

Federal Budget Submission 2024-25

About Economic Justice Australia

1. Economic Justice Australia (EJA) is the peak organisation for community legal centres providing specialist advice to people about 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

Overview

3. Australia's social security system provides a vital safety net; keeping most people without adequate income clothed, housed and fed, while providing some stability to retain engagement in the community and enable planning for the future.
4. The Robodebt Royal Commission called for politicians to lead a change in attitudes to people accessing social security support, 'including abandoning the simple narrative of the taxpayer versus the welfare recipient'¹. Indeed, social security is not a matter of 'us versus them'. Many Australians have relied, or will need to rely, on income support at some point in their lives; studying, caring for people, recovering from injury, looking for work, etc. It is essential that the system is robust in its structure and administration.
5. Strengthening the social security safety net will require funding to:
 - A) Improve social security law and policy to address specific weaknesses in the system
 - B) Provide fair and effective administration of payments by Services Australia so that vulnerable people can access payments without the need to seek external assistance
 - C) Fund specialist assistance from community legal centres through the National Legal Assistance Partnership for persons requiring assistance (particularly legal advice or representation) to access their social security entitlement
 - D) Establish and resource independent bodies to ensure effective review of social security decisions, and provide ongoing independent scrutiny and advice to Parliament and key departments on the operation of the social security safety net.

¹ Government Response – Royal Commission into the Robodebt Scheme, Australian Government, November 2023, p.6.

Summary of recommendations

Recommendation 1: Increase social security income support payment rates to provide parity with pensions, with indexation linked to both inflation and wages.

Recommendation 2: Increase the maximum threshold for Commonwealth Rent Assistance by 60%.

Recommendation 3: Amend the Social Security Act to abolish the Liquid Assets Waiting Period and Ordinary Waiting Period and replace it with a comprehensive means test.

Recommendation 4: Increase and index the Remote Area Allowance to reflect living costs in remote communities.

Recommendation 5: Introduce a Disability Supplement to offset the cost of treatment, transport, aides and other costs associated with managing a disability, injury or chronic illness.

Recommendation 6: Establish a Digital Allowance (i.e. reworking and expanding Telephone Allowance) to assist all people receiving income support to afford mobile phones and data.

Recommendation 7: Permanently abolish the newly arrived residents waiting period (NARWP) for Special Benefit, so that people in severe financial hardship have equitable access to the social security safety net.

Recommendation 8: Provide all New Zealand citizens living in Australia on Special Category Visas with access to Special Benefit.

Recommendation 9: Extend the list of visa sub-classes that attract Special Benefit, with extended coverage including:

- Bridging Visas, all sub-classes
- Student Visa
- Temporary Resident (Skilled Employment) Visa
- Temporary Work (International Relations) Visa
- Temporary Graduate Visa

Recommendation 10: Amend s737(1) of the Social Security Act to enable full-time students to access Special Benefit.

Recommendation 11: Develop a model social security response with capacity to assist all people in Australia affected by an emergency or disaster, including people on bridging visas, student visas and skilled/seasonal work visas.

Recommendation 12: Amend section 10161JH of the *Social Security Act* 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 with 'home'.

Recommendation 13: Enable waiver of a victim-survivor's debt where their false statement was made under duress or as the result of coercion by the perpetrator, by amendments to sections 1237AAD of the *Social Security Act* and section 101 of the *Family Assistance Act*.

Recommendation 15: Reinstate the limitation of six years on debt recovery on social security debts.

Recommendation 16: Amend DSP qualification criteria outlined in section 94 of the *Social Security Act* to remove the program of support requirement; or, include clear criteria for exempting a person from the requirement.

Recommendation 17: Reintroduce the Treating Doctor Report as part of the DSP claim package, ensuring it is billable under Medicare, which requires introduction of a new Medicare item number.

Recommendation 18: Ensure adequate funding to allow for comprehensive reform based on the recommendations of the Workforce Australia Inquiry.

Recommendation 19: Develop social security legislation outlining mutual obligations activities, ensuring decision making is delegated to appropriately trained Services Australia officers, with decisions fully appealable.

Recommendation 20: Pending abolition of the Targeted Compliance Framework, introduce a non-punitive approach to mutual obligations developed in consultation with people directly affected by the system, peak bodies and experts, that allows decision makers to consider the full set of circumstances informing individuals' ability to comply, including each person's specific situation and the impact of natural disasters.

Recommendation 21: Bring forward recommendation 75 of the Workforce Australia Inquiry and commence work as soon as possible to build a Commonwealth Employment Service.

Recommendation 22: Cease the Work for the Dole program and reallocate that funding to provide wage subsidies in social enterprise for people experiencing long term unemployment, as per ACOSS's recommendation in its 2024 Budget submission.

Recommendation 23: Reinstate Sickness Allowance.

Recommendation 24: Review the current Disability Support Pension legislative framework to enable people with disability or chronic debilitating health conditions who are extremely-long-term unemployed to be granted Disability Support Pension.

Recommendation 25: Allocate funding to undertake detailed review of the current operation of Centrepay and the effective design of policies and process, informed by community consultations – including with Aboriginal community-led organisations – to ensure Centrepay's objective to empower financial capability and prevent financial abuse is met.

Recommendation 26: Transition enhanced Income Management to a voluntary "opt in" regime with no provision for designated bodies to refer participants to any forms of Compulsory Income Management.

Recommendation 27: Transition all existing Compulsory Income Management regimes to Voluntary Income Management regimes to ensure that the core principles of choice and self-determination are central to any reforms.

Recommendation 28: Design policies and processes related to Income Management with an emphasis on the people they are meant to serve", consistent with recommendation 10.1 of the Robodebt Royal Commission.

Recommendation 29: Introduce sunset clauses to all current compulsory income management arrangements, with all future delegated legislation under Part 3AA of the *Social Security Administration Act* subject to sunset clauses.

Recommendation 30: Review sections 11A(9A), 11A(9B) and 1118(1) of the *Social Security Act* to provide greater consistency of principal place of residence and insurance 'assets' time limits.

Recommendation 31: Make legislative amendment to allow for an unoccupied principal place of residence (or vacant land that was the site of the principal place of residence) and sale

proceeds to be exempt from the asset test for 'a longer period determined by the Secretary', in line with insurance payout exemption extensions.

Recommendation 32: Ensure adequate funding to implement the recommendations of the Robodebt Royal Commission in full.

Recommendation 33: Allocate additional funding to enable Services Australia to employ more Centrelink social workers, also locating more social workers in Centrelink offices

Recommendation 34: Allocate additional funding to enable Services Australia to employ more Indigenous Service Officers and Multicultural Service Officers, and establish additional Mobile Service Centres.

Recommendation 35: Allocate additional funding to enable Services Australia to extend the Community Partnership Pilot.

Recommendation 36: Allocate additional funding to boost SA PLO servicing in custodial settings, to enable comprehensive face-to-face pre-release servicing in all prison settings to facilitate Centrelink claims and referrals to community organisations to assist with travel and accommodation requirements.

Recommendation 37: Allocate additional funding to get more Services Australia onto the front-line, so vulnerable people can access face-to-face' support.

Recommendation 38: Allocate funding to employ and train additional staff, particularly senior staff, to assist with claims and appeals.

Recommendation 39: Allocate funding to the development of Services Australia's IT systems to enable preparation of fit-for-purpose correspondence with Centrelink recipients that meets legal standards.

Recommendation 40: Allocate funding to enable Services Australia to establish a permanent and well-resourced advocates channel for community legal centre solicitors/caseworkers to communicate directly with Centrelink staff regarding client matters.

Recommendation 41: Provide immediate access to increased funding for social security legal assistance in line with the recommendations in EJA's submission to the Independent Review of the NLAP.

Recommendation 42: Increase funding to EJA's member centres providing specialist social security legal assistance and programs through a designated social security funding stream under NLAP.

Recommendation 43: Allocate ongoing additional funding through DSS to support EJA's core functions, with an emphasis on capacity to provide timely and expert analysis to inform Parliament and key departments' considerations of social security law and policy.

