

Statement of Katherine Boyle

Name: Katherine Boyle

Address: Known to the Royal Commission

Occupation: Executive Director, Welfare Rights Centre NSW

Date: 20 October 2022

1. This statement made by me accurately sets out the evidence that I am prepared to give to the Royal Commission into the Robodebt Scheme.
2. This statement is true and correct to the best of my knowledge and belief.
3. I make this statement on behalf of the Welfare Rights Centre NSW (**Welfare Rights Centre** or **Centre**) and I am authorised to do so.

Professional background

4. I am currently the Executive Director of the Welfare Rights Centre. I have been in this role since mid-2019.
5. In mid-2016, I commenced as Coordinator/Principal Solicitor at the Welfare Rights Centre, which at that stage was the most senior role. In 2019, the role was split to create the separate roles of Executive Director and Principal Solicitor.
6. Prior to working at the Welfare Rights Centre, I worked at Macquarie Legal Centre (now Western Sydney Community Legal Centre) as a solicitor. I have also worked and volunteered at a number of other community legal centres over the years and have worked in private practice as a criminal lawyer, as well as a Legal Officer for LawAccess NSW.
7. Prior to admission as a solicitor, I worked in the NSW Public Service and for the Public Service Association of NSW.

8. My primary responsibilities as Coordinator and now as Executive Director of the Welfare Rights Centre are strategic planning and implementation, financial and staff management, fundraising, and public advocacy for a fairer social security system.
9. I am also a solicitor with experience in both criminal and civil law. I now specialise in social security law and have represented many clients in both internal and external appeals, including a number of clients impacted by the Robodebt Scheme.
10. In addition to my role at the Welfare Rights Centre, I am also the Deputy Chair of Economic Justice Australia, the peak advocacy organisation for a fair social security system. However, I make this statement as the Executive Director of the Welfare Rights Centre.

The Organisation

11. The Welfare Rights Centre was incorporated in 1984 as a company limited by guarantee, but came into existence a year earlier in 1983, as a service of Redfern Legal Centre.
12. The Welfare Rights Centre is an independent, not for profit, community legal centre which provides specialist legal advice about social security and family assistance law.
13. The Centre strives to make Australia a fairer society by protecting and advancing the rights of people entitled to benefits under the social security system. We aim to help reduce poverty, hardship and inequality, by promoting the development and maintenance of an equitable, accessible and efficient social security payment and review system that is grounded in law.
14. The Welfare Rights Centre provides legal information, advice, legal and non-legal support, assistance and representation to NSW residents who have been adversely affected by a decision made under social security and family assistance legislation. We represent clients at all stages of the internal and external appeals

process. We also refer clients to other services for assistance with other legal and non-legal matters.

15. The Welfare Rights Centre runs a Disability Support Pension (**DSP**) Clinic which specialises in assisting NSW residents to understand DSP eligibility criteria, appeal rejections of payment claims and to gather evidence in support of internal and external appeals.
16. The Centre operates a partially funded Domestic Violence Clinic which provides advice and representation to people, usually women, experiencing or at risk of domestic violence to access their social security entitlements and challenge unfair debts. The Domestic Violence Clinic also employs a specialist domestic violence community worker to assess safety risks, provide referrals to appropriate services and help the lawyers gather information and evidence of domestic violence.
17. The Welfare Rights Centre also operates a comprehensive community legal education, communication and engagement program that targets both recipients of Centrelink payments and community workers who work with them, with a recent focus on reaching more Aboriginal and Torres Strait Islander people.
18. The Welfare Rights Centre's single largest source of funding is from the National Legal Assistance Partnership, supplemented by one-off Government payments, and philanthropic and other non-Government funding, which is usually temporary in nature.
19. In the years preceding and following the introduction of the Robodebt Scheme in 2016, there was significant funding instability at the Welfare Rights Centre. This was due to the sudden cancellation in 2013/14 of an ongoing State Government grant amounting to 40% of the Welfare Rights Centre's funding. Although this loss of funding was partially ameliorated by a series of grants, these were one-off in nature and never guaranteed. By the time the Robodebt Scheme was introduced, the Welfare Rights Centre's funding had reduced by one-third compared to its income in 2012/13. Although the Welfare Rights Centre's funding has gradually increased since 2017/18, nearly a third of our current annual funding is one-off funding and not guaranteed.

20. The sudden drop in funding and the ongoing funding instability precipitated a necessary restructure and loss of highly skilled and experienced staff. By the time the Robodebt Scheme commenced, the Welfare Rights Centre's legal practice had been reduced to three staff members, which, while highly skilled and experienced, did not have the capacity to respond to the overwhelming demand for help from NSW residents.

