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Systems Abuse Project

Office for Women

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Submission to the Government Systems Abuse Audit

About Economic Justice Australia

1. Economic Justice Australia (EJA) is the peak organisation for community legal centres providing specialist advice to people on their social security issues and rights. Our members across Australia have provided people with free and independent information, advice, education and representation in the area of social security for over 30 years.
2. EJA provides expert advice to government on social security reform to make it more effective and accessible. Our law and policy reform work:
 - strengthens the effectiveness and integrity of our social security system
 - educates the community
 - improves people's lives by reducing poverty and inequality.
3. EJA thanks the Office for Women for the opportunity to discuss government systems abuse on 7 November 2024, and hopes that this brief written submission, which focuses on weaponisation of the social security system, provides further useful content.

Summary of Issues

Issue 1: Malicious use of "dob-in" systems within Services Australia

Perpetrators of family and domestic violence (FDV) are known to report – or threaten to report – information about victim-survivors to Services Australia to exert control and prevent them ending the relationship or otherwise inflict ongoing abuse.

That includes reporting false information about the victim-survivor, or reporting true information about something the victim-survivor may have done as the result of threats, coercion or physical violence. As an example of the latter:

Jane and Jack are in a relationship and have a young daughter, though the relationship is severely impacted by ongoing domestic violence. Jack is physically, emotionally and financially abusive. Jane is receiving Parenting Payment. Jack is aware that Jane will receive more money if Services Australia believes she is single, and forces Jane to comply by assaulting her and continually threatening violence, knowing that he'll be able to access Jane's payment whenever he wants. Later, when Jane says she's leaving, Jack threatens to report her to Centrelink, saying she'll be the one with the debt, she'll probably go to jail, and he'll make sure she never regains custody of his daughter. Jane is terrified and cannot see a way out.

EJA's 2021 research regarding abuse perpetrated through Services Australia's Fraud Tip-off Line found perpetrators use the system to make vexatious claims, and that the vast majority of tip-offs are not useful for identifying social security fraud. Further, the tip-off line is used to manipulate Family Court proceedings. A summary of the findings of that research, including case studies, can be found in the associated report [Debts, Duress and Dob-ins: Centrelink compliance processes and domestic violence.](#)

In 2023, EJA was successful in lobbying for significant reform of sections of the *Social Security Guide* to increase capacity of Services Australia officers to consider how FDV might affect member of a couple assessments. The Guide now explicitly states that the presence of FDV within a relationship may indicate that a person should not be defined as being a 'member of a couple' under section 4 the *Social Security Act*. It also provides that decision-makers should consider FDV as a special reason to use their discretion to treat someone as not being a member of a couple under section 24 of the *Social Security Act*, even when they technically meet the definition under section 4.

These provisions recognise that some victim-survivors may be in a relationship but that little or no financial or other support is provided by their partner amidst ongoing abuse. Treating victim-survivors as though they are not a member of a couple, so they can access a 'single' rate of payment unaffected by their partner's income and assets, has the potential to provide them with the independent income they need to leave or to establish that they do not have a debt arising from a Services Australia assessment that they are a member of a couple.

These changes point to a particular issue with use of the Tip-Off Line. Many victim-survivors have been so manipulated by their abusive partner, and have such limited understanding of the nuances of the social security system, that they may remain with a partner under threat of a dob-in, despite the likelihood that if Services Australia undertook adequate investigation of their circumstances, they would find they were not a member of a couple.

Reform:

- 'Dobbing in' should not be promoted. Although perpetrators may come to this weapon of abuse unaided, promotion of the tip-off line only serves to make it front of mind. Services Australia should rely on their alternative investigative powers, which include appropriate checks and balances, to ascertain compliance.
- Where a dob in is recorded, the name of the person making the report should be required to reduce the incidence of false and vexatious reporting and provide a means to check the credibility of the contact and their relationship to the income support recipient.
- Protocols should be reviewed to triage dob ins to assess credibility of reports, and screen for malicious use of the system to perpetrated FDV.
- Waiver provisions for debts incurred as a result of FDV, including through use of the Tip-Off Line, should be amended to allow for the possibility of waiver in circumstances of FDV, including where the person may have knowingly provided false information under coercion or duress (more details provided below).

Issue 2: Abuse of the interrelated child support and Family Tax Benefit systems

Child support is assessed based on parents' income and the amount of time a child spends with each parent. Parents can change the record of care arrangements through the Child Support Agency or Centrelink.

