

Statement of Catherine Eagle

Name: Catherine Eagle

Address: 98 Edward Street Perth WA 6000

Occupation: Principal Solicitor Welfare Rights & Advocacy Service

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. The views I express in this statement are my own based on my experience. I make this statement on behalf of Welfare Rights & Advocacy Service and I am authorised to do so.

1. State your personal details, including:

- (a) your full name;*
- (b) your current position with Welfare Rights & Advocacy Service (the **Organisation**); and*
- (c) your relevant qualifications and professional experience.*

Professional background

4. My name is Catherine Esther Maree Eagle. I am currently the Principal Solicitor of Welfare Rights & Advocacy Service. I have been in this role since October 2004.

5. I am a solicitor and hold a current practicing certificate in Western Australia. I have worked as a solicitor since 1998 in Melbourne, Darwin and Perth and have worked in private practice and in the community legal sector.
6. Prior to working at Welfare Rights & Advocacy Service I worked for Gibson Lyons Lawyers as a solicitor.
7. In my role I provide legal assistance to clients in relation to social security law issues including in relation to their Centrelink payments and Centrelink debts. I supervise the other lawyers and paralegals at our centre who provide legal assistance to clients. I prepare and deliver community legal education including about social security law and where appropriate I take part in meetings with Services Australia and the Department of Social Services with other members of Economic Justice Australia (EJA).

The Organisation

2. *Provide a description of the Organisation, including its:*

- (a) *establishment and history;*
- (b) *purpose, role, and functions;*
- (c) *organisational structure and governance;*
- (d) *legal status;*
- (e) *staffing;*
- (f) *funding and sources of funding; and*
- (g) *the type of services provided by your Organisation.*

Include in your description any significant changes in these features of your Organisation which occurred during the Relevant Period.

- (a) *establishment and history*

8. The Organisation is a specialist community legal centre (CLC) which provides assistance to clients in Western Australia in the area of social security law. It was first established in 1978 by the Trades & Labour Council of WA as the TLC Worker's Compensation Service. The service provided advocacy, information and assistance to union members suffering a work-related injury and pursuing a worker's compensation claim. The service developed an expertise in a range of casework and issues including: debt, social security, housing/tenancy, and legal issues due to union members suffering income loss or reduction and poverty related problems. The TLC Emergency Foundation of WA Inc was incorporated in 1983. It successfully applied for funding including Community Legal Centre (CLC) funding from the mid-1980s. The core areas of CLC activity provided included financial counselling, tenancy assistance, social security, as well as assistance with some minor civil legal matters.
9. In the 1992/1993 Budget the Commonwealth Government created a national funding program for welfare rights and the Organisation received a share of this funding. Initially the service traded as Brewer St Welfare Rights & Advocacy Service and since 1998 the service has traded as Welfare Rights & Advocacy Service. In 2001 the Organisation was granted permission to use its generalist CLC funding in the provision of a specialist service in Social Security law in Western Australia. In 2004 the Commonwealth Attorney General's Department agreed that the Organisation was to be a specialist welfare rights service.

(b) purpose, role and functions

10. The Organisation's stated mission is 'eliminating disadvantage by assisting people to realise their rights to income and housing'. WR&AS provides individual services to clients as well as community legal education. Where we identify systemic issues through our client work we raise these directly with the relevant department or agency (including Services Australia and the Department of Social Services) and/or work with our peak body Economic Justice Australia to raise and attempt to address these issues.

(c) organisational structure and governance and (d) legal status

11. The Organisation is an incorporated association and has been granted a licence for Charitable Collections in Western Australia. It is a Public Benevolent Institution registered with the Australian Charities and Not-for-profits Commission.
12. The Organisation is managed by a board. Current board members are Sally Fox (Chairperson), Daniel Hill (Deputy Chairperson), Rebecca Dennison (Secretary), Anastasia Phylactou (Treasurer), Brendyn Nelson (General Member), Claire Duffy (General Member), Sinead Glackin (General Member) and Mark Elliott (Unions WA nominee).

(e) staffing

13. The Organisation has an executive officer, 3 solicitors and 3 paralegals/advocates. Most positions are part-time. We also have assistance from time to time from law student volunteers and ad hoc pro bono support from the legal profession.

(f) Funding and sources of funding

14. The Organisation is funded under the National Legal Assistance Partnership (NLAP) by the Commonwealth and State Attorney (WA) Generals' Departments and administered by the Department of Justice (WA). The service receives recurrent funding for its tenancy advice and education program from the Department of Mines, Industry Regulation and Safety (WA). Non recurrent grant funding is currently received from the Public Purposes Trust of the Law Society of Western Australia to undertake a Family and Domestic Violence Project in relation to Social Security and Tenancy Law.

(g) The types of services provided

15. The Organisation provides legal assistance to clients including telephone and in person advice and where appropriate (and if we have capacity) we represent clients who are seeking reviews of Centrelink decisions – this includes internal reviews and reviews at the Administrative Appeals Tribunal (AAT). We provide training and advice to other organisations such as financial counsellors, women's refuges, student organisations and generalist CLCs so that they can identify

when clients have social security issues and either assist clients themselves or refer them to us for assistance.

Case Work Services

3. *With respect to the Case Work Services provided by the Organisation to people affected by the Robodebt Scheme, identify and describe:*
- (a) *the nature and types of the Case Work Services that you have provided;*
 - (b) *the range and types of clients assisted with Case Work Services by your Organisation, the types of income support payments they receive, and the nature and types of any identified vulnerabilities in the client group;*
 - (c) *the number of clients the Organisation provided assistance, advice or legal assistance to in connection with matters relating to debt in each year of the Relevant Period. If possible estimate the proportion of those matters relating to Robodebt, and if not possible, explain why;*
 - (d) *the workload involved in providing the Case Work Services including, if possible, an estimate of the number of clients assisted by the Organisation, with:*
 - (i) *complaints to the Commonwealth Ombudsman;*
 - (ii) *FOI applications and processes;*
 - (iii) *review applications to AROs; and*
 - (iv) *assistance or representation in AAT applications; and*
 - (e) *information as to the outcomes of the Case Work Services provided by your Organisation.*

In responding to this question, please:

- (i) *describe the additional estimated workload and cost to the Organisation of providing the Case Work Services;*
- (ii) *identify any additional funding received by your Organisation for the Case Work Services provided; and*
- (iii) *describe any constraints on the Organisation in the provision of the Case Work Services.*

(a) *the nature and types of the Case Work Services that you have provided*

16. **Attachment 1** shows the debt related casework we provided for the 2 years immediately prior to the introduction of the Robodebt Scheme and then relevant years. Whilst we input problem types into the database for each client service where a client seeks assistance with many issues not all problem types might be recorded.