Case Work Services

21. During 2016/2017, the Welfare Rights Centre experienced a very significant overall increase in demand for its services, the majority of which was not related to the Robodebt Scheme. The majority of inquiries were from people experiencing problems with suspension or cancellation of their income support payment, delays in decisions on their payment claims, rejection of payment claims and problems with the rate of income support payment. Over 10% of people contacting the Centre had little to no income to live on. A small but significant number of our clients were women experiencing or at risk of domestic violence whose payment had been cancelled and had been notified of very large debts (up to \$250,000) because Centrelink had claimed that they were in a relationship with the perpetrator of the violence. Because of the desperate circumstances of these clients, the Welfare Rights Centre was compelled to prioritised their interests over those affected by debt matters, including robodebts. This impacted the Centre's ability to respond to the surge in demand for debt advice and our capacity to raise the alarm about the Robodebt Scheme.
22. When the Robodebt Scheme commenced, the Centre did not have systems in place that enabled robodebt cases to be identified in CLSIS (the client database used at that time), as distinct from other kinds of Centrelink debt matters. After switching to CLASS (a new client database that nearly all community legal centres were required by the Federal Government to install), a system was developed by which we endeavored to identify and record clients affected by the Robodebt Scheme, including retrospectively. In the past year the Centre discontinued this practice, primarily because it was no longer considered necessary to distinguish between robodebts and other kinds of Centrelink debts. However, we now know

from examination of recent Freedom of Information releases that people continue to contact the Centre for assistance regarding debts which originated as robodebts.

23. Our database indicates that there was a 14% increase in the number of people approaching our service about a Centrelink debt between the 2015/16 and 2016/17 financial year, during which time the Robodebt Scheme was introduced.
24. The first request for advice from a client with an identified robodebt was on 8 December 2016. The Centre last used the robodebt identifier in the Centre's client database on 29 September 2021. During this period, we provided a total of 3079 services relating to Centrelink debts to 2824 clients, representing 29% of all of our services (a total of 10,693 people contacted us during this period, not including those who could not get through on our advice telephone line). Of these, we provided 204 services to 165 people affected by the Robodebt Scheme (for the reasons outlined above, this is likely an under-estimate).
25. People who contacted the Welfare Rights Centre about their suspected robodebt were confused, distressed, agitated and angry. They did not understand why Centrelink was contacting them about their earnings from many years ago, were confused by the process and shocked at the size of the debts received. In every case where we assisted clients, the debts were reduced after it was recalculated on the basis of payslips or information obtained from bank statements, rather than on averaging the income.
26. The Centre established a Debt Clinic in March 2017. This was in response to the large number of people contacting us about their Centrelink debt (and the even larger number of people contacting us about other kinds of Centrelink problems), and the need to efficiently determine which of these debts were robodebts. Individuals who contacted the clinic in relation to an income debt were referred to the Debt Clinic.
27. The Debt Clinic was supervised by a Centre solicitor and staffed by law student volunteers. The volunteers prepared Freedom of Information requests for clients to lodge with Services Australia. Under the supervision of the solicitor, they also provided basic information about income debts, the debt waiver provisions, evidence needed, appeal rights and the potential risks in appealing. Clients were

asked to recontact the Centre when they had received the documents from Services Australia, after which we would be able to provide further advice about their debt, including whether the debt was a robodebt. Around 290 people were referred to the Debt Clinic during the relevant period.

28. Our client database indicates that almost 30% of the people referred to the Debt Clinic did not recontact for advice. This means that we do not know the outcome of their Freedom of Information request, or whether they had a robodebt.
29. It is possible that some of these clients did re-contact but were unable to get through on our intake line. At the time we did not have the ability to monitor unanswered calls to the Welfare Rights Centre. However, for some time we have been able to monitor unanswered calls, including calls from telephone numbers that never get through. These records indicate that over half of people attempting to contact the Welfare Rights Centre by phone are never answered, representing over one thousand people every year. Given the proportion of people that contacted us about their robodebt, it is reasonable to estimate that around 160 people attempted to contact the Welfare Rights Centre for advice about their robodebt but we were unable to answer their call.
30. Clients with suspected robodebts who were especially vulnerable or who had very large and complex income debts were referred directly to one of the solicitors for advice. These cases took between months and years to resolve, involving thousands of hours of work for the Centre. Representation of clients in internal and external appeals entailed at least fifty hours of work for each client.
31. Of the people contacting the Welfare Rights Centre for help with a robodebt:
 - a. 44% were in receipt of Newstart Allowance at the time alleged debt;
 - b. 15% were in receipt of Youth Allowance;
 - c. 13% were in receipt of Disability Support Pension;
 - d. 6% were in receipt of Parenting Payment Single;
 - e. 6% were in receipt of Age Pension; and
 - f. the remainder were in receipt of another type of income support payment.

32. The Centre's client data base shows that for clients contacting about debts during this period:
- a. 12% were experiencing or at risk of domestic or family violence;
 - b. 37% had a disability;
 - c. 19% were homeless or at risk of homelessness;
 - d. 7% did not speak English or did not speak it well, and 10% did not read English or did not read it well;
 - e. 8% identified as Aboriginal and/or Torres Strait Islander; and
 - f. 15% had no income at the time they contacted the Welfare Rights Centre for help with their debt (in these cases clients were usually contacting about access to income support, with the debt being a secondary issue).
33. The majority of our services to clients impacted by the Robodebt Scheme (78%) consisted of advice. In 9% of cases, we represented clients to lodge and review Freedom of Information requests and/or appealing debts to the Authorised Review Officer. In 2% of robodebt cases, we represented clients at the Administrative Appeals Tribunal. The Centre did not make any complaints to the Commonwealth Ombudsman, but we referred clients to the Ombudsman in addition to providing them with advice about their social security rights and appeal options.
34. A significant proportion of our solicitors' and caseworkers' time is spent on ascertaining Centrelink's reasons for raising the debt and the method of calculation. This problem was compounded after the Robodebt Scheme commenced.
35. In the Centre's experience there were only two ways we could be sure that a Centrelink debt was a robodebt. Firstly, if the client advised that they had originally received from Centrelink an "Employment Income Confirmation" letter requesting the client to "confirm or update" information received from the Australian Tax Office within 28 days. Secondly, if a Freedom of Information request produced an "ADEX debt schedule" which showed that employment income had been averaged for all or part of the alleged debt period.