2.1 Verifying care arrangements Services Australia is required to verify care arrangements with both parents when a change is made. Perpetrators exploit this practice by making vexatious and malicious reports of changed care arrangements, to prompt Services Australia staff to contact victim-survivors; a process many victim-survivors experience as ongoing harassment initiated by the perpetrator. Despite clear requirements to do so, Services Australia staff do not always contact the victim-survivor, resulting in payments being reduced or cut off, and debts raised.

Reform:

- Develop more robust methods to verify care arrangements, including use of flags or vulnerability indicators in Services Australia's systems, to identify vexatious or malicious actions by perpetrators.

2.2 Taking Maintenance Action All people with an eligible child are required to take action to seek maintenance (Maintenance Action Test) under either Agency Collect or Private

Collect systems. While income support payments are quarantined from any effect of maintenance, Family Tax Benefit A is subject to the Maintenance Income Test.

The Maintenance Action Test requires that people eligible for Family Tax Benefit seek child support. According to the Family Assistance Guide, a person who is concerned that seeking maintenance may cause or exacerbate domestic violence or have a harmful or disruptive effect, may be exempted from seeking maintenance per the Maintenance Action Test Exemption, but only if their child support is collected through Agency Collect. Currently, only approximately one half of all people in the child support system go through Agency Collect. EJA members report that Centrelink is usually responsive to requests for Maintenance Action Test Exemptions when advocates seek an exemption. Services Australia’s data, however, reflects significant numbers of Maintenance Action Test Exemption requests are rejected.

Where a person does not seek child support, and has not been granted an exemption, they can only be paid the base rate of FTB.

The base rate is currently \$71.26 for each child/fortnight. The base rate is not affected by child support income, although it can be reduced by income from work.

Age	Max FTB A /fortnight	Gap between base rate and max rate/fn²
0 to 12 years	\$222.04	\$150.78
13 to 15 years	\$288.82	\$217.56
16 to 19 years -meets study requirements	\$288.82	\$217.56
0 to 19 years in - approved care organisation	\$71.26	0

This gap in column 3 above is the main money at issue when people do not seek child support or receive a MAT exemption. The logic of this structure appears to be that:

- these funds can be reduced by child support, so the rate of payable child support needs to be known, and
- keeping people on the base rate should act as incentive for people to seek child support.

June 2024 [Child Support Program data](#) shows 67% of the children of people subject to the MAT had ‘passed’ the MAT, 15% had parents exempted from the MAT, and 17% had parents that had ‘failed’ the MAT. It is unclear what circumstances the 17% figure includes, including how SA interacted with parents regarding the MAT to ensure maximum rate FTB

could be paid. That 17% reflects one in six children (and their parents), a matter of considerable concern.

Further consideration of the 17% MAT failure is required, including disaggregating reasons for MAT failure, including whether 1. people did want to seek it, 2. people are pushed by the potential payer into not seeking it, 3. SA staff are not adequately engaging with people.

Consideration should include whether some people have chosen not to pursue the MAT because their ex-partner (the intended payer) is on social security income and barely surviving on minimal income while providing some care to their child, and/or seeking child support would result in minimal benefit to the payee.

The Maintenance Income Free Area (MIFA) describes the amount of child support/ maintenance income a person can receive without it affecting their FTB A. The MIFA depends on the number of children and whether both payee and payer receive child support. The MIFA is currently set at \$1960.05/year for the first child (or approx. \$75/fortnight), increasing by \$653.35 for each additional child.

Once child support exceeds the MIFA it reduces FTB A by 50 cents in the dollar until FTB A reduces to the base rate. If a person also receives Rent Assistance, it will then begin to reduce Rent Assistance at 50 cents in the dollar.

Here it is important to note that currently, many people receiving child support continue to receive the maximum rate of FTB A because their child support payments are too low to affect FTB A. EJA's very rough estimate, based on social security and child support data, puts the number of people at approximately one third (noting that approximation requires verification).

Child Support - Annual	Child Support - Fortnightly	Number of cases¹
Less than \$500	\$26 (approx.)	140,430
\$501 - \$2000	\$26-\$77 (approx.)	87,850
\$2001 - \$5000	\$77- \$192 (approx.)	118,685
\$5001 - \$10,000	\$192- \$384 (approx.)	143,090
\$10,001 - \$20,000	\$384 - \$770 (approx.)	110,360
\$20,000+	More than \$770	36,515

¹ Data at June 2024.

One of the clear weaknesses of the child support/social security interface is the systems' capacity to ensure FTB A is calculated based on what a child support payee is actually receiving.