17. The types of casework included legal advice and representation.

(b) *the range and types of clients assisted with Case Work Services by your Organisation, the types of income support payments they receive, and the nature and types of any identified vulnerabilities in the client group*

18. **Attachment 2** is the information we have been able to extract from our database in response to this question. Not all information is recorded for each client – we record data that is relevant and necessary to provide assistance to the client. The vulnerabilities recorded included homelessness or at risk of homelessness, financial disadvantage, disability, currently experiencing family and domestic violence, from a refugee background and requiring an interpreter or having issues with literacy.

(c) *the number of clients the Organisation provided assistance, advice or legal assistance to in connection with matters relating to debt in each year of the Relevant Period. If possible, estimate the proportion of those matters relating to Robodebt, and if not possible, explain why*

19. See attachment 1 – as outlined above it was not always possible to extract from the database which of the debt matters were in fact matters relating to Robodebt.

The reasons for this include (a) that some clients were not sure of the status of their debts when they contacted us and we did not have access to the debt calculations in order to correctly identify whether the debt was a raised under the Robodebt scheme and (b) some clients contacted us due to another issue such as their payment had been suspended and so the matter type may have been recorded as a payment cancellation when advice was also provided about a debt. If the client was advised about a potential prosecution arising from the debt or was assessed to be at risk of prosecution this was coded in our database (and appears in attachment 1) under 'deception and related offences'.

(d) the workload involved in providing the Case Work Services including, if possible, an estimate of the number of clients assisted by the Organisation, with:

- (i) complaints to the Commonwealth Ombudsman;*
- (ii) FOI applications and processes;*
- (iii) review applications to AROs; and*
- (iv) assistance or representation in AAT applications;*

20. It is not possible for us to extract this information from the Organisation's database beyond the information in attachment 1.

(e) information as to the outcomes of the Case Work Services provided by your Organisation.

In responding to this question, please:

- (i) describe the additional estimated workload and cost to the Organisation of providing the Case Work Services;*
- (ii) identify any additional funding received by your Organisation for the Case Work Services provided; and*
- (iii) describe any constraints on the Organisation in the provision of the Case Work Services.*

21. The organisation did not receive any additional funding for the casework services provided. It is not possible to assess the estimated workload and cost of providing these services.
22. The demand for our services outweighs the resources we have available to provide the services. This means that we are always assessing who we can assist and what level of assistance we can provide. For example, some clients are provided with one-off advice and others are represented at the AAT. When there is an increase in demand for our services due to a change in social security law or a change in policy or procedure by Services Australia such as the introduction of the Robodebt scheme then in order to respond to this increased demand we have to reallocate our resources taking into account factors such as the client's vulnerability, whether they are without income, whether by taking on the issue for one client we may be able to improve the situation for more than one client.

(f) Please provide comments in relation to:

- (a) any difficulties encountered by clients in their access to legal services in responding to claimed debts under the Robodebt Scheme;*
- (b) any difficulties encountered by your Organisation in providing the Case Work Services, particularly in comparison to the usual work undertaken by the Organisation, including in its communication with, or obtaining information from, Centrelink, the ATO or any other Commonwealth department or agency; and*
- (c) the accessibility and effectiveness of review options available to clients through:*
 - (i) FOI processes;*
 - (ii) the Commonwealth Ombudsman;*
 - (iii) AROs; and*

(iv) the AAT.

(a) any difficulties encountered by clients in their access to legal services in responding to claimed debts under the Robodebt Scheme;

23. The first issue faced by many people was recognising that they had a legal issue and that there was potentially a legal remedy. When some clients contacted us, they explained that when Centrelink or the external debt collection agencies told them they had to start repaying the debt they did not know about the option of asking for a review.
24. As there was no increase in funding for legal services and as all existing services were at capacity prior to the introduction of the Robodebt scheme then when clients sought legal advice, they had to wait for us to have capacity to respond.
25. We did not have capacity to assist all clients that may have needed representation in the review process with representation and so some clients that we provided advice to may not have persisted with the review process.

(b) any difficulties encountered by your Organisation in providing the Case Work Services, particularly in comparison to the usual work undertaken by the Organisation, including in its communication with, or obtaining information from, Centrelink, the ATO or any other Commonwealth department or agency

26. Many of the difficulties we experienced in dealing with Centrelink, the Ombudsman, and in some cases the AAT during this time were not confined to issues arising as a result of the Robodebt scheme but were exacerbated by the sheer volume of decisions being made once this scheme commenced and the fact that the decision letters did not explain how the debts had been calculated. These difficulties included (a) lengthy delays at every stage of the process, (b) we had very limited access to anyone at Centrelink who had knowledge of the system and of the decisions being made and so who would have been able to

provide us with useful information so that we could provide legal advice to our clients about their circumstances.

27. Another difficulty we faced was to try to understand the legal basis for the debts and then as our understanding of the process changed over time, we had to decide the correct legal advice to provide to individual clients depending on when they contacted us. The online compliance process was difficult for many clients to manage. For some if we advised them to engage with the process and provide details of income this resolved the situation for them - those debts were often reduced to nil or reduced significantly and the person then had confidence that the overpayment calculation was likely to be correct. At other times this advice was not suitable. We gave standard advice to not request a review before obtaining relevant documents under FOI and this delayed the process again for many clients who were experiencing significant stress.
28. The commencement of the robodebt scheme seemed to coincide with more heavy-handed debt recovery processes – it was in the context of these debt notices being issued that we first heard of clients being told to use their credit card to repay debts or to borrow money to repay debts. We encouraged clients to ignore these demands and complain to the Commonwealth Ombudsman.
29. Another difficulty was the lengthy delay for Centrelink to undertake reassessments and the refusal to conduct a formal review unless the person 'provided new evidence'. Some clients contacted us and said they had requested a review months earlier and when we followed up for them, we were told either that there was no record of a request for review or that there was a request for review, but it had not been 'actioned'.