36. When advising clients about their debts, whether a robodebt or other kind of Centrelink debt, it is standard for the Centre to caution clients that appealing a debt could possibly result in the debt amount increasing. There are many reasons why a debt may increase on appeal, and while we can usually identify high risk cases, we cannot guarantee in all cases that debts will not increase on appeal. It is also standard for the Welfare Rights Centre to advise clients that Centrelink can refer people to the Commonwealth Director of Public Prosecutions for investigation regarding possible social security fraud, which may result in criminal charges, fines, or a custodial sentence. Although we provide our opinion of the likelihood or otherwise of fraud investigation and criminal charges, which in the vast majority of cases is very low, we cannot discount the possibility, and therefore must include this in our advice to clients with Centrelink debts, including robodebts. Unfortunately, fear of the debt increasing and of prosecution, founded or unfounded, results in some clients deciding not to proceed with appeals.
37. After a client provided to us a decision she had received from the Social Services & Child Support Division of the Administrative Appeals Tribunal setting out legal reasoning as to why the Robodebt Scheme was unlawful, we started to explicitly advise clients that we thought their debt had been calculated using an unlawful method and that they should not have to provide their payslips or bank statements to Centrelink. We offered to represent clients in their internal and external appeals, however few clients accepted this offer as they were concerned about the debt increasing and that a penalty and interest would be added to their debt.
38. It is impossible to determine exactly the amount and cost of any additional workload on the Welfare Rights Centre as a result of the Robodebt Scheme, however, estimates are possible based on what we know about the length of time it takes to provide information, advice and representation services. Based on the provision of 204 services relating to the Robodebt Scheme, this would represent approximately 640 hours work, which is worth between \$30,000 and \$40,000 at the pay rates offered in the community sector for solicitors. The cost to the Centre of meeting the demand from those people who contacted the Welfare Rights Centre but we were unable to answer their call could be a further \$20,000 to \$30,000.

Additional areas of work

39. The Welfare Rights Centre's main conduit for raising its concerns about the Robodebt Scheme was via Economic Justice Australia and through traditional media.
40. Along with other members, the Welfare Rights Centre attended monthly meetings held by Economic Justice Australia (then named the National Welfare Rights Network) and raised its concerns about the Robodebt Scheme. We provided case studies and had input into Economic Justice Australia's submissions to various Government inquiries and consultations.
41. The Welfare Rights Centre raised concerns about the Robodebt Scheme when it attended a (then) Department of Human Services event to test new compliance communications and a demonstration of the new online portal at the Departments Surry Hills Offices on 22 May 2018.
42. The Welfare Rights Centre was also active in raising its concerns in the media.
43. On 5 March 2017, in the Welfare Rights Centre's interview with the ABC Radio National's Background Briefing, the Centre's solicitor stated that:

"Now, what generally happens with income debts, they're usually pretty straightforward. Centrelink contacts the employer, they have some sort of notification, generally it's a cross-check with the ATO or something like that. They've got a question mark in their mind (if Centrelink had a mind) that something's awry here. And so they contact the employer, they ask the employer to provide details of that person's fortnightly payments. They match them up with the Centrelink fortnights through their calculations. And they come up with a figure. And those figures, with income debts, they're generally correct."
44. The Welfare Rights Centre's solicitor goes on to state:

"With this type of debt raising, it's not correct because they are not contacting the employer and asking for the fortnightly amounts [...] It's just completely impossible to understand [...] The debts need to be properly calculated and they're not properly calculated [...] I think completely it's unfair [to put the responsibility onto

the Centrelink customer]. If somebody raises a debt, if any company raises a debt, you have to have a basis for it. And what Centrelink appears to have is a suspicion. And they're asking a person to clarify things for them when they've very well got the power to clarify for themselves.”¹

45. On 3 October 2019, I appeared on behalf of the Welfare Rights Centre at the Senate’s Community Affairs Reference Committee’s Inquiry in Centrelink’s Compliance Program.² At the hearing, I stated that:

“The clients that are contacting us have generally said that they’ve attempted to engage with the system and have not been able to. They didn’t understand it or they didn’t see that there was any point in engaging with the system, because they no longer had the information—the pay slips from their former employers, or bank account statements. Alternatively we still have people who have never received the original letter asking them to go online. They just never received it”.

46. We were interviewed for three stories on the ABC TV 7:30 program, which aired in June 2019,³ July 2019⁴ and in November 2020⁵. We were also interviewed for

¹ Background Briefing, “How Centrelink’s ‘robodebt’ ran off the rails”:

<https://www.abc.net.au/radionational/programs/backgroundbriefing/8319442>

² Hansard transcript of evidence:

https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=COMMITTEES;id=committee_s%2Fcommsen%2Fb930f341-a224-48cb-8439-48f6f4b9ee64%2F0002;query=id%3A%22committees%2Fcommsen%2Fb930f341-a224-48cb-8439-48f6f4b9ee64%2F0000%22

³ 7:30 program, “Centrelink accused of chasing debts that don’t

exist”: <https://www.abc.net.au/7.30/centrelink-accused-of-chasing-debts-that-dont-exist/11259084>

