

# FOR A FAIR SOCIAL SECURITY SYSTEM

2020/21 Annual Report

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# ABOUT ECONOMIC JUSTICE AUSTRALIA

Economic Justice Australia (EJA) is the peak organisation for community legal centres that provide specialist legal services for people about their social security issues and rights.

**Our vision** is a fair social security system in Australia.

## **Our theory of change**

Our final goal is an equitable society where everyone can participate at their full potential. We believe that everyone has an equal right to receive economic support when we hit challenges along life's journey. Further, we believe that everyone has the right to participate in the community.

For this to be achieved, we need a responsive and robust social security system that acts as a safety net (swiftly and effectively) and a life raft enabling people to move from crisis to a place where they can thrive.

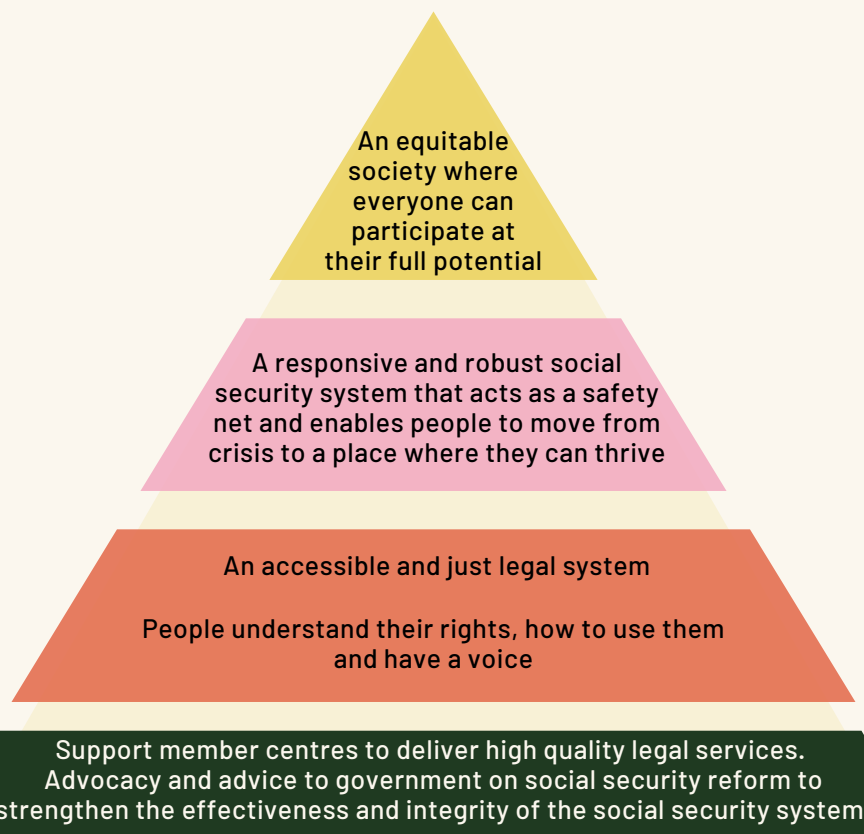
For this, we need an accessible and just legal system that provides for and ensures rights and entitlements, and enables equitable access to social security for all community members.

For this to happen, people must understand their individual rights, know how to exercise those rights, and have a voice on their social security needs that is heard.

Economic Justice Australia's role in this is to support member centres to deliver high quality legal services. Further, we advocate for positive change, providing advice to government on social security reform, as informed by the work and experiences of our members, to strengthen the effectiveness and integrity of the social security system.

## **Activities:**

Support member centres to deliver high quality legal services.  
Advocacy and advice to government on social security reform to strengthen the effectiveness and integrity of the social security system.



## Our principles

Our work recognises the right to social security contained in article 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) to which Australia is a party.

A fair social security system is based on:

- the right of all people in need to an adequate level of income support which is protected by law;
- the right of people to be treated with respect and dignity by Centrelink and those administering the Social Security and Family Assistance system;
- the right to accessible information about Social Security and Family Assistance rights and entitlements, obligations and responsibilities;
- the right to receive prompt and appropriate service and Social Security and Family Assistance payments without delay;
- the right to a free, independent, informal, efficient and fair appeals system;
- the right to an independent complaints system;
- the right to independent specialist legal advice and representation; and
- the right to natural justice and procedural fairness.