(c) the accessibility and effectiveness of review options available to clients through:

1. *FOI processes;*
2. *the Commonwealth Ombudsman;*
3. *AROs; and*
4. *the AAT.*

30. Although nothing changed in relation to these processes as a direct result of the introduction of the Robodebt scheme we found that the sheer volume of decisions being made put pressure on each of these aspects of the process. Further whenever there was a natural disaster (bushfires, floods, COVID) we were advised that Centrelink staff from all areas including FOI were reallocated to processing claims.
31. Because very few Centrelink staff appeared to have an understanding of the process or a willingness to intervene to resolve issues quickly more clients were required to engage in the formal review process. For example, if a client had been issued with a debt notice prior to this scheme and had walked into their local office with documents showing that the debt was incorrect then if the matter could not be resolved on the spot the staff member would have taken the documents from the client and sent them onto the relevant team resulting in a fairly quick reassessment in most circumstances.
32. It was in the context of dealing with these matters that I first heard an ARO say that they were not prepared/able to look at an aspect of the review but we had to 'go to the AAT'.

Additional areas of work

4. *Identify and describe any work that the Organisation has carried out in connection with the Robodebt Scheme (other than Case Work Services carried out on behalf of its clients) including, but not limited to:*
- (a) *any reviews or analysis of the Robodebt Scheme, including legal and policy aspects of the Robodebt Scheme, and its accuracy, lawfulness or fairness;*
 - (b) *any communications or attempted communications, meetings or engagement with any Government department or agency or any minister (other than representations for individual clients); or*

- (c) *the preparation of submissions to any inquiries, reviews or committees considering the Robodebt Scheme, including any appearances to give evidence.*

In responding to this question, please describe any constraints on the Organisation in carrying out this work.

33. The Executive Officer of the Organisation and I appeared at the Senate Community Affairs References Committee Inquiry into the Better Management of the Social Welfare System Committee at Perth on 21 April 2017 – see Hansard pages 26 – 37 which is **Attachment 3**.
34. The Executive Officer of the Organisation appeared at the Senate Community Affairs References Committee into Centrelink's compliance program on 4 October 2019 – see Hansard pages 1 – 10 which is **Attachment 4**.
35. I appeared at the Senate Community Affairs References Committee into Centrelink's compliance program on 19 August 2021 – see Hansard pages 9 – 17 which is **Attachment 5**.
36. The Organisation provided input into submissions and communications of our peak body EJA during the relevant period.

Case Studies

37. *Include a detailed description of up to ten individual cases undertaken by the Organisation, on either a confidential or named basis, including identifying issues for those people in:*
- (a) responding to an initial letter or claimed debt issued to them under the Robodebt Scheme;*
 - (b) obtaining information they were asked to provide;*
 - (c) communicating with Centrelink or the ATO;*
 - (d) using FOI processes; and*

(e) accessing or engaging in any review processes, including ARO or AAT processes.

37. Case study 1 – Sara

Sara was receiving newstart allowance in late 2016 and working variable hours each week in a casual job. She was caring for her mother. She was also dealing with ongoing harassment and threats from her ex-partner. She had physical injuries that made it difficult for her to work. She received a letter from Centrelink advising her she had a \$12,000 debt. Sara found a book she had kept during the relevant period where she had recorded her work hours and took this into her local Centrelink office. The person she spoke to looked at the debt notice and told her the debt had to be repaid in full in 4 days. She showed the Centrelink worker her records and said that she always reported her income based on her hours and her hourly rate. She could not understand how she had been overpaid and asked them to look at her records and at what she had reported and to check the debt. The Centrelink worker told her that they could not discuss this debt with her. They said that the letter meant she had a debt. She was told to call a debt recovery number.

The person on the debt recovery line told her the debt was correct and to borrow the money to repay the debt 'on time'. Sara panicked. She borrowed the money from a payday lender and repaid the debt. She did not know she could get legal advice. She did not know she could get the debt reviewed. She continued to care for her mother and over time she repaid the full amount to the payday lender plus interest.

In 2020 she noticed that Centrelink had paid her some money. She contacted them and they told her they were refunding the debt amount. They did not tell her why. The amount of \$12,000 was repaid into her account over time. In September 2022 she received a letter advising her that she would be paid a class action settlement payment in the next 2-4 weeks.

She did not understand the letter and so sought advice from us. She explained that her dealings with Centrelink in 2016 in relation to this alleged debt made her scared to claim a payment when she was unable to work and worried whenever she was contacted by Centrelink. She said she was in financial hardship due to having to borrow money at high interest to repay the Centrelink debt in 2016 and did not know that she could have sought a review of the debt or negotiated to repay the debt in instalments. She did not know about our service and that she could have received legal advice.

38. Case study 2 – Ana

Ana contacted us in September 2019 after having spent significant time trying to resolve 3 debts that had been raised. These related to 3 different financial years the first dating back to 2011 and each time she contacted Centrelink to dispute the debts she was given conflicting information. She explained that she suffered from major depression and so was often too tired to persevere with her efforts to resolve the issue. We contacted Centrelink to find out the status of each of the debts and we lodged a request for documents under FOI.

Centrelink provided copies of letters sent to her including 2 letters purporting to be review letters, but which were not decisions of an authorised review officer. After going through the documents provided under FOI it was apparent that the debts were calculated using averaged income. The documents showed that Ana had contacted Centrelink to query the debts on several occasions over about 12 months and provided some fortnightly pay information which resulted in one debt being 'zeroed' after several weeks. On one occasion in May 2019 when she contacted Centrelink and said she disagreed with the use of averaged information the Centrelink worker made a note that 'we don't have new information so unable to put pause on debt recovery – decision affirmed'. The matter was not referred to an ARO. When she contacted in June 2019 to ask about the review of her debt as she was concerned her tax return would be garnisheed unless the review was finalised, she was told 'unable to advise when appeal will be finalised. Unable to guarantee that her tax return would not be withheld'. In August 2019 she called again and was told 'found appeal doc started but unable to confirm if finalised'. There is then a note that the worker

'found an ARO decision dating back to 2015' and went on 'able to confirm doc uploaded by cus (in May 2019) was in relation to this old appeal'. The person concluded that unless the customer provided payslips or bank statements the debts could not be reviewed 'would have to apply to the AAT.' The last document on her Centrelink file dated just before Ana called us stated 'advised (her) that the complaint had been finalised and we are unable to give any details of the outcome... (she) wished to review 2 debts and so tried to transfer call to TDF but call not taken... requested that (she) supply a bank statement and that a bank manager may be able to waive the \$7 per statement fee at their discretion if (she) advised it's for a Centrelink review of debt."