⁴ 7:30 program, “Families demand answers about debts Centrelink says are owed by disability pensioners”: <https://www.abc.net.au/7.30/families-demand-answers-about-debts-centrelink/11364264>

⁵ 7:30 program, “Robodebt scheme to cost Government \$1.2 billion after settling class action”:

[https://www.abc.net.au/news/2020-11-16/robodebt-scheme-to-cost-government-\\$1.2-billion/12889370](https://www.abc.net.au/news/2020-11-16/robodebt-scheme-to-cost-government-$1.2-billion/12889370)

a story in the Canberra Times in May 2019⁶ and Guardian Australia in February 2020.⁷

Case Studies

47. The Welfare Rights Centre provides three de-identified individual case studies which illustrate different and problematic aspects of the Robodebt Scheme.⁸
48. The first case study refers to when the Welfare Rights Centre first became aware of legal reasoning developed by Tribunal Member, Terry Carney, that the Robodebt Scheme was unlawful. In July 2017, Corinna (not her real name) contacted the Welfare Rights Centre about her Centrelink debt, which she had appealed to the Social Services & Child Support Division of the Administrative Appeal Tribunal. She provided us with the decision the Tribunal Member had made in March 2017. In this decision, the Tribunal Member found that: *“No debt or debt component is able to be founded on the extrapolations from Australian Tax Office records”* and that *“the earnings components of any recalculated debts as may be raised must be based on and confined to any fortnightly salary records obtainable in the exercise of statutory power to do so (if set in train).”*
49. Corinna informed us that following the decision, which Centrelink had not appealed to the General Division of the Administrative Appeals Tribunal. Centrelink had written to her employers, obtained her payslips and recalculated the debt, reducing it from \$7,400 (based on averaging her income) to \$6000. We appealed the new decision to an Authorised Review Officer, who reduced the debt to \$5300. The Authorised Review Officer confirmed that Centrelink had contacted three of the

⁶ The Canberra Times, “Robodebt’ notices handed out this year have already surpassed last year’s total”: <https://www.canberratimes.com.au/story/6191865/more-than-500m-raised-as-robodebt-ramped-up/>

⁷ The Guardian Australia, “I’ve spent many nights crying’: welfare recipients on the true cost of robodebt: <https://www.theguardian.com/australia-news/2020/feb/23/welfare-recipients-true-cost-centrelink-robodebt>

⁸ To protect client confidentiality, exact debt amounts and dates have not been provided. If required, the Welfare Rights Centre will seek permission from former clients to provide exact dates and debt amounts.

client's employers and obtained pay records as required by the Tribunal's decision. In relation to the client's fourth employer, who was no longer in business, Centrelink accepted Corinna's bank statements in order to calculate the debt.

50. The second case study involves the Welfare Rights Centre's appeal to the Social Services & Child Support Division of the Administrative Appeals Tribunal.
51. Casey (not her real name) contacted the Welfare Rights Centre in May 2018 after being referred by Legal Aid NSW. Casey had received an account payable letter from Centrelink for the amount of \$10,700, a debt it claimed she owed for the 2014/2015 financial year. She had earlier received a letter from Centrelink asking her to confirm her income online but she hadn't responded in time. The debt had now been referred to a debt collection agency which had sent her letters demanding she repay the debt. She had started to make repayments on the debt but was not sure how much she had repaid.
52. Although she had worked and reported her income to Centrelink during the debt period, she accepted that she may have had difficulties in calculating what she had earned during Centrelink's pay fortnight and could have made some mistakes in her reporting as her hours of work and rate of pay varied from fortnight to fortnight. She accepted that she might have a debt, however she did not believe the debt should be anywhere near as large as Centrelink claimed.
53. We advised Casey that it was likely her debt was a robodebt and that it had been calculated by averaging the income she had received from her employment over the financial year. We advised Casey that in our opinion debts raised in this way were unlawful and that the responsibility lies with Centrelink to obtain the required information about her income from employment and that it was unfair of Centrelink to expect her to obtain this information when it has powers under social security legislation to request payslips from her former employers and bank account statements from her bank.
54. We advised Casey of her options. She could appeal the debt to an Authorised Review Officer and further to the Social Services & Child Support Division of the Administrative Appeals Tribunal or she could seek her payslips from her former employer and provide these to Centrelink, or she could do nothing and continue with the repayments. We advised Casey that as we did not know what her actual

earnings were during the debt period at this stage, we could not guarantee that if she provided her payslips to Centrelink or appealed her debt that the debt would not increase.

55. In July 2018 we lodged a Freedom of Information request seeking online recording screens, letters to Casey, copies of any documents provided by Casey to Centrelink and the ADEX debt schedule for any debts raised against her.
56. In August 2018 we received documents in response to the request, including the ADEX debt schedule which showed that during the period Casey was in receipt of Newstart Allowance she had declared various rates of income. It also showed that the debt had been calculated based on averaging Casey's income for long periods of time. For example, it showed that between August 2014 and May 2015, she had earned \$830 for each and every fortnight, except for two fortnights.
57. On Casey's instructions, in December 2018 we appealed the debt to an Authorised Review Officer and wrote submissions in relation to the appeal. We submitted that Centrelink had calculated Casey's debt by averaging portions of her income and had allocated income to fortnights with no evidence as to the actual amount earned by Casey in any particular fortnight, apart from the income reported by her at the time. We further submitted that there may be serious errors in the calculation of Casey's debt as the income allocated to a particular fortnight may be far in excess of what Casey had actually earned. As there was no evidence as to the income actually earned by Casey, we requested that Centrelink find that there is no debt, unless and until it can prove the existence of the debt by obtaining Casey's payslips from her employers for the relevant period. After sending the submissions, we advised Casey to contact us when she received a decision from the Authorised Review Officer.
58. Over the following months we periodically checked with Casey whether she had received a decision, but she had not. In late March 2019, we contacted Centrelink to inquire about the progress of the appeal, but we were told that no decision had been made. We sought that the appeal be expedited.
59. After not receiving any communication from Centrelink, in late April 2019 we advised Casey to lodge a complaint about the delays and how to do this. Casey