Recommendation 44: Fund pre-agreed off-the-shelf recovery packages to enable EJA members to provide specialist social security legal assistance to community members during and post disasters.

Recommendation 45: Fund permanent core disaster response funding to ensure EJA members are able to undertake crucial resource and relationship development, and have the capacity to address current and pending need for specialist social security legal assistance related to natural disasters.

Recommendation 46: Fund EJA member centres to have capacity to provide legal advice to clients pre-Administrative Appeals Tribunal hearings, and establish a system whereby unrepresented clients can access a duty lawyer.

Recommendation 47: Allocate funding to support the work of the Economic Inclusion Advisory Committee to ensure Parliament's consideration of the function and effectiveness of the social security safety net is informed by a strong evidence base.

Recommendation 48: Establish a Social Security Commission to advise on the safe use of automation, social security rates, eligibility and mutual obligation requirements.

Recommendation 49: Allocate funding to establish a Customer Experience Reference Group, to streamline insight to government regarding the experiences of people accessing income support through direct representation and input from representative organisations and peak bodies including Economic Justice Australia and ACOSS.

A. Social Security Law and Policy

6. A robust social security system require law and policy that is responsive to current social needs.
7. This submission seeks reform to a number of specific areas of social security law and policy to address areas in which the system is failing to offer adequate social protection.

Address Rate inadequacy

8. The current cost-of-living crisis highlights the need to raise the rate of working-age social security payments, including JobSeeker Payment, Youth Allowance, Parenting Payment and Special Benefit. Many people on income support report struggling to pay rent and utility bills while being forced to cut down on essential food and medicines. The cost-of-living crisis is critically impacting people receiving social security payments over extended periods because they are more likely to experience the long-term consequences of living in poverty, which compound barriers to re-engaging in the workforce.
9. EJA has long advocated for the level of income support in Australia to be consistent with the right to social security and an adequate standard of living in compliance with Australia's obligations under Articles 9 and 11 of the *International Covenant on Social, Economic and Cultural Rights*. We will continue to advocate for the rate of working-age income support payments to be raised to a level that affords basic dignity.
10. EJA endorses ACOSS's 2024 Budget proposal to lift base rates of working-age payments to the current pension rate. Increasing income support payments to a modest \$78 a day would reduce the number of people in crisis and increase the number of people able to afford the basics, including items such as phone plans and train/bus passes that are essential for meeting their social security obligations. It would also make a positive contribution to the economy, noting during the COVID-19 pandemic our members saw their clients pour the Coronavirus Supplement straight back into basic goods and

services².

11. Importantly, the rate increase should be indexed to both inflation and wages, so that payments retain spending power, with rates increasing twice each year to equal the higher of the two.

➤ **Recommendation 1:** Increase social security income support payment rates to provide parity with pensions, with indexation linked to both inflation and wages.

Introduce/Update Supplementary Payments to address the cost of living

Increase the threshold for Commonwealth Rent Assistance

12. Urgent attention is required to Commonwealth Rent Assistance, (CRA) with the current low CRA threshold doing little to address the cost of ever-increasing rents in many locations; an expense compounded by the significant increases in the cost of living generally. EJA endorses ACOSS's position that a significant increase is required to provide genuine cost of living relief.

➤ **Recommendation 2:** Increase the maximum threshold for Commonwealth Rent Assistance by 60%

Ordinary waiting period and liquid assets test waiting period

13. EJA continues to seek revocation of the ordinary waiting period and the liquid assets waiting period, given the impact of delayed start dates for certain social security income support payments. These delays force people with modest savings to expend all their savings, leaving them without any financial buffer to meet significant ongoing costs such as utility bills and car registration which are extremely difficult to cover on basic income support payments.

➤ **Recommendation 3:** Amend the *Social Security Act* to abolish the Liquid Assets Waiting Period and Ordinary Waiting Period and replace it with a comprehensive means test.

Address increasing poverty in remote Australia

14. The Remote Area Allowance (RAA) has lost value over time. RAA is not indexed and since the last modest RAA increase in 2000, the cost of fuel, food and rent have significantly increased, with food prices in remote areas far exceeding those in other locations. Pre-pandemic research found the cost of food in remote areas was 56 per cent higher than in a district centre supermarket,³ with this divide only increasing since the COVID-19 pandemic.
15. Government and community service delivery has also shifted to an increasing reliance on technology including computers, internet and smartphones. This has placed greater pressure on people with very low incomes to incur technology-related expenses,

² Klein E, Cook K, Maury S, Bowey K. An exploratory study examining the changes to Australia's social security system during COVID-19 lockdown measures Aust J Soc Issues. March 2022, 57(1), pp.51-69.

³ Report on food pricing and food security in remote Indigenous communities, 2020 House of Representatives Standing Committee on Indigenous Affairs. P.11.

including purchasing phones and computers that can access myGov, phone and internet credit, and/or traveling to places where such systems are available.

16. The high cost of living and high rates of poverty in remote areas, particularly in remote First Nations communities, make it essential that the Remote Area Allowance is reassessed. EJA endorses ACOSS's position that the Allowance should be increased to address loss of value over time and indexed.
 - **Recommendation 4:** Increase and index the Remote Area Allowance to reflect living costs in remote communities.

Recognise and assist people struggling with increasing medical costs

17. Many people who have a disability, are injured or have chronic health conditions, are not able to access Disability Support Pension despite limited work capacity but face specific costs associated with their condition, which compounds the difficulty of living long-term on low rates of working age payments such as JobSeeker Payment. This includes people who have enough points to qualify for DSP on the Impairment Tables but cannot qualify for 18 months until they have completed a program of support. EJA calls for the introduction of a Disability Supplement for working age payments to offset the cost of managing medical conditions (consistent with ACOSS's call for the introduction of a similarly targeted payment).
 - **Recommendation 5:** Introduce a Disability Supplement to offset the cost of treatment, transport, aides and other costs associated with managing a disability, injury or chronic illness.

Tackle growing digital exclusion and associated technology-related barriers

18. Poverty remains a significant factor in digital exclusion, with EJA's research into automation and digitisation in social security service delivery revealing many Centrelink recipients are trying to access Services Australia from old phones and devices on which they are unable to install current versions of software. Further, Centrelink recipients' phone access is regularly critically affected by their ability to afford a phone plan, internet plan or pay-as-you-go data.
19. The cost of information and communications technology drastically undermines Centrelink recipients' capacity to maintain reporting requirements (including changes in income, changes in circumstances, and mutual obligations), causing distress as people genuinely struggle to access and retain social security income.
20. While the Telephone Allowance can be paid to people on a few select payments, the current rate of \$35.60/quarter does little to meet the cost of even the cheapest mobile phone or internet service plan. EJA calls for the introduction of a digital allowance.
 - **Recommendation 6:** Establish a Digital Allowance (i.e. reworking and expanding Telephone Allowance) to assist all people receiving income support to afford mobile phones and data.

Improve Access to Special Benefit

Newly arrived residents waiting period

21. The cost-of-living crisis has highlighted the precarious position of 'newly arrived migrants' who lack access to income support due to the four-year newly arrived residents waiting period (NARWP) that applies to most income support payments.
22. Although encouraged to come to Australia to address skills shortages, 'recently arrived' permanent residents are effectively without a safety net if they lose employment. That includes being excluded from Special Benefit for four years despite it being considered the social security payment of 'last resort', with associated low rate of payment and harsh income test.
23. Under the *Social Security Act*, qualification for Special Benefit is restricted to people in severe hardship for reasons beyond their control. While the four-year NARWP may be waived if the person has 'suffered a substantial change of circumstances beyond (their) control' after arriving in Australia, in practice it is very difficult to satisfy the 'substantial change of circumstance' criteria. Our members assist many people in dire circumstances who have been unable to navigate the complex process by themselves.
24. During the COVID-19 pandemic, the four-year NARWP applying to Special Benefit was temporarily suspended for nine months to alleviate the financial crisis experienced by many permanent residents who could not work. EJA members continue to see people in desperate situations who are unable to work but are locked out of income support by the NARWP.
25. EJA calls for the abolition of the NARWP for Special Benefit, noting qualification for Special Benefit is already restrictive and can only be paid to those in financial hardship for reasons beyond their control, with a dollar-for-dollar income test deduction applying to all earnings.
 - **Recommendation 7:** Permanently abolish the newly arrived residents waiting period (NARWP) for Special Benefit, so that people in severe financial hardship have equitable access to the social security safety net.