In December 2019 Centrelink garnisheed Ana's tax return. In January 2020 we lodged a request for review at the AAT. We also wrote to Centrelink pointing out that the Amato decision established that debts based on averaging were not lawfully made and asking for recovery action to cease and that Centrelink immediately refund all monies recovered from her to her. In February 2020 we were contacted by an ARO who said they were looking at the debts which were the subject of the review at the AAT and she was not prepared to make a decision about a debt raised using 'averaged income'. They said the 'policy is that it doesn't matter if the Federal Court said this was unlawful. It was a matter for the AAT'.

Four weeks later the AAT made decisions about each of the 3 debts. The one that was based on employment income provided by the client was waived due to her special circumstances and the other two were remitted to Centrelink with a direction to obtain the payroll records from the relevant employers and then reassess her entitlements and notify Ana of the outcome. If she was not satisfied with the outcome she could seek another internal review and return to the Tribunal if necessary.

We wrote to Centrelink again referring to the AAT decisions and asking for implementation of the decisions and that pending any reassessments all recovery action should cease and all money recovered from Ana should be

returned to her. We provided Ana with a copy of the letter and advised her to follow up with Centrelink and then the Commonwealth Ombudsman and her federal MP.

39. Case study 3 – Mohamed

Mohamed was working fulltime in 2018 when he received a letter from Centrelink advising him he had been overpaid youth allowance between 2011 and 2014. During those years he had been studying and working various casual jobs in hospitality mostly between semesters. He contacted Centrelink and explained he had reported his income each fortnight but he no longer had records. He was told that unless he provided income details the debt notice would issue for around \$3500. Mohamed was so stressed about having a debt 'against his name' that he took a day off work to try to resolve the issue. He spent all day on the phone to Centrelink and was told until he pressed 'accept the debt' he could not get details of how the debt had been calculated. He was upset and contacted us for advice. We explained that although unsatisfactory the most efficient (only) way to find out why Centrelink said he had this debt was to 'accept the debt' and then he could seek a review of the debt if appropriate.

He then spent many hours trying to get employment information and bank statements for the period of the 'debt'. He supplied the information he could collect. He heard nothing further and assumed the issue had been resolved and the debt reversed.

Over 12 months later (in mid-2019) he received a debt notice for \$1200. He was told that unless he entered into an immediate repayment plan interest would be charged on this debt.

Mohamed contacted us again for advice. We explained that he could request a review and that entering into a repayment arrangement would not affect his review rights. We suggested he get a copy of the debt calculations from the debt team and then request relevant documents under FOI so we could advise him about a review. Mohamed tried unsuccessfully to get the debt calculations sent to him. Because Centrelink would not give these documents to him, we

recommended that he include this in his FOI request. It took several weeks more for Mohamed to receive the documents he had requested and he then found he could not understand many of them. He sent them to us. We told him that much of the remaining overpayment had been calculated correctly – based on his actual earnings in particular fortnights. It appeared as though when he had reported he had failed to take into account penalty rates for some of his shifts. We explained that part of the remaining debt was still based on averaging and so unlikely to be correct. Mohamed told us that he did not want to challenge the debt – he had no confidence that Centrelink would look at his case fairly or make a correct decision and thought if he asked for a review that would 'make things worse'. The long delays and difficulties in dealing with Centrelink combined with his changed personal circumstances – he had just started a new job which involved high pressure and long work hours led him to decide just to accept the debt which he had repaid in full by this time.

40. Case study 4 – Danni

Danni contacted us in early 2019. She was in her mid-30s and homeless following a motor vehicle accident that left her in pain and unable to work. She said she had an acquired brain injury which made it difficult for her to make decisions and affected her memory. She was depressed.

She told us she had two Centrelink debts that she had been trying to sort out. They dated back to 2013 and covered a 4 year period. At the time she had been in and out of work and on and off payments – newstart allowance. She was contacting us because her tax refund had just been garnisheed even though Centrelink had told her that recovery of her debt had been 'put on hold'. She was in severe financial hardship and had planned to use the tax refund to pay for some temporary accommodation. She said she had been trying to get the debts reviewed.

We agreed to find out whether the debts were Robodebts and what had happened to her request for review. We also advised her to immediately request

a review of the decision to garnishee her tax refund and to lodge evidence of her financial hardship. Centrelink had advised her that this request had to be lodged 'online' and documents had to be provided via MyGov, but we explained that as she did not have access to a computer or smartphone, she could go into her local office to request this review. A week later she contacted us to say the tax refund amount had been returned to her.

We eventually found out that one of her debts had been reviewed by an authorised review officer (ARO) in late 2018 who included the following statement in the Reasons for Decision –

You requested a review because you believe you declared your earnings correctly and the application of averaging the annual income does not reflect your actual earnings.

*Employment income is usually assessed for the fortnight the income is earned. Sometimes it is not possible to determine a fortnightly breakdown and the only means to assess the income is as an annual amount (by using income tax returns, payment summaries/group certificates or other annual amounts). **If every possible means of obtaining the actual income information has been attempted, it is acceptable to use any evidence available including an annual figure** (emphasis added)*

Danni was upset as she had given Centrelink payslips from some employers and also told them they could contact her employers to get her actual employment income. She did not understand what the ARO was referring to when they said, 'every possible means of obtaining the actual income information has been attempted.'

The ARO had affirmed the debt but removed the 10% recovery fee.

When we contacted Centrelink, they agreed to pause recovery of her debts for a further 6 months and we advised Danni not to provide any further documents or

information to Centrelink pending a decision as to what was going to happen to all the incorrectly raised debts.