replied that she had since received a letter from Centrelink a few days earlier noting that her case had been passed on to an Authorised Review Officer.

60. In May 2019, Casey received the Authorised Review Office's decision, which stated that Centrelink's decision to add a \$960 penalty to her debt had been varied, reducing the amount owed from \$10,700 to \$9,800. In their decision, the Authorised Review Officer stated that "*in the absence of payslips of bank statements, the department has apportioned your income over the full 12 month period*", and that "*the information received from the ATO is the most reliable verifiable information about your income*".
61. Following Casey's instructions, in June 2019, the Welfare Rights Centre appealed the decision of the Authorised Review Officer to the Social Services & Child Support Division of the Administrative Appeals Tribunal, representing Casey at the hearing held in August 2019. The Welfare Rights Centre submitted that absent evidence of Casey's actual earnings based on fortnightly data, there is no lawful basis for Centrelink to raise and recover the debt. We submitted that unless Centrelink provides evidence which demonstrates that Casey has under-reported her income in any particular fortnight, the debt should be found not to exist.
62. The Tribunal decided to defer the matter and issue orders pursuant to section 165(1)(a) of the *Social Security (Administration) Act 1999*, to Casey's former employers to provide all of her payslips for the relevant period. The former employers provided the payslips to the Tribunal. Both Casey and the Welfare Rights Centre were provided with the opportunity to make further submissions with regards to the new evidence. Casey checked the payslips and was satisfied that they reflected her earnings at the time.
63. In September 2019, the Tribunal decided to set aside the decision under review and sent the matter back to Centrelink for reconsideration with the directions that Casey's entitlement to Newstart Allowance be recalculated on the basis of the payslips provided by Casey's former employers, that the recalculated debt be recovered and that any payments made by Casey in excess of this debt be refunded to her. In her decision, the Tribunal member stated that "*The Tribunal finds it most curious that the Department made no attempt to ascertain [Casey's]*

actual earnings from the above two employers during the relevant period and instead merely apportioned her gross income of the relevant financial years”.

64. In early October 2019, Casey instructed that she had recently checked her MyGov account and discovered a series of letters from Centrelink dating from September demanding that she continue to pay the debt, with the final letter stating that interest would be added to her debt. She told us that she then logged into her Centrelink account and went into the ‘Money you owe’ section, which stated, for the first time, that she does not have a debt. She said she was confused about what all this meant and contacted Centrelink to find out what was going on. She was told that the debt had been recalculated to \$1200 and that she would receive a refund on what she had already repaid on the debt. Casey checked her account and found that she had received a refund for this amount.
65. The third case study describes a long and drawn-out process for a client.
66. Aisha (not her real name) was a university student and lived in a regional area at the time she contacted the Welfare Rights Centre. While she was at university she received Youth Allowance, supplementing her income with casual paid work, often increasing her hours and taking on new jobs during her university breaks.
67. She contacted the Welfare Rights Centre in February 2019 after receiving an account payable letter from Centrelink for the amount of \$14,300 from August 2013 to June 2017. At the time she contacted the Welfare Rights Centre, she was no longer in receipt of a Centrelink payment. She instructed that during this period she had worked for many different employers but she always reported her fortnightly income to Centrelink.
68. She had received a letter from Centrelink asking her to confirm her income online. She told the Welfare Rights Centre that she had logged onto the online portal at the time to seek an extension of time to gather her payslips, which was granted. She was able to access the payslips from two former employers herself, but was still waiting for her other former employers to find and send her payslips. When only two former employers responded to her request she sought another extension, which was also granted. Despite emailing and ringing her former employers, she did not get a response. She sought another extension from Centrelink, but this was denied. Frustrated and not knowing what to do, Aisha gave

up and did not enter any payment information into the online portal. When she received the account payable letter from Centrelink she was shocked at the size of the debt and decided to contact the Welfare Rights Centre.