Extend eligibility to additional visa categories

26. The COVID-19 shutdowns also revealed the severe financial hardship faced by people who, despite having resided legally in Australia for some time (often years), were ineligible for social security income support – including Special Benefit – due to their visa sub-class.
27. Often people had lost employment and could neither work due to public health restrictions nor leave Australia for financial and practical reasons, including travel restrictions and closed borders. These were people our members could not assist despite being in desperate straits; relying on ad hoc charitable relief amidst uncertainty about how long lockdowns and travel restrictions would last:
 - New Zealanders, who continued to be particularly harshly treated by Australia's social security system as a byproduct of the default Special Category Visa through which they enter Australia.

- People on Student Visas and Temporary Graduate Visas, who had been invited to study in Australia, bolstering our tertiary sector, who found themselves unable to work or return home.
 - Temporary Resident (Skilled Employment) Visas and Temporary Work (International Relations) Visas, many of whom were encouraged to live and work in Australia to address labour shortages, and who pre-pandemic were self-supporting and contributing to the economy over many years.
 - People on Bridging visas, i.e. people intending to reside in Australia long term given their bridging visa related to processing of a substantive long-term visa.
28. Additional to the genuine grief and distress experienced by individual people, short-sighted, dismissive policy appears to have done long term reputational damage to Australia's international reputation, particularly in the education sector, with broad ranging flow on effects to the economy.
29. EJA seeks the development of improved emergency response models, noting a variety of models introduced by other governments internationally, including New Zealand's Emergency Benefit which was paid to eligible holders of temporary work, student and visitor visas.
- **Recommendation 8:** Provide all New Zealand citizens living in Australia on Special Category Visas with access to Special Benefit.
 - **Recommendation 9:** Extend the list of visa sub-classes that attract Special Benefit, with extended coverage including:
 - Bridging Visas, all sub-classes
 - Student Visa
 - Temporary Resident (Skilled Employment) Visa
 - Temporary Work (International Relations) Visa
 - Temporary Graduate Visa
 - **Recommendation 10:** Amend s737(1) of the *Social Security Act* to enable full-time students to access Special Benefit.
 - **Recommendation 11:** Develop a model social security response with capacity to assist all people in Australia affected by an emergency or disaster, including people on bridging visas, student visas and skilled/seasonal work visas.

Improve the Domestic and Family Violence Response

30. EJA commends the Government on recent changes to the *Social Security Guide* which have greatly improved capacity of Centrelink staff to recognise and respond to victim/survivors of domestic violence, however, we remain concerned about the operation of Crisis Payment.
31. Particularly, the *Social Security Act* states that a person may qualify for Crisis Payment if they:
- remain in their home following removal of a family member due to domestic or family violence (1061JHA); or
 - experience extreme circumstances forcing their departure from home (1067JH).

32. Unfortunately, the nexus of Crisis Payment with the family home can have unintended consequences. The *Social Security Guide* outlines (at 3.7.4.20) that:
- ‘home’ is taken to be the person's house or other shelter that is the fixed residence that the person would have lived in for the foreseeable future. Fixed residence includes a house, apartment, on-site caravan, long-term boarding house or moored boat. A home is not a refuge, overnight hostel, squat or other temporary accommodation.
33. That means it excludes victims of family and domestic violence who are living in substandard accommodation or are experiencing homelessness even though they may be the most vulnerable of claimants and in crisis. For example, our members have seen people denied Crisis Payment because they have been living in a tent when the incident occurred, with no alternative accommodation available to them.
34. Such exclusions do not reflect the policy intention of Crisis Payment, which is to provide urgent support to people who are trying to escape family or domestic violence and are forced to leave the place they reside or are in a situation where the perpetrator has left that place.
- **Recommendation 12:** Amend section 10161JH of the *Social Security Act* 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 with ‘home’.
35. EJA’s research report, *Debts, Duress and Dob-ins: Centrelink compliance processes and domestic violence*⁹, found that victim/survivors of domestic violence are unfairly being held responsible for social security debts, including debts that are a direct result of the actions of their abusers.
36. As outlined in the report, the most effective means of guaranteeing victim/survivors are not held responsible for such debts is to ensure that domestic violence is a specific consideration when determining if “special circumstances” exist to warrant waiving recovery of a debt under section 1237AAD of the *Social Security Act* and section 101 of the *Family Assistance Act*.
37. The special circumstances waiver provisions currently require that recovery of a debt may only be waived in the special circumstances of the case if the overpayment was not “knowingly” incurred, either by the debtor or “another person”. This wording limits victim-survivors’ access to debt waiver even where it is clear that the debt was incurred as a result of duress or coercion.
38. These provisions are contrary to current understanding of domestic violence, particularly coercive control, which were not within the purview of Parliament when the relevant social security special circumstances waiver provisions were introduced. They are also contrary to understandings of domestic violence which form the basis of the *National Plan to Prevent Violence against Women and Children*.
39. EJA seeks the Government’s attention to this issue. We have previously recommended adding a requirement that special circumstances consideration should only be disallowed if the debt has arisen both ‘willingly’ and ‘knowingly’. This re-wording would enable waiver of a victim-survivor’s debt where their false statement was made under duress or as the result of coercion by the perpetrator. This change would require

amendment to section 1237AAD of the *Social Security Act* and section 101 of the *Family Assistance Act* although EJA is open to consideration of whether this issue may be remedied through changes to the *Guides to Social Policy Law*.

- **Recommendation 13:** Enable waiver of a victim-survivor's debt where their false statement was made under duress or as the result of coercion by the perpetrator, by amendments to sections 1237AAD of the *Social Security Act* and section 101 of the *Family Assistance Act*.
40. A victim/survivor of domestic violence may also be liable for a debt directly incurred by the perpetrator of violence if a perpetrator makes false statements to Centrelink regarding the victim's payments, even when the victim had no knowledge of those false statements. That means a victim of violence remains liable for a debt when a perpetrator has lied directly to Centrelink without the victim's knowledge, and the money has been paid to the victim but spent by the perpetrator.
 41. EJA seeks changes to section 1237AAD of the *Social Security Act* and section 101 of the *Family Assistance Act*) which preclude waiver where the debt was caused by a false statement, misrepresentation, or failure to comply by "another person", so that victim-survivors of domestic violence are not forced to repay debts that are the direct result of abuse.
 42. We propose that the wording of those sections be amended to ensure that access to special circumstances provisions is not precluded by conduct that is not authorised by the debtor. As above, we would also support changes to the *Guides to Social Policy Law* that achieve the same effect.
 - **Recommendation 14:** Enable waiver of a victim-survivor's debt where it results from the false statement or false representation of "another person" where unknown to the victim/survivor or having occurred under coercion or duress, by amendment to section 1237AAD of the *Social Security Act* or section 101 of the *Family Assistance Act*.

Re-introduce Time Limit on Social Security Debts

43. There is no clear rationale for current and former social security recipients to be on a different footing from other debtors to the Commonwealth, yet there is no time limit on when the Commonwealth may seek to recover an old (alleged) social security debt. This practice makes it almost impossible for individuals to appeal old debts given difficulty recalling and recovering evidence.
44. EJA supports the *Robodebt Royal Commission Report* recommendation that the Commonwealth:
 - repeal s 1234B of the *Social Security Act* and reinstate the effective limitation period of six years for the bringing of proceedings to recover debts under Part 5.2 of the Act formerly contained in s 1232 and s 1236 of that Act, before repeal of the relevant sub-sections by the *Budget Savings (Omnibus) Act (No 55) 2016 (Cth)*.
45. This amendment should also be extended to include repeal of section 42B of the *Student Assistance Act*, section 93B of the *A New Tax System (Family Assistance) (Administration)*

Act 1999, and section 192A of the *Paid Parental Leave Act*.