41. Case study 5 – Andrew

Andrew contacted us in May 2020. He had had 2 youth allowance debts raised dating back to when he was on youth allowance. These totalled \$7000. When the debts were raised, he was no longer on payments. The first he knew of them was a call from a debt collection agency who harassed him calling him at work until he agreed to a repayment arrangement. He had told them that the debts were wrong as during the period he was studying he never received a Centrelink payment at the same time he was working.

He was not told he could ask for a review of the debts. He later received a letter from Centrelink advising him that the second debt had been 'put on hold until 2025.' He contacted them about the first debt but was told this was a matter for the debt collection agency.

We advised him that there were orders made in the Federal Court the previous year confirming that it is/was unlawful for Centrelink to raise a debt relying on averaged ATO income information and that Centrelink should not be continuing to recover the debt including by using an external company. We advised him to call Centrelink's debt recovery number (and then, if necessary, their complaints number) and ask them to stop recovering the debt and to refund him any money he had repaid towards the debt. We advised him to call us again if he was not satisfied with the outcome.

42. Case study 6 – Sam

Sam contacted us in early 2019. He told us he had recently received a letter from Centrelink asking him to confirm employment details for the period 2014 – 2016. He had received newstart allowance around this time but as far as he could recall when he was working, he was not receiving payments from Centrelink. He had asked his employer for details of his pay during the relevant period, but they said they would only provide the information if they received a request on 'government letterhead'.

He told the compliance officer what his employer had said, and they replied that it was 'not their job to contact the employer' and instead suggested he provide bank statements. His bank told him he would have to pay for the statements and he could not afford to do this.

We provided advice about the Online Compliance intervention (OCI) system and explained that his options were to continue to try to get the information or let Centrelink make a decision based on averaged income and then ask for a review of the decision. We advised him that the OCI system automatically worked out a debt by "averaging" the total ATO recorded income amount across the employment period each employer gave the ATO, and that this debt was likely to be incorrect given his circumstances – he was only employed for part of the period, he was only receiving Centrelink payments for part of the period and he had fluctuating income when he was working.

We suggested he contact the Commonwealth Ombudsman to complain about Centrelink's refusal to contact his employer to get the necessary information to check his payments.

We provided advice about the review system and the basis to ask for the debt itself to be reviewed as well as possible grounds for waiver of a debt.

43. Case study 7 – Maria

Maria contacted us in January 2019 for advice after she had spoken to an authorised review officer (ARO) about a \$3000 debt. She said it had taken her months to get Centrelink to review the debt and she was very stressed and upset. She had provided her actual income to Centrelink twice (it was lost the first time) but no one would look at it.

She had been accused of fraud and told she had to use her credit card to make repayments. She had contacted the Commonwealth Ombudsman who took weeks to respond to her complaint and then were 'no help at all'.

When the ARO finally contacted her, she asked whether they had looked at her income information and they said no. They called back the following day and said they agreed that she had not been overpaid. She said the ARO told her that although her debt had been 'reduced to \$0' the matter may 'not be finalised' and that she 'may get a tax debt'. She was terrified that this was the result of her asking for a review.

We advised her that if Centrelink had decided she has no debt then this could not result in a change to her tax liability. We encouraged her to write a letter of complaint to her Federal MP about the treatment she had received from Centrelink as well as the lack of assistance she had received from the Ombudsman.

44. Case study 8 – Joy

Joy contacted us in May 2017. She had been advised she had a debt following an OCI review of \$3000 for a 2-year period starting in early 2013. She had provided information from her employer and the debt had been reassessed and increased to \$3200 and she then appealed to an ARO who decided her debt was \$2700. She had no idea why the debt amount kept changing and was also upset as the ARO told her she could not consider waiver of the debt as this was something 'only the AAT could do'.

We looked at the final debt calculations produced by the ARO and advised Joy that the debt seemed to be correct however that the ARO should have considered her request for waiver of the debt. The circumstances she had disclosed to the ARO included that she was in severe financial hardship as she had to support her adult son who had no income, her former boyfriend was suicidal and would call her at all hours of the day and night threatening suicide. His Centrelink payments had been cancelled as he refused to attend meetings with his job provider and so she felt she had to pay for his medication and some food. Her mother had been diagnosed with cancer at the beginning of the period and Joy took her for her treatment appointments sometimes daily and then cared for her before she died at around the time the debt was raised.

She had told the ARO that she was so stressed she could not sleep and her doctor had written a letter outlining her significant family and health issues. A financial counsellor had prepared a statement of financial circumstances showing that she had no capacity to repay the debt.

We advised her to lodge a request for review at the AAT and provided her with detailed advice about how to present her case at the AAT. We asked her to contact us if the AAT did not waive the debt.

45. Case study 9 – Susan

Susan contacted us in January 2018. She had been told by Centrelink that she had a debt of about \$1500 for youth allowance for the 2011 – 2012 period but the 'review was ongoing'. She said she had reported to the best of her ability and did not understand why she was being contacted after 7 years? She had a young baby and was about to go back to work. We advised her that she could provide payslips for the relevant period if she had them and if she did this the review should use the correct income figures.

In June 2018 Susan contacted us again and said that she had provided payslips 5 months earlier when she received a debt notice and asked for a reassessment but had heard nothing further and had not been able to get through to the relevant team on the phone. If she rang the usual Centrelink number, they said they could not help with this type of debt. We followed up for her and were told that 'no review had been commenced' but that because we had contacted a review would be 'actioned as soon as possible'.

In late August 2018 Susan called us again. She had still heard nothing about the reassessment of her debt. She had tried calling the Centrelink complaints line and had been on hold for 45 minutes when the call dropped out. She had submitted an online complaint about the delay to Centrelink 5 weeks earlier but had not received any response. She submitted an online complaint to the Commonwealth Ombudsman but had had no response after a week. She said the only contact she had from Centrelink were letters demanding repayment of the disputed debt.

We advised her to persevere with her complaint to the Ombudsman and to call us again if she did not get a response in 14 days. We advised her to contact the debt recovery team and ask for recovery of the debt to be paused pending the review and to ask them to check on the progress of the review.