There are two ways in which child support income can be assessed:

- Entitlement method - The amount of child support used to calculate social security entitlement is usually based on the amount of child support a person should receive based on the Child Support assessment or a court order. Maintenance income is annualised (concurrent with FTB A entitlement), with reassessment possible if maintenance entitlement changes. Reassessment can result in a debt or arrears.
- Disbursement method - Where a person does not know how much child support they are likely to receive, when they are likely to receive it, or where the amount is likely to be less than should be received, they can apply to have child support assessed the 'disbursement method'. The disbursement method then applies the exact amount the person receives (calculated as annual income to enable assessment of FTB A entitlement).

The disbursement method is only available to people receiving child support through Agency Collect.

Perpetrators put pressure on victim-survivors to use Private Collect to make it harder for child support arrangements to be enforced. This has multiple effects. Victim-survivors may be left with less money because their child support isn't paid *and* because the family assistance system assumes it is being paid and calculates the rate of payment on this basis.

The child support system was introduced to remove the burden of women having to chase errant fathers through the courts. Unfortunately, the movement of people into the Private Collect system, now approximately one half of all people in the child support system, has undermined that rationale. That has left women, including victim-survivors of FDV, with the burden of chasing errant ex-partners while raising their children, relying on uncertain income and income below the low levels set by the child support and social security systems, i.e. women are not getting their child support and/or full FTB A entitlement.

Reform:

- Modify the child support system so that Agency Collect is opt-out rather than opt-in.
- Remove the option to opt-out of Agency Collect where Services Australia or the Child Support Agency identify FDV (removing the onus on the victim-survivor).

- Investigate why people who are subject to ongoing manipulation and abuse do not seek maintenance under Agency Collect, immediately seeking the Maintenance Action Test Exemption.
- Investigate why so many people are stuck on base rate Family Tax Benefit, including the fairness of the Maintenance Action Test reducing their social security entitlement.
- Investigate alternatives to the Maintenance Action Test and Maintenance Income Test that are less subject to abuse, aiming to ensure all victim-survivors can access regular and ongoing Family Tax Benefit.
- Consider means to ensure ongoing payment of the correct rate of Family Tax Benefit when women are subject to financial manipulation through the child support system.

2.3 Delaying Tax Returns Family Tax Benefit and child support are assessed based on annual income, usually derived from tax returns. Perpetrators deliberately avoid doing tax returns for many years, and provide misleading information about their income to avoid paying child support. When correct information is eventually obtained, victim-survivors often have social security debts as they have been overpaid Family Tax Benefit according to the child support they should have received.

It is common for victim-survivors to receive the social security debt letter before receiving their child support arrears. In many instances, particularly where child support is managed through Private Collect, the arrears are never paid.

More work needs to be done to ensure people do not have a Family Tax Benefit debt based on money they have not received, or never receive. Further, consideration should be given to whether victim-survivors would be less traumatised if their social security debt was removed from their child support arrears before they received it. That would mean people would not be told to repay a social security debt before they receive outstanding child support. It would also stop instances of victim-survivors finally receiving child support only to shortly thereafter be told they need to spend a sizable portion of it on repaying overpayment of FTB A – an experience many find punishing.

Collection of child support is outside EJA's expertise, but EJA supports consideration of mechanisms to ensure timely lodgement of tax returns by child support payers. That includes granting the ATO additional powers to push child support payers to lodge tax returns in a timely manner, and penalties for delayed lodgement.

Reform:

- Investigate ways to improve verification of income estimates by child support payers.
- Develop a means to insist on timely lodgement of tax returns by child support payers, including considering penalties for delayed lodgement.

Issue 3: Technology facilitated abuse, particularly through myGov

While intended to improve accessibility, Services Australia's increasingly digitising systems has inadvertently created new avenues for privacy breaches and technology-facilitated abuse. These issues disproportionately affect vulnerable populations, particularly women experiencing FDV.

Perpetrators may gain access to their partner's myGov account, monitoring their activities and potentially sabotage attempts to seek help or leave dangerous situations. This digital intrusion can pose significant safety risks to victims of FDV.

EJA has recently completed research into social security barriers for women outside metropolitan areas included interviews with more than 100 community service providers. They reported myGov being used to facilitate abuse.

Women have ability to manage the money but they're not allowed to... even though it is her money but she's under control of someone else. That happens a lot [with the husband] having access to myGov and the ATM card. And then the woman cannot pay all the bills and then the man has already spent all the money.

He had full control over her myGov and her email.

Perpetrators manipulate victim-survivors' payments, conduct surveillance and perpetrate abuse, including:

- making changes to, or reporting false information on, victim-survivors' accounts
- redirecting victim-survivors' payments to their accounts, reducing the amount victim-survivors have for their own needs and preventing them saving to escape
- monitoring activity, thereby preventing attempts to leave

Reform:

- Investigate means to ensure only account holders are able to access and use their own myGov accounts (unless express permission granted, for example, for people who need assistance given language and technology literacy barriers).