46. This recommendation is particularly pressing given the public's significant loss of faith in the social security debt recovery process as a result of Robodebt, which arguably has been exacerbated by the recent findings of the Ombudsman into the unlawfulness of income apportionment.
 - **Recommendation 15:** Reinstate the limitation of six years on debt recovery on social security debts.

Abolish the Disability Support Pension – Program of Support

47. EJA commends the recent changes to the Disability Support Pension (DSP) Impairment Tables.
48. Our primary concern regarding access to Disability Support Pension remains the operation of the program of support (POS) as set out in the Ministerial Instrument, the *Social Security (Active Participation for Disability Support Pension) Determination 2014* (the Instrument).
49. A person who is assessed as having an impairment rating of at least 20 points under the Impairment Tables is considered to have a 'continuing inability to work' if they score at least 20 points under a single Impairment Table, or they score at least 20 points but not 20 points from a single table AND they have actively participated in a program of support (POS) for at least 18 months over the previous three years.
50. Consequently, a person who has scored 20 points or more across more than one Impairment Table but not 20 points from any single Table, will generally not qualify for DSP until they meet the POS requirement.
51. EJA has long argued that there is no rational basis for differentiating a person who scores an impairment rating of 20 or more under the DSP Impairment Tables from someone with multiple impairments that, in combination, are equally if not more severe in functional impact.
52. Many people do not find out about the POS requirement until they have spent many months on a protracted DSP claim resulting from the need to gather specific medical evidence and delays in Services Australia processing. When added to the POS requirement this means that, despite qualifying with 20 points, it can take more than two years for a person to be granted DSP.
53. In fact, there is no actual program (or funding allocation) named 'program of support'. The requirement is met by engaging with a government-funded employment services provider.
54. Rather than finding the POS supportive, many people experience it as unproductive, and the process distressing, particularly when they are in pain and needing to turn up routinely to appointments for 18 months. Further, they find the long wait for DSP frustrating and demoralising.
55. There is provision under the Instrument to terminate a POS and to excuse a person from having to complete a POS for DSP eligibility if 'the person was unable, solely because of his or her impairment, to improve his or her capacity to prepare for, find or maintain

work through continued participation in the program’.

56. Unfortunately, our members report difficulty getting service providers to release individuals from their POS (including when they fit the criteria or their condition has actually deteriorated and they are very ill), noting there is no economic incentive for service providers to do so. This leaves people trapped undertaking a POS despite there being no possibility of their being able to undertake paid work at the end of the 18-month period.
 - **Recommendation 16:** Amend DSP qualification criteria outlined in section 94 of the *Social Security Act* to remove the program of support requirement; OR, include clear criteria for exempting a person from the requirement.
57. Many people struggle to understand the evidence requirements associated with claiming DSP, including healthcare practitioners who are asked to supply evidence. Incomplete or mistargeted medical evidence results in delays in claims being processed and valid claims being rejected.
58. Often healthcare practitioners are reluctant to provide evidence given doing so can be time consuming and their work is not billable through Medicare. Many people trying to claim DSP are not able to pay for a private medical report.
 - **Recommendation 17:** Reintroduce the Treating Doctor Report as part of the DSP claim package, ensuring it is billable under Medicare, which requires introduction of a new Medicare item number.

Restructure Employment Services and Mutual Obligations

59. EJA has welcomed the findings of the Workforce Australia Inquiry and requests urgent action to implement the recommendations of the *Rebuilding Employment Services - Final report on Workforce Australia Employment Services*.
 - **Recommendation 18:** Ensure adequate funding to allow for comprehensive reform based on the recommendations of the Workforce Australia Inquiry.
60. Recent rates of participant suspensions are shocking, noting that from July 2022 to September 2023, 70 per cent of participants with mutual obligation requirements who moved through Workforce Australia Services were subject to at least one suspension⁴. These high rates have resulted from the combination of a range of factors including reporting mechanisms that are not fit for purpose, the quality of decision making, and the location of decision making outside the social security system.
61. EJA seeks a legislated compliance framework developed in consultation with people directly affected by the system, peak bodies and other experts - to ensure it can work.
62. That framework should be firmly located within the *Social Security Act* and *Social Security Administration Act* which delegates decision making to appropriately trained Services Australia officers. The system is, after all, about access to social security.
63. The new framework should ensure no decision is fully automated, and that all

⁴ Workforce Australia report

suspensions and other penalties are fully appealable.

- **Recommendation 19:** Develop social security legislation outlining mutual obligations activities, ensuring decision making is delegated to appropriately trained Services Australia officers, with decisions fully appealable.
64. EJA understands that reform of employment services is a complex public policy operation but seeks urgent action, noting more than 700,000 people are currently required to engage with employment services. The rate of payment suspensions clearly highlights systemic issues with the current system. To reduce ongoing harms, EJA urges the Government to bring forward specific reforms as quickly as possible while major structural reforms are in process.
 65. In particular, EJA recommends acceleration of the Workforce Australia Inquiry recommendations 57 and 62 which relate to the JobSeeker compliance system, as our member centres report an overrepresentation of vulnerable groups among payment suspensions. These suspensions and other penalties have significant consequences which also often undermine affected persons' job-seeking efforts.
 66. There are many reasons why a person may have difficulty meeting or reporting requirements, not all of which are in their control. Practical factors such as homelessness, lack of access to a mobile phone or the internet, or personal issues such as mental illness are not always considered a 'reasonable excuse' under current arrangements, with decision makers allowed limited discretion.
 67. Further, following a natural disaster, mutual obligations are often paused for a short period (commonly four weeks) for people in specific Local Government Areas. These short pauses regularly barely scratch the sides of the longer-term disruption that individuals face while entire communities scramble to recover housing, essential services and infrastructure. In some instances, people can seek extensions but the onus remains on those traumatised individuals who are without access to their normal resources.
 68. Instead, mutual obligation extension periods should be based on realistic assessment of post-disaster recovery, with decision makers able to make discretionary decisions that extend well beyond the current powers of the Secretary to make determinations re: exempt classes of people and the limited list of factors that can be considered a 'reasonable excuse' for failing to fulfil mutual obligations.
 69. Here, EJA asserts that a little more flexibility and compassion exercised to a small group of income recipients during times of disaster will do nothing to undermine or destabilise the system as a whole.
 - **Recommendation 20:** Pending abolition of the Targeted Compliance Framework, introduce a non-punitive approach to mutual obligations developed in consultation with people directly affected by the system, peak bodies and experts, that allows decision makers to consider the full set of circumstances informing individuals' ability to comply, including each person's specific situation and the impact of natural disasters.
 70. It is imperative that the employment services system moves away from compliance and refocuses priorities on practical and tailored support for cohorts who need these programs the most.

71. Within that, the quality of decision making and access to adequate right of review is foundational to an effective system, which is why this area of government responsibility should be moved back into the public service. Responsibility for jobseeker compliance should rest with public servants who are trained in the foundations of administrative law so that due process is routinely followed.
- **Recommendation 21:** Bring forward recommendation 75 of the Workforce Australia Inquiry and commence work as soon as possible to build a Commonwealth Employment Service.
72. Work for the Dole is a punitive program that costs approximately \$40 million dollars per annum but does not improve employment outcomes. The evidence that Work for the Dole is ineffective has been demonstrated throughout the Workforce Australia inquiry.
- **Recommendation 22:** Cease the Work for the Dole program and reallocate that funding to provide wage subsidies in social enterprise for people experiencing long term unemployment, as per ACOSS's recommendation in its 2024 Budget submission.
73. The requirement to obtain medical certificates every three months while on JobSeeker Payment (or other) while not meeting eligibility requirements for DSP or undertaking a program of support has caused a great deal of distress to people experiencing ill-health and disability.
74. EJA supports the Workforce Australia Inquiry Committee's Recommendation 32 and 33 to reinstate Sickness Allowance and to enable people who are extremely-long-term unemployed to be granted a Disability Support Pension.
- **Recommendation 23:** Reinstate Sickness Allowance.
 - **Recommendation 24:** Review the current Disability Support Pension legislative framework to enable people with disability or chronic debilitating health conditions who are extremely-long-term unemployed to be granted Disability Support Pension.