## Our Key Values

EJA is committed to the following key values:

1. Aboriginal and Torres Strait Islander people are the traditional owners of the land. We respect the experience and cultures of Australia's First Nations peoples, and we will work with First Nations people and community-led organisations to overcome the systemic disadvantage faced by Indigenous people.
2. We recognise the inherent dignity, and equal and inalienable rights of all human beings.
3. We respect and value diversity and promote the need for a compassionate, fair and inclusive Australia.
4. We value the voices of the people we serve and will work to ensure that these voices are heard by our own organisations, by government and by the wider society.
5. We represent the interests of disadvantaged people in Australia and fearlessly promote and defend those interests through evidence-based, non-party political advocacy.
6. We act with honesty, openness, integrity and impartiality.



# OUR MEMBER CENTRES



Photo: EJA members at 2020 virtual conference

We have a national membership of 15 community organisations that specialise in social security law and its administration. The full list and contact information of our member centres is available [here](#).





# OUR PEOPLE

## **EJA Secretariat**

### Chief Executive Officer

Leanne Ho

### Law Reform, Policy and Communications Officer

Linda Forbes

### Project Officers

Sally Cameron, Anastasia Radievska and Lucia Mai (short-term contracts)

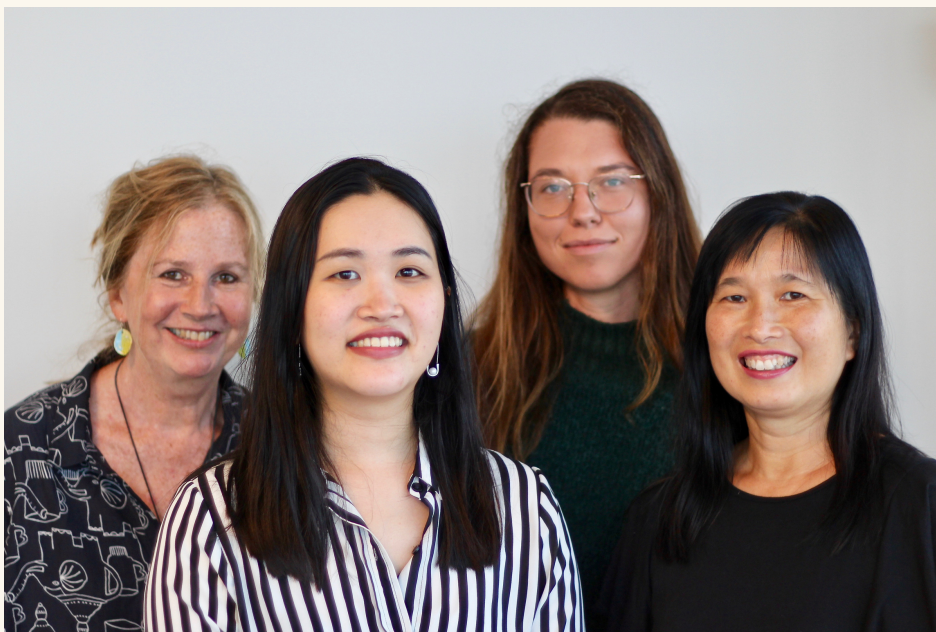


Photo: (L-R) Linda Forbes, Lucia Mai, Anastasia Radievska, Leanne Ho

## **EJA Board**

The Board members during the financial year ended 30 June 2021 were:

Chairperson: Genevieve Bolton OAM, Executive Director/Principal Solicitor, Canberra Community Law

Vice Chairperson: Katherine Boyle, Executive Director, Welfare Rights Centre

Treasurer: Kate Beaumont, Executive Officer, Welfare Rights and Advocacy Service

Secretary: Michael Murray, Solicitor, Townsville Community Law

Ordinary Board Member: Gillian Wilks, Director, Social Security Rights Victoria Inc (did not nominate for re-election at 2020 AGM)

Ordinary Board Member: Emma Cvitak, Solicitor, Barwon Community Legal Service

Ordinary Board Member: Natalie Ross, Principal Solicitor, Welfare Rights Centre

Ordinary Board Member: Rhea Thomas, Solicitor, Welfare Rights and Advocacy Service

# MESSAGE FROM THE CHAIR OF THE BOARD

It has been another stressful year navigating the ongoing economic and social impacts of the COVID-19 pandemic.