69. The Welfare Rights Centre lodged a Freedom of Information request for the ADEX debt schedule, which showed that during the debt period she had eight different employers. For the entire debt period, the ADEX debt schedule listed Aisha as having more than one employer at a time, and for some periods it indicated she had been working for four employers at the same time, which Aisha said would have been impossible. The ADEX debt schedule also showed that for each fortnight she had received Youth Allowance she had reported income, with the amount varying from fortnight to fortnight.
70. The ADEX debt schedule also showed that the debt had been calculated by averaging her income for each financial year of the debt period, for example, between August 2013 and June 2014, Centrelink had averaged her income and had assumed she had earned \$1080 in each of the fortnights during this period.
71. The ADEX debt schedule also contained a curious error. It indicated that between August 2013 and June 2014 Aisha had worked for two employers at the same time, but for the following financial year had worked for no employers. Yet, records showed that she had received fluctuating amounts of Youth Allowance, suggesting she had reported income to Centrelink. Aisha instructed that she had worked for one employer during 2013/2014 and had changed employers in 2014/15. Subsequent analysis of Aisha's payslips for this period bore this out, indicating that in addition to the inherent error arising out of averaging Aisha's income, there was an additional, presumably manual, error when Aisha's employment dates were entered into Centrelink's system.⁹
72. After reviewing the ADEX debt schedule, the Welfare Rights Centre advised Aisha that her debt had been calculated based on averaging her fortnightly income and that in our opinion debts raised in this way were not lawful as the debt had not been calculated based on her actual income for each fortnight. We advised Aisha that she had three options with to the debt. She could continue to seek payslips

⁹ Subject the client's consent, the Welfare Rights Centre is able to provide de-identified documentation in relation to this error.

from her former employers and provide these to Centrelink, appeal the debt to an Authorised Review Officer or do nothing.

73. We advised Aisha that if she provided payslips, Centrelink would recalculate her debt, but if there were gaps it was possible that Centrelink would average her income for those fortnights for which there were no payslips. We advised that the re-calculation may result in Aisha's debt reducing, remaining the same or even increasing (which is technically possible with averaging).
74. We advised Aisha that instead of gathering the payslips, she could appeal the debt to an Authorised Review Officer, and if she does not succeed further appeal to the Social Services & Child Support Division of the Administrative Appeals Tribunal. We advised Aisha that there were risks in appealing and that we could not guarantee that her debt would not increase if she were to appeal the debt.
75. We also advised Aisha that if she chose to do nothing, she would need to either repay the debt or enter into a repayment plan at a rate she could afford to repay.
76. After considering our advice, Aisha decided it was too risky for her to appeal without knowing whether the debt would increase or what the outcome of the appeal would be, so she decided to continue her attempt to gather her payslips from her former employers. Although in our view it was preferable for Aisha to appeal to the Authorised Review Officer and if necessary to the Administrative Appeals Tribunal without gathering payslips, on the basis that the debt was unlawful, we respected Aisha's decision and advised and supported her in providing payslips.
77. Despite further attempts at contacting her former employers, Aisha was only able to obtain payslips from a further two former employers. There were also gaps in the payslips acquired, creating an incomplete picture of her earnings. Given the very large number of payslips Aisha had now gathered (albeit still incomplete), we advised Aisha to conduct a "spot check" of the payslips to determine if her fortnightly earnings corresponded to what she had originally declared to Centrelink, which she did, instructing that from what she could see she had reported her income correctly. On this basis, we advised Aisha to submit to Centrelink what payslips she has and await for the debt to be recalculated. We would then lodge a further Freedom of Information request to see if averaging had

been used to calculate the remainder of her debt. If averaging had been used, we would consider advising Aisha to appeal to an authorised Review Officer.

78. Aisha followed our advice and submitted her payslips to Centrelink in April 2019. After not hearing anything from Centrelink for seven months, the Welfare Rights Centre contacted Centrelink on Aisha's behalf in October 2019 to inquire as the progress in the recalculation of the debt. We received a response from Centrelink that the review was in progress and that given the debt covers four financial years, Centrelink was endeavouring to gather information from employers and financial institutions in order to ascertain the income she received during the period.
79. A month after this contact, the Welfare Rights Centre saw a news report from 19 November 2019 that Centrelink had suspended key parts of the Robodebt Scheme (ahead of the decision in the *Amato* case¹⁰). We contacted the client immediately to inform her and to check whether she had received any further communications from Centrelink about her debt, which she had not. We advised her to call Centrelink and confirm what the implications were of the above decision.
80. In December 2019, Aisha instructed that Centrelink had called her to inform her they had finished the review and that the debt had "gone down to \$11,000" from the original \$14,300. She said Centrelink had told her that she can "put in for a second review". She advised Centrelink that she would seek advice before deciding to appeal.
81. Aisha was still confused about how the debt had been recalculated given she had not been able to provide all of her payslips. She instructed that she had received many pages of debt calculations from Centrelink which she did not understand. Angry and frustrated at the process, she instructed us to appeal the re-calculated debt to an Authorised Review Officer.
82. Acting on the client's instructions, we emailed Centrelink in January 2020 to request that the recalculated debt be reviewed by an Authorised Review Officer.

¹⁰ *Amato v The Commonwealth of Australia* (Federal Court of Australia, VID611/2019, 27 November 2019)