Fix Centrepay

75. EJA supports the Government's efforts to improve Centrepay's policies and processes to meet its objective 'to assist Customers in managing expenses that are consistent with the purposes of welfare payments, and reducing financial risk'.
76. While Centrepay allows bill payments to be deducted directly from Centrelink payments before funds reach the intended income support recipient, its purpose continues to be undermined by predatory and unconscionable business practices and a lack of processes allowing effective consumer engagement.
77. EJA recognises that the Government has taken action to address some of the harms perpetrated by Youpla/Aboriginal Community Fund Benefit policy holders, however, unscrupulous businesses are continuing to target people without sophisticated financial literacy, including locking people into contracts for rapidly depreciating products at many times the recommended retail price, and continuing to take payments for products after the contracted fees have been paid.
78. EJA recently made submissions to the Income Management Senate Inquiry, and also

wrote to Minister Shorten on 23 March 2023 with eight other services providers⁵ outlining our concerns and proposals to improve the current Centrepay system. In summary, EJA seeks:

- Greater prioritising of payments for essential services, with non-essential payments time-limited
 - Clear and accessible records of purchase
 - Clear and specific obligations and sanctions regarding business compliance
 - Greater transparency re: consumer leases arrangements (including items' recommended retail price), with mandated target amounts for cost of lease and monthly cap on payments
 - Improved processes for stakeholder engagement including supportive consumer interface and effective complaints mechanism, and a Centrepay consumer advisory board comprising key stakeholders and decision makers which reports to the Minister.
- **Recommendation 25:** Allocate funding to undertake detailed review of the current operation of Centrepay and the effective design of policies and process, informed by community consultations – including with Aboriginal community-led organisations – to ensure Centrepay's objective to empower financial capability and prevent financial abuse is met.

Abolish Compulsory Income Management

79. EJA has provided detailed direct input in relation to the *Social Security (Administration) (Enhanced Income Management Regime - State Referrals and Commonwealth Referrals and Exemptions) Determinations 2023 Bill* via [submission](#).
80. We reiterate our recommendations below, noting these are consistent with those of the Australian Income Management Network:
- **Recommendation 26:** Transition enhanced Income Management to a voluntary "opt in" regime with no provision for designated bodies to refer participants to any forms of Compulsory Income Management.
 - **Recommendation 27:** Transition all existing Compulsory Income Management regimes to Voluntary Income Management regimes to ensure that the core principles of choice and self-determination are central to any reforms.
 - **Recommendation 28:** Design policies and processes related to Income Management with an emphasis on the people they are meant to serve", consistent with recommendation 10.1 of the Robodebt Royal Commission.
81. Further, we recommend the introduction of a sunset clause on compulsory income management arrangements:
- **Recommendation 29:** Introduce sunset clauses to all current compulsory

⁵ Anglicare NT, Catholic Care NT, Consumer Action Law Centre, Financial Counselling Australia, Financial Rights Legal Centre, ICan, Mob Stong Debt Help, South Australian Financial Counsellors Association

income management arrangements, with all future delegated legislation under Part 3AA of the *Social Security Administration Act* subject to sunset clauses.

Improve the Social Security Disaster Response

82. Our members have been at the forefront of social security legal assistance provision to communities during and after disasters for 30 years.
83. It is as a result of that experience with disaster affected clients that EJA has raised pressing policy issues including 'disaster' being ignored as a 'special circumstance' for debt waiver and deciding whether a person is a member of a couple, e.g. former partners temporarily co-habiting (while co-parenting) due to very limited housing supply – issues that may be addressed through changes to policy.
84. Significant natural disasters are resulting in people being stuck in limbo while systemic disaster recovery, reconstruction and resilience responses (including state government buy-back schemes) are slowly rolled out amidst chronic building labour shortages.
85. Simultaneously, many people are unaware that they're subject to critical Principal Place of Residence (PPR) time limits that could result in their income support payments being cut off.
86. There are currently effectively three PPR assets tests in operation, depending on whether a person:
 - Sold their home before 1 Jan 2023 (1 year + 1 year)
 - Sold their home after 1 Jan 2023 (2 year + 1 year)
 - Temporarily left their home (1 year + 1 year)
87. Shorter time periods apply to the period in which a person must have made reasonable efforts to purchase, build, repair or rebuild their home for the above time limits to be relevant, depending on whether they:
 - Later sold their home before 1 Jan 2023 (6 months)
 - Later sold/sell their home after 1 Jan 2023 (1 year)
 - Temporarily left their home (6 months)
88. There is also an anomaly regarding insurance payment, which are exempt assets indefinitely as long as a person intends to use the money for repairs, noting income deeming provisions may apply after two years.
89. We have received clear feedback from members working with community workers in disaster affected areas that most people are not aware of these time limits. Those workers are also concerned about how a person might demonstrate they have previously made 'reasonable efforts' to remedy their housing issues in an environment where people haven't taken specific actions in the short term because 'everyone knew there were no builders and no houses for sale. It was all over social media. It was all anyone talked about'.
90. Importantly, PPR asset test exemptions are available for an unlimited period where an individual is outside Australia and unable to return due to reasons beyond their control. We seek extension of this same generosity to people who are unable to return to their PPR post natural disaster through no fault of their own.

- **Recommendation 30:** Review sections 11A(9A), 11A(9B) and 1118(1) of the *Social Security Act* to provide greater consistency of principal place of residence and insurance 'assets' time limits.
- **Recommendation 31:** Make legislative amendment to allow for an unoccupied principal place of residence (or vacant land that was the site of the principal place of residence) and sale proceeds to be exempt from the asset test for 'a longer period determined by the Secretary', in line with insurance payout exemption extensions.

B) Adequate Process and Service Provision

91. The Government has committed 'to restore the public's trust and faith in government and its institutions – reforms that put people at the centre and promote integrity'⁶. That commitment requires additional resourcing to improve service provision.
92. The social security system has evolved over more than 100 years in response to changing economic conditions and social values. Successive reforms to better target payments have resulted in a complex system of requirements that is beyond the grasp of most, requiring substantial systems to enable access and maintain accurate payments.
93. Our member centres see thousands of people each year who are locked out of the system for weeks or months because they are unable to navigate claim or appeals requirements. Many others are unable to get through our advice lines or are turned away.
94. The recommendations below address fundamental issues of access, noting the *Social Security (Administration) Act* requires regard to 'the delivery of services under the law in a fair, courteous, prompt and cost-efficient manner' (Section 8, (a)(iii)).
95. EJA is aware the Government is taking urgent action to address systemic service delivery issues, and welcomes the recent allocation of \$228 million to improve frontline Centrelink services amidst ongoing efforts to transform service delivery. We understand these funds will increase Services Australia's call centre staff.
96. Lengthy call wait-times, hang-ups and the dropping out of calls from Services Australia's telephone system is well documented: issues that result in frustration and distrust of government services, while also acting as a barrier to people claiming payments, meeting appeal time limits and fulfilling their legal reporting obligations.
97. We support expenditure to bolster staffing of Services Australia's call centres, and a review of the AI systems currently in place – with input from people with barriers to digital engagement with Centrelink and who therefore rely on phone access.
98. This submission seeks additional funding and recommends targeted spending to address fundamental access issues and improve consistency of advice to people - particularly vulnerable people - trying to establish their Centrelink entitlements.
99. Implementation of these recommendations will:
 - reduce stress on vulnerable people who are often distressed by their dealings with Centrelink and feel failed by the system

⁶ Government Response to the Royal Commission into the Robodebt Sceme, p. 5.