In these very challenging times, we are fortunate to have a strong Secretariat team who bring a great breadth of knowledge and experience to their work in advancing the interests of those impacted by the Social Security system. Led by Leanne Ho, the EJA Secretariat team this year has included Linda Forbes, Sally Cameron, Anastasia Radievska and Lucia Mai. On behalf of EJA, I place on record our sincere thanks to Leanne, Linda, Sally, Anastasia, and Lucia for the magnificent work they have undertaken this year in the face

of a huge workload. I also record our appreciation to our volunteers and pro bono partners who have generously contributed their expertise to supporting many of the projects undertaken by EJA during the year.

Since the onset of the pandemic, public debate has been at its most intense around the role that the social security system should play in supporting people during hard times. Many people have found themselves interacting with the social security system for the first time, and social security payment levels and Centrelink administration have gained unprecedented prominence in the public's consciousness. This attention to significant and long-standing policy issues that have enormous impacts on the daily lives of people on low incomes is long overdue. What the pandemic has shown is that where there is **government will**, rapid change and massive investment can be injected into the system to improve immeasurably the lives of people who rely on income support.

The critical work EJA undertakes in conjunction with its member centres in giving voice to the experiences of people interacting with the social security system is as important as ever. EJA played an important role in communicating the COVID-19 support measures to the community sector and public more generally and, informed by the client experiences of its



Photo: Genevieve Bolton, EJA Chair

member centres, provided advice to government on how the changes were working on the ground. There is still much more work to be done, especially in ensuring that entitlements are not wound back as the Government manages the revenue impacts of its COVID-19 response – and that debt recovery activities are lawful and not overly zealous.

Over the reporting period, EJA has continued to produce high quality research in relation to the impacts of the compliance system on victims of family violence, barriers to accessing the Disability Support Pension, and compensation preclusion period waiver policy in the light of the pandemic. Over the last couple of years EJA, in partnership with its member centres, has worked very hard to document the structural and systemic issues that victims of family violence face when interacting with social security law, policy, and the system itself. COVID-19 has also brought these issues to the fore in new and different ways. Under the leadership of Leanne, the EJA Secretariat is to be commended for its ongoing work to ensure that these issues are clearly visible and on the agenda for the National Summit on Women's Safety 2021, and to inform the new National Plan to Reduce Violence against Women and their Children.

I would like to sincerely thank the EJA membership for their contributions to the network over this year, particularly in the face of increasing client demand and huge workloads. Being able to depict the daily client and casework experiences of our member centres is fundamental to the work that EJA undertakes, and this is what makes our contribution to Australia's social security system unique. A huge shout out to member centres for the support you have provided to each other during these challenging times. The monthly members' meetings continue to be very well attended; they provide an important forum and opportunity to connect, share information and discuss casework and policy issues particularly during lockdowns and remote work arrangements.

Thanks to Gillian Wilks outgoing Board member who did not nominate for re-election at the 2020 Annual General Meeting. Gillian's insights and the strategic approach she brought to the Board's deliberations were highly valued.

It has been a privilege to once again chair the EJA Board. My sincere thanks to Katherine Boyle, Kate Beaumont, Michael Murray, Emma Cvitak, Rhea Thomas and Natalie Ross for your commitment to EJA and invaluable contributions to the Board's work. Special mention must go to Katherine for leading the development of a number of specialist subcommittees to support EJA's work and assisting in the development of a fundraising strategy.

Stay safe and go well.

Genevieve Bolton, OAM  
Chair, Economic Justice Australia  
August 2021



# EXECUTIVE OFFICER'S REPORT

More people in Australia have interacted with the social security system as a result of COVID than ever before, and social security is critical to our ongoing survival and recovery. The fact that large numbers of people came into contact with Centrelink for the first time provided an opportunity to promote broader understanding of how hard the system is to navigate and move away from negative stereotypes about people who receive social security payments.



Photo: Leanne Ho, EJA CEO

In response to the pandemic, it was incredibly heartening to see how massive changes and expenditure on social security could happen so quickly in the form of the Coronavirus Supplement and other special coronavirus measures that temporarily suspended mutual obligations and waiting periods. EJA stepped up its communications to ensure that reliable and accurate information about significant changes to social security was available to people who needed it and our members who assist people trying to claim payments or manage issues with their existing payments.

However, with the end of the special coronavirus support measures and the hope that economic recovery will be swift, EJA's attention now turns to ensuring that the needs of those most vulnerable in our community are not sacrificed in austerity measures to claw back the huge public expenditure.

