special reason) may be appropriately applied.

## SPECIAL CIRCUMSTANCES

8. That section 4.13.4.10 of the Guide to Social Security Law, which provides an overview of the application of the special circumstance provisions to allow waiver of all or a portion of a compensation preclusion period, be amended to include specific reference to family and domestic violence and the evidence that will be accepted as demonstrating its financial impact, particularly where compensation has been stolen or used by a violent partner or ex-partner so that a victim of family and domestic violence is without funds.
9. That section 6.7.3.40 of the Guide to Social Security Law, which outlines the circumstances in which special circumstance provisions allow waiver of a debt, be amended to include the client's experience of family and domestic violence as a factor to be considered.
10. That section 6.7.3.40 of the Guide to Social Security Law be amended to clarify that a history of family and domestic violence must be considered in relation to debt waiver, particularly where a person has accrued a debt under duress or coercion, and consequently statements or representations may not constitute 'knowledge' by the debtor.
11. That when considering whether a case may be referred to the Commonwealth Director of Public Prosecutions, consideration be given to how the debt arose and whether coercion or duress was involved. In such circumstances of family and domestic violence, cases should not be referred for prosecution.

## PAYMENT

12. That part 2.23 of the Act be amended to allow Crisis Payment to be paid to any person suffering severe financial hardship who has recently experienced family and domestic violence: removing the nexus of 'home'.
13. That section 3.7.4.20 of the Guide to Social Security Law be amended to allow a claim for Crisis Payment within 14 days of the extreme circumstances occurring.
14. That the DHS's website be amended to include the current, short time limit for claiming Crisis Payment on the Crisis Payment homepage.
15. That Crisis Payment be extended to victims of family and domestic violence who are not receiving income support but are experiencing or anticipating severe financial hardship resulting from their efforts to leave a violent relationship.
16. That Crisis Payment be increased to the equivalent of 'four weeks' single rate pension: approximately \$1640.
17. That eligibility for Crisis Payment be extended to allow Crisis Payment to be paid up to six times per year.

## NEWLY ARRIVED RESIDENTS WAITING PERIOD (NARWP)

18. That the Act be amended to enable non-protected Special Category Visa holders to access Special Benefit, particularly if it is unreasonable to expect that person to leave Australia, for example, a victim of family and domestic violence who is a parent and needs to remain in Australia in order for the children to continue to have access to both parents, or a person who fears violence from their partner or from their partner's family if they return to their home country.
19. That the Government review the particularly harsh treatment of New Zealand permanent residents living in Australia who experience a substantial change of circumstances and find themselves in extreme financial hardship, enabling them to access Special Benefit where there has been a 'substantial change of circumstances beyond their control' so they are treated equitably with newly arrived migrants.

## CARE OF CHILDREN

20. That Centrelink institute a process of confirming care arrangements with both parents before cutting payment to a parent who is currently receiving Parenting Payment or Family Tax Benefit.
21. That section 2.1.1.60 of the Family Assistance Guide be amended to enable payment of Family Tax Benefit to continue when a person has care of a child but that care is interrupted for a period of up to three months (currently four weeks) as a means to secure stable accommodation and ongoing care for the child.
22. That consideration of retrospective exemption should always include assessment by a social worker so that a detailed interview with the client may be undertaken to assess the barriers the client faced in seeking a Child Support Exemption due to experiencing domestic violence.
23. That the DHS engage in a proactive campaign to identify clients who are not receiving their full Family Tax Benefit entitlements and assess their eligibility for the Child Support Exemption.

## CENTRELINK'S SERVICE ENVIRONMENT

24. That training of general staff continues to increase staff capacity to deal with family and domestic violence: Not only building awareness but also developing the practical skills and resources required to discretely and effectively interact with clients who may be experiencing family and domestic violence, including making an appointment with a social worker and/or other specialist staff as soon as possible.
25. That DHS consider ways to make Centrelink offices safer spaces, enabling clients' disclosure of family and domestic violence.
26. That family and domestic violence training of frontline Centrelink staff include efforts to assist staff to flag clients who may be in or have recently left a relationship including family and domestic violence.
27. That frontline staff be given more in-depth training to better support clients' interaction with the social security interface, particularly when clients are referred away from face-to-face service and support to complete forms and supply other required documentation.
28. That processing times be reduced to provide some financial certainty for people escaping situations of family and domestic violence. This should include consideration of a triage system where payments associated with family and domestic violence are treated as urgent.
29. That DHS consider establishing a dedicated phone line for clients experiencing family and domestic violence to discuss issues relating to their social security entitlements.
30. That timely access to social workers, particularly on-site social workers, be increased to better support victims of family and domestic violence, with references in the Guide to Social Security Law to assist staff in determining when a referral to a social worker is appropriate.
31. That, in appropriate cases, where victims of family and domestic violence are unable to access official documents, Centrelink uses its information gathering powers to access required documents held by other government departments, including Births, Deaths and Marriages, and to assist clients to access those documents.
32. That DHS and the DSS develop transparent and accessible mechanisms to address the impact of family and domestic violence on social security entitlements, including designated family and domestic violence policy and programme specialists, and a mechanism coordinating interdepartmental work on this issue.
33. That DHS develops key performance indicators (KPIs) to measure implementation of, and performance against, the Family and Domestic Violence Strategy.

# About the NSSRN

The National Social Security Rights Network (NSSRN) is a peak community organisation focussing on income support law, policy and administration. Our members are community legal centres (CLCs) across the country which provide free and independent legal assistance to current and former social security and family assistance claimants and recipients. Our members comprise:

- Barwon Community Legal Service
- Basic Rights Queensland Inc
- Canberra Community Law Limited
- Darwin Community Legal Service
- Fremantle Community Legal Centre
- Hobart Community Legal Service Inc
- Illawarra Legal Centre
- Launceston Community Legal Centre
- Northern Australian Aboriginal Justice Agency (Associate Member)
- Social Security Rights, Victoria
- Sussex Street Community Law Service
- Townsville Community Legal Service
- Uniting Communities Law Centre
- Welfare Rights & Advocacy Service
- Welfare Rights Centre (NSW)
- Welfare Rights Centre (SA) Inc

The NSSRN's research and policy positions are informed by our members' unique access to client-related experience. This allows us to make meaningful contributions to a range of policy and service delivery areas.



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