- reduce burden on Services Australia staff tasked with dealing with frustrated, upset and angry people
 - reduce costs of staff undertaking the time-consuming processes of review and appeal where problems have arisen
 - reduce demand on EJA member centres who are struggling with demand to assist with basic issues of access at the expense of legal advice to others who cannot get through
100. This submission does not argue against effective digital systems but it is worth noting that the relentless push towards automation and IT-based solutions has come at significant cost to many individuals, and also failed as a straightforward strategy to reduce government spending. While Centrelink recipients cry out for efficient telephone services and more face-to-face services, Robodebt and the write-off of the welfare entitlement calculator alone have cost hundreds of millions of dollars.
101. It is essential that the Government implement policies and processes with an emphasis on the people they are meant to serve. This means facilitating easy and efficient engagement with online, in person and telephone communication which is sensitive to the particular circumstances of the client cohort, including itinerant lifestyles, lack of access to technology, lack of digital literacy and issues arising from rural and remote living.

Implement the Robodebt Royal Commission Recommendations

102. EJA welcomed the Federal Government's response to the Robodebt Royal Commission and its commitment to treat people on income support with respect. EJA calls for full implementation of all 56 recommendations, noting that while the Government has accepted 49 recommendations it has limited its committed to 'in principle' support for the remaining seven recommendations.
103. EJA recognises that full implementation of the Royal Commission's recommendations will require significant funding and calls on the Government to ensure adequate provision is made in the 2024-25 Budget.
- **Recommendation 32:** Ensure adequate funding to implement the recommendations of the Robodebt Royal Commission in full.

Increase access to Centrelink social workers

104. Centrelink social workers are uniquely equipped to work with clients with complex needs, helping vulnerable people and those in crisis to access correct payments, avoid debts and access appeals processes. Their input also removes the burden from front-line staff struggling to manage heightened behaviours of people who are angry or in distress.
105. For example, EJA notes that access DSP can be particularly problematic for people with psychosocial disability across already vulnerable cohorts - including people in remote First Nations communities and refugees. While a person may have strong claims for DSP, without access to support to navigate the claim process many are effectively relegated to JobSeeker Payment or other activity tested payments indefinitely or until they reach Age Pension age. They can also be at high risk of payment suspensions and

non-payment penalties due to an inability to comply with mutual obligation requirements.

106. EJA's research into the experience of women escaping domestic violence⁷ clearly indicates better outcomes for clients when they have timely access to Centrelink social workers. Unfortunately, our members report many people in crisis struggle to access Centrelink social worker support, often waiting two to three days to speak to a social worker even when appointments are offered during initial Centrelink contact.
107. EJA members lament the removal of social workers from Centrelink offices. Face-to-face interviews increase the likelihood of disclosure of difficult or traumatic issues given workers are better able to build rapport than during a telephone call. Further, local Centrelink social workers are well placed to make warm referrals to relevant local community support organisations. EJA calls for the re-establishment of Centrelink office social work units, staffed to respond to local needs.
- **Recommendation 33:** Allocate additional funding to enable Services Australia to employ more Centrelink social workers, also locating more social workers in Centrelink offices.

This recommendation is consistent with recommendation 13.4, and also recommendations 10.1 and 13.3 of the Robodebt Royal Commission.

Expand specialist access staff services - Indigenous Service Officers, Multicultural Service Officers and Mobile Service Centres

108. Similar to the critical role played by social workers, our members consistently see how the involvement of Indigenous Service Officers, Multicultural Service Officers, and staff from Mobile Service Centres make a critical difference - establishing basic access for people with complex needs who are otherwise locked out of the system, and making appropriate referrals to address urgent issues including family and domestic violence and homelessness.
109. Spending in this area has the potential to provide targeted engagement with disadvantaged clients at critical points, including addressing issues before they escalate into legal problems. Ultimately, these services provide a streamlined mechanism to help people struggling with Centrelink's systems to claim and maintain correct payments.
- **Recommendation 34:** Allocate additional funding to enable Services Australia to employ more Indigenous Service Officers and Multicultural Service Officers, and establish additional Mobile Service Centres.

This recommendation is consistent with recommendation 10.1 and 13.3 of the Robodebt Royal Commission.

Extend the Community Partnership Pilot

110. EJA welcomed the Community Partnership Pilot which has co-located Community Partnership Specialist Officers in community services trial sites around Australia. These officers have proven invaluable - addressing questions regarding social security eligibility for people in very

⁷ EJA, Debt, Duress and Dob-Ins: Centrelink Compliance Processes and Domestic Violence, 2021.

difficult circumstances, including people who are homeless.

111. We have seen great results from the partnership model which has provided the type of wraparound service required to support clients in quite desperate straits. We anticipate that evaluation of the pilot will show this approach has been very successful. We seek the continuation and expansion of the Community Partnership Pilot into an ongoing program.

- **Recommendation 35:** Allocate additional funding to enable Services Australia to extend the Community Partnership Pilot.

This recommendation is consistent with recommendation 10.1 and 13.3 of the Robodebt Royal Commission.

Expand SA Prison Liaison Officer Services

112. People leaving prison often require assistance to secure income security upon release, which is essential for a successful transition from prison back into the community. This support needs to be commenced prior to release to organise the claiming of Centrelink payments, engagement with employment service providers, and referral to community organisations for essential services.

113. Services Australia's Prison Liaison Officers (PLO) program provides valuable support to prisoners via phone appointment prior to release, however, phone services are often not as effective as face-to-face services which have recently become difficult to access.

114. Further, our members are seeing clients who have not been offered pre-release support, or they have been given only rudimentary advice to go to the closest Centrelink office and claim Jobseeker Payment. This has resulted in payment delays that were entirely predictable as people had not been informed that in order to claim a Centrelink payment, they require:

- proof of identity documents
- a contact address
- a bank account (which they cannot open as they lack proof of identity)

115. Such rudimentary issues are preventing claims being lodged or assessed and leaving people who have just been released from prison with absolutely no money, with consequent flow on effects. In the Northern Territory, our member centre NAAJA's Throughcare service has found it necessary for staff to meet Aboriginal people from remote communities upon their release and take them immediately to Centrelink, where they have stood together in line sometimes for two hours or more to claim payment, to avoid the probability of clients otherwise sleeping rough or in the long grass.

116. Here, we note the need for targeted PLO services for First Nations people given higher rates of incarceration but also mutual obligation suspensions and penalties, disability, chronic illness, general disengagement from the social security system, and homelessness.

117. Our members are also seeing people struggling to reclaim payments they were receiving prior to incarceration, with terrible consequences, where adequate pre-release support could have facilitated an effective claims process. This includes claims for Disability Support Pension, Carer Payment, Parenting Payment Single and Family Tax Benefit.

118. We are concerned that the dropping away of Services Australia's presence in custodial settings over recent years is placing highly vulnerable people at risk of homelessness and

triggering long-term issues regarding resettling into the community and re-engaging in work, with further knock-on effects.

- **Recommendation 36:** Allocate additional funding to boost SA PLO servicing in custodial settings, to enable comprehensive face-to-face pre-release servicing in all prison settings to facilitate Centrelink claims and referrals to community organisations to assist with travel and accommodation requirements.

This recommendation is consistent with recommendation 10.1 and 13.3 of the Robodebt Royal Commission.

Increase Frontline Services

119. As outlined above, nothing is more effective than face-to-face engagement with clients who are vulnerable, distressed and/or experiencing a crisis. Face-to-face engagement often gets people on payment quicker and increases the likelihood of people being paid the correct payment because they feel more comfortable disclosing their full circumstances.
120. Putting people back at the centre of Centrelink service provisions requires increased accessibility to expert staff in local Centrelink offices as well as increased outreach to vulnerable members of the community. As recommended by the Robodebt Royal Commission, 'More "face-to-face" customer service support options should be available for vulnerable recipients needing support.'

- **Recommendation 37:** Allocate additional funding to get more Services Australia onto the front-line, so vulnerable people can access face-to-face' support.

This recommendation is consistent with recommendation 13.3, and also recommendation 10.1 of the Robodebt Royal Commission.