46. Case study 10 – Hana

Hana contacted us in May 2020 after she received a letter from Centrelink updating her on the class action and advising her of the date to opt-out – (opt-out letter).

She explained Centrelink had raised a debt in early 2018 for \$4500 which related to the 2012 – 2013 financial year. She no longer had access to payslips for that period as the employer had gone out of business and instead had provided bank statements. She heard nothing further from Centrelink for almost 2 years and then received a letter advising her the debt amount had 'changed' to \$1900. There was no explanation of how the new amount had been arrived at.

She immediately asked for a review of the decision – she said she had always been careful to report her income correctly and said the stress of having a debt 'hanging over her head' was affecting her ability to sleep and to go about her daily life. She had waited 3 – 4 months and then contacted Centrelink again to find out what had happened with her review. Centrelink told her they were not carrying out any reviews 'pending the class action'. She did not understand why she had to wait to have her review done and was very confused about the letter she had received. She explained her distress that this matter had dragged on for over 2 years with no end in sight.

We explained the basis for the class action and what remedies were being sought. We advised her that Centrelink should act on her request for review and that the fact there was a class action was not relevant to whether Centrelink's decision in her case was correct, i.e., whether she had been overpaid and if so whether any debt should be recovered. We advised her to recontact Centrelink and if they were not prepared to undertake the review immediately, she could

lodge a complaint with the Commonwealth Ombudsman. We encouraged her to call us again if she did not get a satisfactory outcome.

Robodebt Scheme views

6. *Based on your experience in providing Case Work Services, provide your views as to the accuracy, fairness and lawfulness of the Robodebt Scheme, including whether your views developed or changed during the Relevant Period and why, and to the extent you consider the Robodebt Scheme to be inaccurate, unfair or unlawful:*
- (a) *set out the elements or features of the Robodebt Scheme which in your view made it inaccurate, unfair or unlawful; and*
 - (b) *identify any changes or improvements made to the Robodebt Scheme during the Relevant Period and describe the extent to which they addressed these elements or features.*

47. The debts raised under this scheme were inaccurate and unfair as they did not assess a person's entitlement to payment based on their actual earnings during the relevant fortnight.
48. The current social security law allows Centrelink to commence recovering debts as soon as they are raised and so as soon as a debt notice was issued recovery of these debts commenced even in circumstances when there was no legal basis for the debts. This is unfair.
49. It was unfair to review a person's entitlements up to 8 – 9 years after they were paid and require them to effectively establish that they had not been overpaid in circumstances where they may no longer have records of their employment income, the employer may no longer exist or the employer may not be prepared to provide details to them. It was Services Australia who had the legislative authority and resources to obtain such information if it was still available and to use the information in a review.
50. It was unfair to fail to advise people who received debt notices of their review rights – if the first and only contact they received was from a debt collector then

Further issues

7. *Based on the experience of your Organisation, describe:*

(a) any additional concerns or insights you may have about the Robodebt Scheme which you have not covered in response to the questions above; and

(b) any further changes which in your view would need to be made to income compliance processes to ensure they are fair, lawful and appropriately designed and targeted to individuals receiving income support

58. The Organisation had input into the submissions prepared by EJA and provided to the Senate inquiry into Centrelink's compliance program. The concerns raised in those submissions remain important concerns (a) lack of human oversight of the scheme (b) reversal of the onus of proof and (c) the need for an ethical framework when designing automated processes.
59. The experience of the Organisation has highlighted to us the importance of proper decision-making. Any decision made by Services Australia about a person's entitlements must be a written decision setting out clearly the legal basis for the decision and the factual basis for the decision so that the person can either understand the decision themselves or get legal advice about the decision.
60. Finally our experience dealing with clients who were affected by the robodebt scheme has highlighted the importance of (a) an independent and effective review system (b) the Commonwealth Ombudsman acting in a timely and effective manner once issues are brought to its attention that Services Australia may be acting unfairly and/or unlawfully and (c) properly funded services to assist vulnerable people to exercise their review rights.

they did not have the usual debt letter which at least sets out the person's review rights.

51. It was unfair to require people to deal only with the 'specialist team' when trying to resolve multiple issues - some Centrelink recipients are only able to deal with issues face to face and this option should always be available including with the provision of an interpreter when needed.
52. It was unfair for Centrelink's debt recovery team and private debt collectors to tell people who had received debt notices that they were required to use a credit card to repay the debt and/or borrow money to do this. Everyone should have been given the option of entering into a repayment arrangement that they could afford or having the debt written off for a period where appropriate.
53. Once doubt was cast on the legality of the debts Centrelink should have paused recovery of all debts and proceeded to review debts where a review had been requested.
54. It was unfair for authorised review officers to fail to consider whether waiver was appropriate when a Robodebt was the subject of a review.
55. It was unfair to add a 10% penalty to a debt automatically where no contact was received from the recipient. This changed in the second version of the scheme, but we do not know whether penalties originally applied were removed. Such decisions should always be made by a human considering all the relevant information.
56. The powers to garnishee tax refunds, compensation payments, arrears of entitlements or a person's wages or bank account should only be exercised once a debt is lawfully raised and the person has had notification of the debt and has failed to enter into an arrangement to repay the debt having been given a proper opportunity to do so and to get advice about review options.
57. It was unfair that people were unable to access an advance payment (of their income support payment or family tax benefit) once a debt was raised even where the debt was disputed and recovery of the debt had been paused.

Signed: at Eagle

Date: 20 October 2022.