83. After receiving the debt calculation documents from Aisha, we reviewed the documents which contained two MultiCal Adjustments¹¹, comprising multiple pages of Casual Earnings Apportionment, Entitlement Calculations and Debt Reports, totalling 39 pages. While it was reasonably clear to us – but certainly not to Aisha – the method used in calculating the debt, there were no records or evidence, such as payslips of Aisha’s actual earnings, just calculations. We noted that on several occasions, the records showed that Aisha had over-reported her income from employment resulting in an underpayment of Youth Allowance.
84. Given that the re-calculated debt had already been appealed to an Authorised Review Officer, we advised Aisha to await the outcome of the appeal as the decision would – or should – provide the basis of the recalculated debt. We also wanted to wait and see what impact, if any, the *Amato* decision would have on Aisha’s debt.
85. In February 2020, Aisha instructed that an officer from Centrelink had contacted her by telephone to inform her that they were missing information about her income from one of her employers and were awaiting for this information to arrive. It was not clear to Aisha or to the Welfare Rights Centre whether this officer was an Authorised Review Officer. However, given we had asked in writing that the debt be reviewed by an Authorised Review Officer, we assumed that the this officer was such an officer.
86. In March 2020, Sydney went into its first COVID-19 lockdown resulting in huge queues outside Centrelink and a sudden increase in demand for help from the Welfare Rights Centre. To manage staff transition to remote working, the loss of volunteers to assist in responding to calls from the public and the increased demand from people with no income seeking access to Centrelink payments, we made the difficult decision to pause all work on our debt matters and focus our limited resources on this very vulnerable group of clients.
87. Accordingly, in late March 2020 we contacted Aisha explaining to her that we would be putting her case on hold for next three months, but asked her to contact

¹¹ MultiCal is s an excel spreadsheet consisting of numerous formulas, a tool used by Centrelink to calculate debts. FOI records are always limited to pdf or printouts of the MultiCal, which means the formulas cannot be checked.

the Welfare Rights Centre if she received a decision from the Authorised Review Officer in the meantime. Aisha instructed that she had recently checked her MyGov account and discovered that the pause on her debt had been extended until 2025, with no explanation as to why, and which was a surprising length of time

88. We also checked with Aisha whether her employment had been affected by the lockdown. She said that fortunately the industry she worked in was exempted from the lockdown rules, but emphasised that even if she did lose her job, she was not keen on engaging with Centrelink again because of her experience with robodebt (at this stage JobKeeper had not been announced by the Federal Government).
89. In May 2020, Aisha contacted the Welfare Rights Centre. She said that she had received a phone call from Centrelink informing her that they had finished gathering all the information and had recalculated Aisha's debt, which was now "closer to \$5000". Aisha instructed that during this phone call the Centrelink Officer told her that she had just then noticed she had mistakenly not included in her calculations a portion of the debt period and would call her back. Sometime later that same day, the Centrelink Officer called Aisha again to advise that the debt was "back up in the \$9000s". Again, it was not clear to Aisha or to the Welfare Rights Centre whether this officer was an Authorised Review Officer, but we advised Aisha to await the written decision, although we suspected at this stage that the decision had not been appealed to an ARO, despite our request.
90. Later in May 2020, Aisha instructed the Welfare Rights Centre that she had received a one-page letter from Centrelink stating that the debt had been recalculated to \$9,300. We asked Aisha to send us a copy of the letter, but she said that she only had a photograph of the letter which her father had sent her, as it had been sent to his address, where she no longer lived. She also instructed that she had received a letter from Centrelink about the Gordon Legal Class Action.
91. Due to problems with Aisha's email it took some time for her to send the photo of the letter, which was blurry when it arrived. However, it was clear from the photograph that the letter was not a decision from an Authorised Review Officer, but a review by a customer service officer, stating that Centrelink had reviewed the calculations and had further reduced the debt from \$10,500 to \$9,300. There was

no information in the letter about the reasons for reducing the debt or the evidence upon which the debt calculations were based.

92. On 9 July 2020, Economic Justice Australia informed the Welfare Rights Centre that it had attended an information session held by Services Australia on Robodebt refunds and that testing of the refund process had commenced on 1 July 2020.
93. In late July 2020, we contacted Aisha to find out if her debt had been cancelled or if she had received a refund on any repayments made on the debt. We further advised that she should not proceed with the appeal to an Authorised Review Officer until we know more about the robodebt refunds.
94. We contacted Aisha again in August 2020, to check if Aisha has received a refund or any correspondence from Centrelink. Aisha instructed that she had not received a refund or any correspondence from Centrelink, but that MyGov had changed the date for the debt pause from the date in 2025 back to a date in October 2020.
95. We advised Aisha that based on our understanding of the refund process, it appeared unlikely that she would receive a refund following the *Amato* case because Centrelink would believe that it had correctly calculated her debt based on her payslips, assuming it had obtained the payslips from Aisha's former employers. We further advised that it was unclear what impact the Gordon Legal Class Action would have on debts such as Aisha's. We therefore advised Aisha to not pursue an appeal to an Authorised Review Officer until it became clear whether she would be included in any settlement. We advised Aisha that as the debt pause would be lifted from October 2020, she would need to enter a repayment plan to prevent the debt from being referred to debt collectors. Aisha agreed to follow our advice but asked if we could check Centrelink's debt calculations to determine if they were correct.
96. In October 2020, we asked Aisha to provide us with the payslips she had provided to Centrelink so that we could check Centrelink's calculations, but as it was difficult for Aisha to again gather these documents, we lodged a further Freedom of Information request to Centrelink in late October 2020 to obtain copies of all payslips relating to Aisha's employment and for copies of all correspondence between Services Australia and Aisha's former employers.