- Develop more stringent means to confirm bank account details when changed from the intended recipient's bank account.
- Ensure ongoing provision of non-digital mechanisms for interacting with Services Australia.
- Consider targeted interventions when Services Australia staff become aware of ongoing abuse, to minimise digital abuse.

Issue 4: Abuse of nominee arrangements

Nominee arrangements are important for people who need assistance to access Centrelink, but there are few checks and balances to prevent someone acting maliciously or taking advantage of the social security recipient. In practice, a nominee can be treated as if they're a guardian or administrator, although they haven't been through any process to be appointed as such.

Victim-survivors are particularly at risk when they have an illness or disability that requires them to use a nominee, and that nominee is also a perpetrator. More needs to be done to verify nominee arrangements to ensure the nominee is genuinely acting in the best interests of the person. That is a duty of care Services Australia owes recipients.

Reform:

1. Improve verification of nominee arrangements to ensure the nominee is genuinely acting in the interests of the recipient.
2. Revisit and promote penalties for misuse of the nominee arrangement.
3. Ensure debts can be waived when a person receives a debt as the result of actions by their nominee, particularly in cases of abuse.

Issue 5: Review the impact of compulsory income management limiting victim-survivors' means of escaping FDV.

Compulsory income management, a system imposed by government, can limit a victim-survivor's capacity to escape FDV. Women subject to compulsory income management lack the ability to save money or otherwise prepare to leave a violent relationship as large portions of their social security income is unavailable for discretionary spending. In some cases, their money being tied to a physical card furthers ongoing violence, for example, where the perpetrator continues abuse to obtain the card used to access their social security income, and/or spends those funds, leaving them without any money and reliant on the perpetrator.

Reform: See EJA's submission on compulsory income management for a full set of recommendations - ejaustralia.org.au/wp-content/uploads/EJA-submission_2024-PJCHR-inquiry-into-compulsory-income-management.pdf

Issue 6: Provide recourse for victim-survivors saddled with social security debts resulting directly from FDV

People are held liable for Centrelink debts accrued as the direct result of domestic violence and coercion. The impacts of domestic violence, particularly coercive control, were not adequately considered by Parliament when special circumstances waiver provisions were introduced.

As the legislation now stands, 'special circumstances' waiver provisions cannot be applied where a victim-survivor has not complied with their social security obligations as a result of threat, coercion or violence - regardless of special or exceptional circumstances. That is because, discretionary debt waiver is not available if a debtor has 'knowingly made a false or misleading statement or failed to comply with an obligation under social security law' (s 1237AAD, *Social Security Act*²). That includes where a victim/survivor has been forced or coerced into making statements regarding their own or their partner's circumstances, including where those payments were their only source of income or their partner stole those funds.

While the issue may not address ongoing abuse and weaponisation of government systems, it provides an important remedy. Decisions to apply special circumstances debt waiver remain discretionary, with that discretion likely to be applied in only the most heinous and compelling cases. In the alternative, victim-survivors are left paying debts, often for funds they did not get to spend, while surviving on reduced social security income for very long periods.

Reform requires legislative amendment. EJA has received tentative acceptance of the issue and required remedy from relevant Ministers and departments but as yet no progress been made. EJA seeks inclusion of the issue in the Audit, to push this issue up the government's legislative agenda.

Reform:

- Amend the *Social Security Act* to allow access to special circumstances debt waiver provisions where the debt results from a false statement, misrepresentation act or omission made as a result of coercion or duress by amending section 1237AAD to

² NB. Similar provisions exist in family and student legislation, and the issue is present in each.

read 'the debt did not result wholly or partly from the debtor or another person knowingly and willingly'.

People are also held liable for Centrelink debts resulting from a false statement by perpetrators of FDV. Discretionary debt waiver is unavailable where a debt arises as the result of a false statement or omission by another person. That includes where a perpetrator lies or provides false documents directly to Centrelink (for example in relation to their income), but the social security or family assistance entitlements were the victim-survivor's – whether or not the victim-survivor knew the statements were false or had access to the funds.

As noted above, legislative amendment is required to address victim-survivors bearing the long-term burdens of perpetrators' abuse. We seek the Audit process's attention to this issue.

Reform:

- Amend section the *Social Security Act* to allow access to special circumstances debt waiver provisions where the debt results from false statements by a perpetrator who has lied to Centrelink without the victim's knowledge or under significant threat of violence (s1237AAD).

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