Witness: K Beant

Date: 20 October 2022

DEBT RELATED SERVICES CASEWORK PROVIDED FOR THE PERIOD FROM JULY 2014-18/10/2022

Period July to June	Problem Type	Legal Advice	Representation Other	Court/ Tribunal	Legal Task	Information/ Referral	Total Services
2014-2015	Govt Benefit Debt	115	44	3	0	0	162
	Deception and Related Offences	58	36	0	0	0	94
Year total		173	80	3	0	0	256
2015-2016	Govt Benefit Debt	105	32	3	0	0	140
	Deception and Related Offences	32	11	0	0	0	43
Year total		137	43	3	0	0	183
2016-2017	Govt Benefit Debt	142	34	1	0	13	190
	Automatic Debt	42	6	0	0	1	49
	Deception and Related Offences	32	16	0	0	0	48
Year total		216	56	1	0	14	287
2017-2018	Govt Benefit Debt	86	35	1	7	22	151
	Automatic Debt	28	0	0	1	7	36
	Deception and Related Offences	14	13	0	4	1	32
Year total		128	48	1	12	30	219
2018-2019	Govt Benefit Debt	103	42	0	19	31	195
	Automatic Debt	14	3	0	1	1	19
	Deception and Related Offences	28	18	0	8	4	58
Year total		145	63	0	28	36	272
2019-2020	Govt Benefit Debt	139	36	0	36	26	237
	Automatic Debt	42	2	0	6	7	57
	Deception and Related Offences	33	11	0	8	3	55

Year total		214	49	0	50	36	349
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2020-2021	Govt Benefit Debt	61	34	1	12	23	131
	Automatic Debt	7	1	0	1	9	18
	Deception and Related Offences	13	2	0	2	1	18
Year total		81	37	1	15	33	167

2021-2022	Govt Benefit Debt	105	43	2	30	27	207
	Automatic Debt	4	4	0	0	4	12
	Deception and Related Offences	7	7	0	0	0	14
Year total		116	54	2	30	31	233

2022-18/10/22	Govt Benefit Debt	38	14	0	11	8	71
	Automatic Debt	1	0	0	0	0	1
	Deception and Related Offences	2	1	0	0	0	3
Year total		41	15	0	11	8	75

Additional explanatory notes to table

Data collated from the Community Legal Assistance Services System (CLASS) data base of Welfare Rights & Advocacy Service.

The data base for recording legal services prior to March 2016 was Community Legal Service Information System (CLSIS). All service data was migrated from CLSIS to CLASS.

Data provided for Centrelink debt related services for the 2 years before Automatic Debts introduced.

Data standards for contract and CLASS reclassified the types of services provided i.e. CLSIS Representation Other included most ongoing casework assistance provided. Legal task new category in CLASS.

Entitlement Type	
Age Pension	5
Carer Payment	4
Disability Support Pension	13
JobSeeker Payment	2
Newstart Allowance	18
No	27
Other	7
Parenting Payment	5
Unknown	1
	82

Employment Status	
Not recorded	64
Employed	41
Other	12
Unemployed	36
Unknown	3
	156

Country of Birth not Australia	
Burundi	1
Germany	1
India	1
Iran	2
Liberia	1
New Zealand	1
Sierra Leone	1
Thai	1
United Kingdom	2
	11

Homelessness	
At Risk of homelessness	5
Homeless	2
No	38
Unknown	89
	134

Financial Disadvantage	
No	4
Yes - On Centrelink	66
Yes - No means to pay	11
Yes - Other Notes	28
Unknown	47
	156

Gender	
Female	82

Male	43
X not male or female	2
Not recorded	29
	156

Disability Indicator	
Have disability	26
Family Violence Indicator	
At risk	1
Yes	5
Homelessness Indicator	
At Risk of homelessness	5
Homeless	2
Financial Disadvantage	
Yes - On Centrelink	66
Yes - No means to pay	11
Yes - Other Notes	28

Family Type	
Other	13
Not living family	20
Sole parent with children	21
Two parent with children	19
	73



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

COMMUNITY AFFAIRS REFERENCES COMMITTEE

Better Management of the Social Welfare System initiative

FRIDAY, 21 APRIL 2017

PERTH

BY AUTHORITY OF THE SENATE

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SENATE

COMMUNITY AFFAIRS REFERENCES COMMITTEE

Friday, 21 April 2017

Members in attendance: Senators Kakoschke-Moore, Pratt, Reynolds, Siewert.

Terms of Reference for the Inquiry:

To inquire into and report on:

The design, scope, cost-benefit analysis, contracts awarded and implementation associated with the Better Management of the Social Welfare System initiative, with particular reference to:

- a. the impact of Government automated debt collection processes upon the aged, families with young children, students, people with disability and jobseekers and any others affected by the process;
- b. the administration and management of customers' records by Centrelink, including provision of information by Centrelink to customers receiving multiple payments;
- c. the capacity of the Department of Human Services and Centrelink services, including online, IT, telephone services and service centres to cope with levels of demand related to the implementation of the program;
- d. the adequacy of Centrelink complaint and review processes, including advice or direction given to Centrelink staff regarding the management of customer queries or complaints;
- e. data-matching between Centrelink and the Australian Taxation Office and the selection of data, including reliance upon Pay As You Go income tax data;
- f. the process of awarding any contracts related to the debt collection system;
- g. the error rates in issuing of debt notices, when these started being identified and steps taken to remedy errors;
- h. the Government's response to concerns raised by affected individuals, Centrelink and departmental staff, community groups and parliamentarians;
- i. Centrelink's Online Compliance Intervention (OCI) and its compliance with debt collection guidelines and Australian privacy and consumer laws;
- j. the adequacy of departmental management of the OCI, including:
 - i. the adequacy of staff numbers to manage the workload associated with the OCI, including customer complaints,
 - ii. what impact the roll-out of the OCI has had on other areas of work and whether resources have been diverted from other areas,
 - iii. training and development provided to staff who are working on this program or in related areas (for example, telephony and complaints),
 - iv. how the Department of Human Services and Centrelink are tracking the impact of the OCI rollout on staff, including stress and incidents of customer aggression,
 - v. any advice and related information available to the Department of Human Services in relation to potential risks associated with the OCI and what action was taken as a result, including feedback arising from system testing and staff, and
 - vi. decisions taken in relation to IT systems and service design that may have contributed to problems experienced by Centrelink clients; and
- k. any other related matters.

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BEAUMONT, Ms Kate, Executive Officer, Welfare Rights & Advocacy Service

CREED, Ms Helen, Executive Director, Community Legal Centres Association (WA) Inc.

EAGLE, Ms Catherine, Principal Solicitor, Welfare Rights & Advocacy Service

CHAIR: Welcome. Before we get going, can I confirm that you have all been given information on parliamentary privilege and the protection of witnesses and evidence. Okay. I now invite you to make an opening statement and then we will ask you some questions.