97. On 16 November 2020, Gordon Legal announced that its settlement with the Federal Government had been approved by the Federal Court of Australia.
98. A few days later we received 238 pages worth of documents in response to our Freedom of Information request for Aisha, which showed that in June and August 2019 and in January 2020, Centrelink had written to each of her former employers requesting information about Aisha's employment and attaching an Employment Declaration form. The form contained a series of questions about Aisha's employment status, her start date, her hours of work and whether those hours varied, whether there had been any breaks in employment, when she stopped her employment, the bank account details into which the employer deposited salary or wages, whether any workers' compensation claims had been made, and whether a bonus/commission had been paid. The form also asked the employer to show the date and amount for each payment to Aisha for a specified financial year, including the dates worked, the dates paid, her gross payment and whether an allowance was paid. Employers were given the option of supplying a computer printout or photocopies of wages books instead of handwriting the responses in the questionnaire. All but one employer provided printouts of payslips in response to Centrelink's request, with the eighth employer providing hand-written dates and wage amounts.
99. As the task of checking each payslip against Centrelink's calculations over four-year period was beyond the capacity of the Welfare Rights Centre, we conducted a spot check of seven fortnights from throughout the debt period, which was an entirely manual process. This process involved first identifying those payslips which corresponded or overlapped with Centrelink's payment fortnight. In five of the fortnights checked, Aisha earned income from more than one employer, with pay fortnights varying from one another and varying from Centrelink's pay fortnight. From this we calculated the Aisha's daily rate for each of the relevant employers. We then checked this against the daily rate cited in Centrelink's "Casual Earnings Apportionment" document. We then added together each of the "pay days" within Centrelink's fortnight to obtain Aisha's earnings for that fortnight and checked this against the total fortnightly earning listed in Centrelink's "Entitlement Calculations" document. We then checked Centrelink's calculations for determining Aisha's fortnightly rate of Youth Allowance based on her earnings. We then cross checked

that fortnightly Youth Allowance rate against the corresponding fortnight in Centrelink's "Debt Report". In each of the seven fortnights the Welfare Rights Centre checked, Centrelink's income and debt calculations were found to be correct, although in each case the "Apportioned Actual Income" listed in the ADEX debt schedule (the averaged amount) was different from Aisha's actual earnings, sometimes three times as much as Aisha's actual earnings for that fortnight.

100. In December 2020, we advised Aisha of the outcome of our spot check of her payslips and Centrelink's calculations, and that it was our view that Centrelink's recalculation of the debt was likely correct. However, we could not guarantee this was the case as we did not have the capacity to check the calculations for each and every fortnight of the debt period. While Aisha was thankful to receive this reassurance and accepted our advice, she remained confused and frustrated that the Centrelink Officer who had contacted her in May 2020 had originally told her that the debt was closer to \$5000, only to tell her later that it was closer to \$10,000. She also said that on MyGov the hold date for debt recovery had shifted from the date in October 2020 to "indefinitely", but there was no explanation from Centrelink as to why there had been yet another change.
101. In late January 2021, we recontacted Aisha to update her on developments in the Gordon Legal Robodebt Class Action and to check whether she had received a letter about the proposed settlement on 25 January 2021. Aisha confirmed that she had received Centrelink's letter. We advised Aisha that as Centrelink had based its calculations on evidence of her earnings, rather than on the averaging her income, she would not receive any kind of refund or compensation under the Gordon Legal Robodebt settlement with the Federal Government.
102. In February 2021, the Welfare Rights Centre closed Aisha's file and provided final advice to Aisha.

Robodebt Scheme views

103. The Welfare Rights Centre echoes the views expressed in the statement prepared by its peak, Economic Justice Australia. In addition, it adds its own views and conclusions regarding the Robodebt Scheme.

104. The Welfare Rights Centre's experience of providing casework services to people impacted by the Robodebt Scheme has led it to conclude that it was an abuse of power committed against some of Australia's most vulnerable people.
105. In our experience, the Robodebt Scheme resulted in inaccurate debts being raised. In each and every case we were involved in, the debt was reduced after it was recalculated based on evidence of actual fortnightly income.
106. It was unfair of Centrelink to expect people to locate payslips from former employers or to gather bank account statements often from six years prior to initial contact from Centrelink. It was unfair to expect people to spend hours entering data into the online portal.
107. Centrelink had the power under social security legislation to obtain this information for itself and perform the calculation based on actual fortnightly data. As the Welfare Rights Centre publicly identified in March 2017, data matching the income declared to Centrelink with income declared to Australian Tax Office records, provided Centrelink with grounds to suspect there is a debt and to commence investigating if there is a debt by seeking payslips from former employers. However, Centrelink did not have grounds to calculate or raise a debt based on averaging the annual taxable income declared to the Australian Tax Office.
108. The process of appealing debts was also unfair. People who requested a review of their debt were not told that their debt would first be reviewed by the Original Decision Maker, rather than being allocated to an Authorised Review Officer as requested. Diversion of appeals to the Original Decision Maker occurred even in cases where the Welfare Rights Centre requested in writing on behalf of its client that a debt be reviewed by an Authorised Review Officer.
109. The inaccuracies in the debt calculations, Centrelink's manual errors in entering information into its system, the lack of communication or adequate explanation as to the manner in which appeal requests would be handled, the delays in finalising appeals, and the confusing debt calculation documentation, undermined the confidence of many people in the integrity and fairness of Australia's social security system.

110. The Welfare Rights Centre was severely under-resourced to respond to the huge number of inquiries generated by the introduction of the Robodebt Scheme. As a consequence, many individuals were not able to access advice about their robodebt and we were not in a position to follow up clients whom we had assisted to obtain records of their debt from Centrelink. Lack of access to advice and representation meant that Centrelink was not held to account for its decision-making in many cases.

Signed: Katherine Bayke

Date: 20 October 2020

Witness: M Ross

Date: 20 October 2020