Anticipated savings from measures like the extension of the four-year newly arrived residents waiting period to payments for families and carers constitute a false economy as they are likely to lead to increased poverty and social problems which result in greater costs in the provision of emergency relief including food, housing, counselling, health care and other services by charitable and community organisations or other government funded services. Family Tax Benefit and payments for carers had not been included in previous extensions of this waiting period to working age payments with the compelling rationale of avoiding child poverty among migrant communities and supporting new resident families' efforts to settle in Australia. As migration is one of the key elements to Australia's post-pandemic economic recovery, it is not in anyone's interests to disincentivise migrants from choosing Australia as their new home or undermining their chances for positive settlement outcomes when they arrive.

Digital transformation is also being relied upon as a rapid way to reduce the cost of administering the social security system and has the potential to provide benefits to users. However, as we saw with the catastrophic Robodebt saga, hastily and poorly designed automation and digital service delivery without resourcing for adequate human oversight comes at the cost of accuracy, transparency and justice, let alone the human cost in stress and despair.

The proposed new digital employment services system marks yet another step down the path of automated decision-making in social security. EJA is concerned to ensure that vulnerable job seekers, many of whom have partial capacity to work due to disability, illness or caring responsibilities, retain the opportunity to negotiate suitable participation plans and have their individual circumstances taken into account. Our members see too many people who've had their payments suspended or cancelled when they cannot meet their mutual obligations and risk destitution and homelessness.

Many of EJA's recommendations and submissions this year have focused on the need to boost staffing resources at Services Australia, particularly social workers, Indigenous Service Officers and Multicultural Service Officers who can be instrumental in ensuring the individual circumstances of particularly vulnerable people are seen and understood by the system. The push for people to interact primarily with the system online, not only limits the level of service delivery that can be provided to clients with complex needs but also risks deskilling of Centrelink staff who find it more and more difficult to explain why a decision has been made. Ultimately this means that people will have less access to justice as they do not have the information needed to appeal incorrect decisions.

A list of our key submissions is below:

- UN Human Rights Council questionnaire on COVID response
- Parliamentary Joint Committee on Human Rights (also submitted copy of submission to the Senate Select Committee on COVID-19)
- House of Representatives Standing Committee on Social Policy and Legal Affairs Inquiry into homelessness in Australia
- House Standing Committee on Social Policy and Legal Affairs inquiry into family, domestic and sexual violence (and evidence at inquiry hearing). EJA feedback to SA on their FDV Strategy published on the website of the Inquiry into family, domestic and sexual violence as additional information to our submission following a request by the Committee Secretariat.
- Senate Community Affairs References Committee inquiry into Centrelink's compliance program
- Senate Community Affairs Legislation Committee inquiry on Strengthening Income Support Bill
- Parliamentary Joint Committee on Human Rights inquiry on ParentsNext (and evidence at inquiry hearing)

All of our submissions are published on our [website](#).

EJA's research reports focused on ongoing areas of concern, including domestic violence, barriers to accessing the disability support pension (DSP), and the impact of Covid-19 on people with compensation preclusion periods (CPP).



Photo: Leanne Ho at post-budget press conference

EJA is making sure that social security support forms part of the national conversation on women's economic security and domestic violence in the context of the national summit on women's safety and the consultation on a new National Plan. Our forthcoming research in partnership with the University of Wollongong and the University of Sydney highlights how Centrelink compliance processes impact on victims of domestic violence and can be used as a weapon by perpetrators of violence. Based on our research insights, EJA has been engaged by the Administrative Appeals Tribunal to develop training on domestic violence for social security decision-makers.

With the backdrop of the Senate's Inquiry into DSP and the impairment tables review, EJA has conducted research in partnership with the University of Notre Dame which found that there are structural and systemic barriers to accessing DSP for people whose primary impairment is psychiatric.

EJA's research paper based on a case review by pro bono law firm partner, Hall & Wilcox, and member centre case studies explores how the impact of Covid-19 could arguably contribute to special circumstances in cases of severe financial hardship, but was not taken into account in decisions about whether to reduce or waive compensation preclusion periods.



Photo: Leanne Ho and Linda Forbes at Welfare Rights Centre 20 year anniversary party in 2002

EJA's capacity to deliver deep analysis and insights in its research projects, submissions and day-to-day policy advisory roles was taken to a new level in 2020 when Linda Forbes joined as policy and communications officer. Having spent almost 20 years managing the casework coordination at Welfare Rights Centre, Linda is a powerhouse of knowledge about social security and how the sector works. I am most grateful to have such exceptional staff and the support of a board which is uniquely positioned to take the organisation forward given the expertise and commitment of its members.