Build Staff Expertise

121. Social security is inordinately complicated, and most people do not understand the system of payments administered by Centrelink or the many specific conditions attached to their payments. Consequently, the role of Centrelink officers is critical to people accessing and maintaining correct payments.
122. As the Government has recognised, more investment in Centrelink staffing is required. Training thousands of staff to expertly fulfil their role no doubt poses enormous challenges but is an issue requiring utmost priority. EJA support the Robodebt Royal Commission's recommendation of the establishment of a 'Knowledge College' within Services Australia to provide much needed training, noting in-depth training used to be a standard requirement for Centrelink (Department of Social Security) staff.
123. Particular effort is required to boost the capacity of Authorised Review Officers (AROs). Our member centres are seeing long delays in completion of internal reviews and time pressured AROs making hasty review decisions that fail to address all relevant issues. Further, the quality of decisions appears to have been reduced by a reliance on 'template decisions' instead of customised decisions, with decision letters being increasingly opaque.

124. These changes are concerning as poor internal decision-making standards inhibit procedural fairness for individuals and point to rule of law issues on a systemic level. They also reduce faith in the system and leave people uncertain about whether Centrelink decisions are correct, including whether they are receiving correct payment.

- **Recommendation 38:** Allocate funding to employ and train additional staff, particularly senior staff, to assist with claims and appeals.

This recommendation is consistent with recommendation 23.5, and also 10.1 of the Robodebt Royal Commission.

Ensure correspondence meets legal standards

125. Urgent investment is required to address IT systems constraints which are producing social security debt notices that in EJA's view fail to meet legislative requirements. At the very least, notices need to meet the requirement prescribed by s 1229 of the *Social Security Act*, that a debt notice specify 'the reason the debt was incurred, including a brief explanation of the circumstances that led to the debt being incurred.' This standard applies regardless of whether the debt notices are generated by a person or an automated system.

126. Currently, debt notices (and the MyGov screens to which people are referred) simply state the amount a person was over-paid over a specific period, the amount that they were entitled to, and the difference that they owe. For example:

You received \$6500 based on your estimated family's income of \$60,000. However, as your actual family's income was \$80,000 you were only entitled to \$5000. The excess amount of \$1500 is a debt you owed us.

127. This does not provide the person with sufficient information regarding 'the reason the debt was incurred', or an 'explanation' of the circumstances that led to it.

128. EJA members have observed that clients receiving debt notices are often bewildered and upset as they cannot understand why they have a debt, so cannot work out what to do next: whether to accept they owe a legal debt; whether to appeal the quantum; or whether to seek waiver of recovery on the grounds of administrative error and/or 'special circumstances.

129. Further, debt notices are so opaque that our members' expert caseworkers and lawyers are also unable to advise their clients of the best means to proceed. Current debt notices are not fit-for-purpose.

130. SA is consulting with EJA and other national peak organisations on developing new iterations of standard debt letters but we remain concerned that IT system constraints have resulted in revised templates which in EJA's view, continue to fail to meet statutory requirements. That includes a lack of information regarding the cause of the debt (which can make it apparent whether or not it results from administrative error), and the inability to modify standardised text outlining appeal rights, for example, from 'if you think the decision is wrong' to 'if you think the decision is unfair' (which obfuscates the possibility of debt waiver if a debt is correct but recovery is unfair).

- **Recommendation 39:** Allocate funding to the development of Services Australia's IT systems to enable preparation of fit-for-purpose correspondence with Centrelink recipients that meets legal standards.

This recommendation is consistent with recommendation 10.1 of the Robodebt Royal Commission.

Consolidate and continue the advocates' channel

131. EJA's member centres provide social security legal advice to thousands of people each year, prioritising those who are unable to navigate Centrelink's systems and facing serious financial difficulty.
132. Over the last few years, our members' social security legal services have been hampered by the erosion of advocates' access to decision-makers within Services Australia with the knowledge and capacity to exercise discretion in the interests of vulnerable clients, particularly those with technical expertise and an understanding of administrative review rights. This problem has undermined access to justice for those trying to access the social security safety net.
133. We applaud the Government's adoption of the Robodebt Royal Commission's recommendation to create a 'national advocate's line' to enable more effective engagement with advocacy groups, and the launching of the pilot advocates' channel to streamline access for EJA member centre advocates to appropriate Services Australia staff. This will not only ensure that highly vulnerable clients are dealt with promptly, it will relieve pressure on Centrelink frontline staff while streamlining service provision by our member centres.
134. We seek ongoing funding to ensure the findings of the pilot inform roll-out of a permanent and properly resourced advocate's channel in 2024/25.
 - **Recommendation 40:** Allocate funding to enable Services Australia to establish a permanent and well-resourced advocates channel for community legal centre solicitors/caseworkers to communicate directly with Centrelink staff regarding client matters.

This recommendation is consistent with recommendation 12.1 of the Robodebt Royal Commission.

C) Funding for community legal centre social security specialists

135. The social security system is complex and difficult for individuals to navigate. Many people are in desperate straits after:
 - being unable to access the system and left with no income support
 - remaining on the wrong payment despite repeated attempts to claim the correct payment
 - having a debt raised which is wrong or for the wrong amount
 - being unable to access the review/appeals system.
136. Lack of access to legal assistance can have long term consequences. For the most vulnerable, barriers to accessing Centrelink entitlements and appeal rights can contribute to a snowballing series of issues that can become catastrophic. Yet we know that many people are unable to get through on our advice lines or are being turned away.

137. Despite the broadly recognised value of our members' work, successive changes to the legal assistance funding framework have reduced the capacity of community legal services to deliver specialist social security legal advice and representation, limiting access to justice and undermining the integrity of the social security system.

138. Our member centres' capacity is critical given:

- There is no private sector equivalent where people can seek legal advice, and Legal Aid does not provide representation for internal Centrelink appeals in any state or territory, and limited or no assistance for Administrative Appeals Tribunal (AAT) appeals in most jurisdictions.
- Structural changes have decreased access to appeals mechanisms. That includes ARO decision letters becoming increasingly opaque, the abolition of the Social Security Appeals Tribunal, and now the proposal to abolish the less formal first tier of the AAT. Currently, in the AAT General Division, applicants who cannot access Legal Aid or assistance from an EJA member centre frequently represent themselves against the Commonwealth's legal representatives, who are often from a large top tier law firm. That can result in hearings where the legal process includes a serious risk of unfairness due to the imbalance of power and resources available to both parties. Abolition of the first tier in the new ART is likely to exacerbate this issue.
- Successive budget cuts reducing staff numbers and training, the introduction of IT systems which have undermined effective interactions with staff, and the long-term effects of the Covid response and fall out from Robodebt have undermined Services Australia's provision of effective services.

139. Additional funding is required to meet the high unmet demand for specialist social security legal assistance, noting our members also perform an important public interest role. For example, EJA's lobbying drawing from member-based research resulted in important recent changes to the Social Security Guide to assist people experiencing family and domestic violence relationships. This pro-active work by member centres was largely unfunded but has had a significant systemic impact (as recognised by the Robodebt Royal Commission).

Provide an immediate increase in funding for specialist social security advice

140. A review of the National Legal Assistance Partnership is currently underway, however, a new legal assistance funding framework will not commence until 2025. In the meantime, we require an increased allocation of funding to our member centres who are drowning under the weight of demand.

- **Recommendation 41:** Provide immediate access to increased funding for social security legal assistance in line with the recommendations in EJA's submission to the Independent Review of the NLAP.

Increase funding to the National Legal Assistance Partnership (NLAP)

141. We are seeking increased funding and a designated funding stream for social security legal work under NLAP to address urgent need for specialist social security legal assistance and programs provided by our member centres. Due to the specialist nature of social security

legal assistance, we seek the support of DSS to fund this designated stream, as it has done with NDIS legal assistance funding. It is also essential the Government recognises the importance of the public interest role played by our members, in line with Recommendation 12.4 of the Robodebt Royal Commission, and increase funding to allow EJA and members to fulfill that role.

- **Recommendation 42:** Increase funding to EJA’s member centres providing specialist social security legal assistance and programs through a designated social security funding stream under NLAP.