I'd like to thank our member centres who, in a most challenging year for their legal services, have continued to contribute their expertise and cases studies to ensure that all EJA's work is grounded in solid casework experience.

I'd like to finish with words from one of our longest serving members, Bill Mitchell OAM, commemorating the 30-year anniversary of Economic Justice Australia at our 2020 national conference.



*"Welfare rights work is emotionally draining, technically difficult and is often set against a backdrop of public misinformation about rights and poverty in Australia. It compares in many ways with refugee work in this regard.*

*You have to do this work to really understand how important it is.*

*Just think for a moment about the key components of the welfare rights client landscape: people living in poverty, supporting children through formative years, unstable accommodation, potentially with a history of abuse and violence, chronic illness, and poor mental health. They're in a fight against the might of the Commonwealth wielded by a distant and unsympathetic bureaucracy relying on complex laws and policies that give an appearance of entitlement but are clearly geared for disempowerment.*

*And all that, just so they can receive a payment that keeps them below the poverty line. Things are really stacked up against our clients. Their cases are fundamental human rights cases.*

*Many are convinced that there exists a hierarchy of human rights, which has civil and political freedoms as its crown, but economic rights are as important as any other. We know from our clients that without income, you are at your most vulnerable."*



Leanne Ho  
Chief Executive Officer  
August 2021

An adapted version of Bill Mitchell's speech is available at <https://rightnow.org.au/opinion-3/reflections-of-a-welfare-righter/>.

# THANKS TO OUR PARTNERS

## Volunteer and internship program

UTS continued to provide generous and significant volunteer support to EJA, with another team of visual design students from the Socially Responsive Design subject within the UTS Shopfront Community Course Program. Aston Ashley, Jesse Divola, Joshua Agostino, Qian Yu and Tianhao Pei creating wonderful video animations on DSP and debt appeals.



UTS Brennan Award volunteer and communications/law student, Lucia Mai, continued to volunteer after completing a short contract with EJA as a communications and legal project officer, and was joined by two new volunteers, Garunya Baskaran and Chloe Breitzkreuz, who created a report on EJA's social media performance.

## Pro bono partners

The generous pro bono contributions of law firms provided much appreciated support for EJA's capacity to deliver a high volume and quality of expert law reform and policy advice and manage its own operations.

Hall & Wilcox provided high quality legal research and design assistance to assist the conduct and publication of our research report on compensation preclusion periods and COVID-19.

Wotton + Kearney provided a paralegal secondment half a day a week to assist with scaling up social media messaging during the height of COVID-19 changes to social security.

DLA Piper provided legal advice to EJA on a proposed board restructure and amended the EJA rules accordingly.



# CASE STUDIES

The following case studies have been selected from those published in Rights Review and EJA research reports to highlight areas of particular focus for EJA's work in the previous and coming year. All names have been changed to protect our clients' privacy.

## **DSP and psychiatric impairment**

Michelle was on Newstart Allowance and living in her car. She suffered from chronic mental health problems which made it difficult for her to sustain rental accommodation and employment. She felt unsafe living in share accommodation and could not afford to rent on her own.

Centrelink had rejected three previous applications for the disability pension on the grounds that they had determined that her mental health conditions were not fully diagnosed and treated. Michelle (now in her late 40's) was first diagnosed as suffering from anxiety and depression more than 20 years ago, and had more recently been diagnosed with PTSD arising from childhood trauma. A psychiatrist had confirmed the diagnosis of each of these conditions in the past, although Michelle had lost most of her medical records.

Michelle was under the supervision of her GP and had a mental health care plan. She was also undergoing cognitive therapy with a psychologist provided through a local community organisation. This centre wrote to the psychologist and requested that they provide a report that addressed the specific requirements of Table 5 of the Impairment Tables. The centre also wrote to the client's GP and requested that they provide copies of any previous reports from psychologists and psychiatrists which they may hold.

Both the GP and psychologist cooperated and we were able to establish that Michelle's mental health conditions had been diagnosed by both a clinical psychologist and psychiatrist. The psychologist provided a report which expressed a clear opinion as to severity of Michelle's mental health condition. We represented the client at the AAT at tier 1, but the member disagreed with the findings of the psychologist based on the client's answers to certain questions and a narrow interpretation of particular comments in the psychologist's report. We appealed the matter to the General Division of the AAT with the matter settling after we were able to provide further medical evidence clarifying remarks within the earlier report as well as the client's capacity.

Michelle's case is one of the case studies published in the [February 2021 edition](#) of Rights Review and featured in the research report [Barriers to Disability Support Pension for people with psychiatric impairments and their experiences on JobSeeker Payment](#).



### **Domestic violence and tip off line**

Jean lived with her partner who was violent and controlling. He controlled her finances and deliberately under-reported his income to maximize the payment Jean would receive from Centrelink and which her partner would then take control of.

Centrelink received a tip-off that Jean was getting the single rate of payment while partnered and raised a debt against her as a result of her member of a couple status and her partner's under-reporting of his income.

With help from an EJA member centre at the Social Services Division of the AAT, Jean's debt was waived because the member held that her partner had diminished capacity due to his mental illness and couldn't be held account for under-reporting.

Jean's case is one of the case studies published in the [August 2020 edition](#) of Rights Review.

### **Compensation preclusion periods – Bushfire, Covid and other real life disasters**

George left school after year 10 and has always worked on farms in unskilled jobs. He was separated but living under the same roof with his ex-partner, Diane, and their ten year old son in regional NSW when Diane died. George then became the sole carer of their son.

George suffered a workplace injury a number of years ago. The matter went to court and he was awarded a considerable amount in compensation. Before Diane's death he used his compensation payment to support the household, paying their living and medical expenses and purchasing furniture and whitegoods. George also bought equipment for a small business for himself and his ex-partner. George was hoping to earn an income from his business but it collapsed due to misadventure. He also suffered financial losses as a result of the bushfires and was not insured.

The bulk of George's compensation payment, however, was spent on his stepdaughter. He gifted her a car and lent her money to set her up in business. He kept lending her large amounts of money in cash and paid off her credit cards on a number of occasions. He later discovered that his stepdaughter had a drug problem.

When George contacted Welfare Rights Centre NSW (WRC), he was surviving on food vouchers. He had no funds left from his compensation settlement.

#### *Nature of client's social security problem*

George applied for Jobseeker Payment but the claim was rejected as he had a CPP running to 2023. George unsuccessfully appealed the decision to a Centrelink Authorised Review Officer (ARO).

George was now a single parent and the work opportunities available to him were greatly reduced. The impact of COVID on the job market made his already restricted job search all the more difficult. In the ARO decision letter, the ARO acknowledged that George had no funds and was the sole carer of his son, following his ex-partner's sudden death.

However, the ARO did not consider the entire and accumulated effect of George's circumstances in the context of the social and economic impacts of COVID, namely:

- Financial circumstances:
  - the seriousness and extenuating circumstances that George was living day to day, struggling to provide for himself and his young son, with no income and no funds;
  - George and his son were relying on donations from local charities to survive - these charities were, and continue to be, overwhelmed by requests for assistance due to COVID impacts;
  - George and his young son faced a real and imminent risk of becoming homeless - accommodation services were under intense pressure due to COVID impacts;
  - George had no liquid assets to support himself and his young son;
  - George's continued commitment to find suitable paid work, despite his diminished capacity as a result of the accident and COVID.
- Emotional state and changed circumstances:
  - the distress and shock suffered by George and his son regarding Diane's death - George found Diane dead in their home;
  - the unforeseen need for George to assume sole care of his son;
  - the fact that George's ten year old son had recently lost his mother and now was enduring his father's distress regarding their financial situation and impending homelessness;
  - George's ongoing psychological and physical trauma as a result of the accident, compounded by the trauma associated with the death of his ex-partner;
  - lack of family support.
- Decision making capacity:
  - George finished school in Year 10;
  - the setbacks experienced from the loss of George's business;
  - unrecoverable monies loaned to George's stepdaughter.

The ARO recognised that George's situation was difficult, but concluded that he had exercised choice in how the settlement monies were spent and that his situation was a result of his own actions. The ARO also stated that there is a legitimate expectation that settlement monies are used to support oneself until the end of the CPP.

#### *Work performed by WRC*

WRC assisted George in gathering further evidence for an appeal to the AAT. Since exhausting his compensation payout, George had been trying to survive and raise a young child on Family Tax Benefit and rent assistance alone. Now that he has full care of his son, he is only able to work within school hours and not during school holidays, which precludes him from most casual farm work. Before he was awarded his compensation, George had no experience dealing with large sums of money. He has never earned a regular income and has always struggled to make ends meet. He is currently unemployed, and his only assets are some household furniture and a car.

George's case is one of the case studies published in EJA's research report [Compensation preclusion periods and the impact of COVID-19](#).