This recommendation is in line with recommendation 12.4 of the Robodebt Royal Commission. Further, this recommendation would enable EJA to fulfil its role as recommended at 12.3.

Provide ongoing funding to EJA through the Department of Social Services

142. The Department of Social Services (DSS) provided EJA with one-off funding of \$200,000 for the 2023-24 financial year. This was in addition to the core funding received pursuant to our grant under the Families and Communities Service Improvement Program.
143. This additional funding made a significant difference to EJA's operation - consolidating internal administrative functions, boosting the timely broadcasting of important changes to social security policy and process to members, and increasing our capacity to engage with member centres to ensure analysis of their on-the-ground experiences informs development of social security policy and service delivery. Importantly, this funding supported our capacity to engage closely with DSS and Services Australia to provide input on proposed policy and service delivery changes.
 - **Recommendation 43:** Allocate ongoing additional funding through DSS to support EJA’s core functions, with an emphasis on capacity to provide timely and expert analysis to inform Parliament and key departments’ considerations of social security law and policy.

This recommendation is in line with recommendation 12.4 of the Robodebt Royal Commission. Further, this recommendation would enable EJA to fulfil its role as recommended at 12.3.

Fund the Social Security Disaster Response

144. There is a direct relationship between disasters and legal issues relating to social security payments. Problems extend beyond access to emergency payments and short term increased demand in specific locations to include issues arising from domestic dislocation, trauma, family violence, mental and physical health challenges, and isolation. Further, disasters create newly vulnerable cohorts, including people who have never previously interacted with the social security system.
145. As the number of disasters intensifies, EJA’s poorly funded member centres are struggling to meet demand, both during the disaster and addressing issues that continue for months and years afterwards. That includes our work responding to the 2019/20 Victorian ‘Black Summer’ bushfires, the 2022 NSW Northern Rivers floods, and

the 2022/23 Ex-Tropical Cyclone Ellie in the Kimberley region of WA.

146. EJA supports the proposed "pre-agreed off-the-shelf recovery packages" proposed by Senator Watt, however, this arrangement falls short of supporting our members to provide sustainable and effective community-led responses to guarantee appropriate post-disaster income support.
147. EJA seeks permanent core disaster response funding for specialist social security legal assistance to support our members to develop and implement comprehensive disaster preparedness programs, conduct immediate post-disaster outreach, and provide continuous legal support to affected communities – which would guarantee faster and better results. Permanent core disaster funding is particularly important to ensure we have specialist social security caseworkers available when disasters occur.
 - **Recommendation 44:** Fund pre-agreed off-the-shelf recovery packages to enable EJA members to provide specialist social security legal assistance to community members during and post disasters.
 - **Recommendation 45:** Fund permanent core disaster response funding to ensure EJA members are able to undertake crucial resource and relationship development, and have the capacity to address current and pending need for specialist social security legal assistance related to natural disasters.

D) External Advisory and Decision-making Bodies

148. Additional funding is required to support the establishment and development of consultative oversight and appeals bodies to improve the integrity of the social security safety net.

Ensure access to legal advice at the Administrative Review Tribunal

149. EJA has recently provided a submission to the Inquiry into the Administrative Review Tribunal Bill 2023 (ART Bill) and the Administrative Review Tribunal (Consequential and Transitional Provisions No.1) Bill 2023 (Consequential and Transitional Bill) outlining why we cannot support the Bills in their current form.
150. Although the Bills incorporate various welcome measures designed to enhance access to external review, we believe these will be counteracted by the critical impact of the abolition of the two-tier system currently in place for certain jurisdictions, particularly for social security and family assistance matters.
151. The complexity of social security legislation, and the preponderance of discretionary provisions, result in evidence requirements that can only be met if they are understood. In practice, most people do not, or simply are not able to, access legal advice before appealing to the AAT, and consequently the first tier is often the first time they are provided a clear and detailed reason for Centrelink's adverse decision.
152. If the proposed new Administrative Appeals Tribunal model is implemented, with its single-tier to hear social security matters, it will be vital that applicants can access legal advice pre-hearing so they understand the issue being argued, the evidence required, how to go about collecting that evidence. For most people, the single tier will be their only opportunity to have their matter reviewed.

- **Recommendation 46:** Fund EJA member centres to have capacity to provide legal advice to clients pre-Administrative Appeals Tribunal hearing, and establish a system whereby unrepresented clients can access a duty lawyer.

Support the Economic Inclusion Advisory Committee

153. EJA welcomes the establishment of the Economic Inclusion Advisory Committee as an independent statutory body to provide expert advice to Government on economic inclusion, strategies to address disadvantage, and the adequacy, effectiveness and sustainability of income support payments. We note the Bill to establish the Economic Inclusion Advisory Committee has passed.
154. EJA seeks funding to ensure the Economic Inclusion Advisory Committee is adequately funded for detailed consideration of available data and the development of strategies to address structural issues in our income support system that entrench poverty and disadvantage, also ensuring compliance of social security law and administration with public law principles and human rights standards, including regarding automated decision-making and the digitisation of service provision.
- **Recommendation 47:** Allocate funding to support the work of the Economic Inclusion Advisory Committee to ensure Parliament’s consideration of the function and effectiveness of the social security safety net is informed by a strong evidence base.

Establish a Social Security Commission

155. Further to the establishment of the Economic Inclusion Advisory Committee, the Government should establish a Social Security Commission to advise on the social security system’s compliance with public law principles and human rights standards, including regarding the use of artificial intelligence and automated decision making in social security processes. A Social Security Commission is needed to monitor and audit automated decision-making processes, with regard to both their technical aspects and their impact on fairness, avoidance of bias, and client usability, consistent with Recommendation 17.2 of the Robodebt Royal Commission.
- **Recommendation 48:** Establish a Social Security Commission to advise on the safe use of automation, social security rates, eligibility and mutual obligation requirements.

Establish a Customer Experience Reference Group

156. The Government has agreed that ‘service design should respond to community need, and the methods of service delivery should be as effective and efficient as possible’⁸.
157. More effort is required to obtain timely community feedback in a deliberate and measured way to inform effective service delivery strategy, allowing early warnings of systemic issues.
158. The Government has agreed in principle to the development of a customer experience

⁸ Commonwealth of Australia, Department of the Prime Minister and Cabinet, Royal Commission into the Robodebt Scheme – Government Response, November 2023.

reference group to provide streamlined insight regarding the experiences of people accessing income support. It is important that membership includes direct representation and input from representative organisations and peak bodies including Economic Justice Australia and ACOSS.

- **Recommendation 49:** Allocate funding to establish a Customer Experience Reference Group, to streamline insight to government regarding the experiences of people accessing income support through direct representation and input from representative organisations and peak bodies including Economic Justice Australia and ACOSS.

This recommendation is consistent with recommendation 12.2 of the Robodebt Royal Commission, noting inclusion of EJA on the Customer Experience Reference Group would also be in line with recommendation 11.4 and 12.3.

Establish an Automation Safety Commission

159. EJA recognises the Government has recently established advisory bodies to provide guidance on the safe and ethical use of Artificial Intelligence (AI) and automated decision making (ADM). While these bodies are welcomed, EJA seeks a commitment to fund an overarching regulatory body such as an Automation Safety Commission.

160. The AI Commission should have a mandate to advise the proposed Social Security Commission on the safe and ethical use of ADM in social security systems. Membership of the Automation Safety Commission should comprise representatives of diverse stakeholders for whom Artificial Intelligence and Automated Decision Making present the highest risks.

- **Recommendation 50:** Establish an ongoing Automation Safety Commission with technical expertise to provide oversight over automated decision-making systems and AI used by Government, to ensure compliance with automated decision making law, regulation, human rights and best practice standards.

161. A first task of the Automation Safety Commission should be an independent audit of automated systems currently in use by DSS, Services Australia and DEWR to identify applications and processes that may not meet lawfulness and other legal standards. The outcomes of this audit should be publicised to ensure transparency and accountability.

- **Recommendation 51:** Conduct an independent audit of Government Departments' use of AI and ADM to administer social security and employment services programs, and publish the results.

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