Ms Creed: Both Kate and I will make some opening comments if that is okay. The Community Legal Centres Association (WA) Inc is the peak body representing and supporting 28 community legal centres in Western Australia. Our centres are located throughout the state and are what we call generalist centres, which are in metropolitan and regional areas, as well as specialist centres who provide a service to clients with particular needs such as tenancy or consumer credit or particular client groups. I am very pleased to be accompanying Welfare Rights & Advocacy Services today, our specialist service in this area.

We did submit a written submission to the inquiry along with our counterpart organisations in a number of the other states as well. By opening, I say that community legal centres have reported an increase in demand for services as a result of the Department of Human Services's online compliance system. That is coming at a time when we are facing cuts in funding to community legal centres. From 1 July there will be a reduction of 32 per cent in the federal funding that comes to WA for community legal centres. What we are seeing is an increased demand due to a government policy or practice, which has a direct impact on the need for legal assistance. No additional resources are available and, in fact, we are facing a significant cut in funding to services.

From our perspective, the Commonwealth policies are impacting on the services we provide for low-income people. Our definition under the partnership agreement of low income is less than \$26,000; high income is more than \$52,000. We are assisting some of the most vulnerable and disadvantaged people. When you look at the proportion of our work, it is with what we call low income, which is less than \$26,000 per annum. I would like to ask Kate, as the specialist centre in this area, to provide more information.

Ms Beaumont: Welfare Rights & Advocacy Service is a specialist community legal centre which provides assistance to clients in the area of social security law in Western Australia. We are a member of the Community Legal Centres Association (WA) and the National Social Security Rights Network. We had input into and endorsed the National Social Security Rights Network's submission to this inquiry. We provide welfare rights help to people living in the geographic catchment area north of the Swan River to the top of the state and across to the Northern Territory and South Australian border. There are two other community legal centres, Sussex Street Community Law Service and Fremantle Community Legal Centre, who provide welfare rights advice and casework assistance in the remainder of Western Australian south of the Swan River.

Assisting clients with Centrelink and family assistance debts is part of our regular work. The introduction of the new automated system has brought with it increases in the numbers of clients accessing our service for assistance with Centrelink debts; also increases in the time taken to assist each of these clients. The new automated debt system has changed the fundamental basis of how debts are calculated and raised by the Department of Human Services. The new automated system does not require corroborating evidence from the employer to verify that periods of work or gross amounts earned by an income support recipient in a particular fortnight before a debt is raised. Instead, the income support recipient is issued with a computer-generated letter, which requires them to explain a discrepancy in the amounts of PAYG income recorded on their tax return compared to the earned income recorded on the Centrelink system. This letter is issued through the individual's myGov account or to the last known address provided to Centrelink. If information is not provided by the recipient within the strict time frame, a debt is automatically raised with income apportioned across the entire period irrespective of the amount actually earned on a fortnightly basis.

On top of the debt being raised, the computer adds an additional 10 per cent penalty amount where the computer has determined that the person has refused or failed to report their employment income, or knowingly or recklessly underdeclared their income, unless the secretary or a delegate is satisfied that the person had a reasonable excuse. In the past, before this type of penalty was applied, a Centrelink officer would first confirm that the debt was correctly calculated and then contact the person to give them an opportunity to explain the under-reported income and to consider any circumstances which would have affected their ability to report correctly. Examples of where the penalty may not have been applied include where the person was declaring net income rather than gross income due to an honest misunderstanding of the system, or where they had significant health issues that affected their ability to report correctly. Where the person was unable to be contacted to discuss the matter, the penalty was not applied.

With the new system, this penalty is applied automatically by the computer if a person has not responded to the initial request for information and is included when the debt is raised without consideration of the circumstances which led to the debt. The application of the penalty provisions of section 1228B should be a separate, discrete determination made by a person and not delegated to a computer program—and that is of the Social Security (Administration) Act rather than the Social Security Act.

One of the difficulties for clients who have been caught up in this new system of investigating and raising debts is that many of these debts relate to the period between 2010 and 2013, when minimal data matches were completed by the department. The new system requires clients to prove what their fortnightly earnings were up to seven years ago in order that a debt is not raised or, after a debt has been raised, to prove why Australian Taxation Office information—which covers an entire financial year—is consistent with the earnings declared to Centrelink during that year. Discrepancies arise as employment income is not always recorded on the earning screens, as leave payments, employment back payments, commission and bonus payments will be part of the PAYG information but are recorded in other parts of the Centrelink computer system, which may not have been checked by the computer at the time the notice is sent out.

In the past, Centrelink might have been unable to obtain fortnightly employment income details from past employers dating back six or seven years, even though they have the information-gathering powers in section 192 of the Social Security Act 1991. It can be far more difficult for a person approaching a previous employer for fortnightly employment documentation many years later. How does someone who has a debt raised obtain this information if the employer is no longer trading, does not have access to their records or flat out refuses to consider the request? Whilst we are aware that the Department of Human Services are now suggesting alternative processes to clients to prove income, such as providing bank statements, there are many who may not have been given this opportunity when they approached Centrelink about these debts during the December-January period. We had clients in that situation. Unfortunately, with this new approach to the raising of debts it is likely that too many clients will end up repaying debts and penalties which are wrong.

We welcome the government decision to pause recovery of these debts whilst internal review is undertaken but have concerns about the debt recovery process. For people who are not currently on a Centrelink payment, the first option for repayment of one of these debts, either through Centrelink or one of the external mercantile recovery agents, has been for the person to repay the debt using their credit card. This is outlined on the Department of Human Services website. We have also had clients who have been contacted by a private debt recovery firm who were told that this was the first option for repayment of the debt. This may expedite recovery of the debt for the department; however, it may lead to increased debt for people repaying Centrelink debt, incurring interest rates of up to 19 or 20 per cent on a credit card.

The online system to report or rectify employment information was not user-friendly and, although this is an option for those who are computer literate, many of our clients have struggled with the technological solutions provided. The robo-debt debacle has been made more problematic by the lack of transparency about the new process and as to how those impacted could seek a remedy. Client after client reported that, when trying to seek a remedy, they spent significant time and energy trying to resolve the issue before giving up and contacting us. Many have thought that they have asked for a review and, in fact, have asked for a review but, when we have followed this up with Centrelink, we have been told that the request for a review was never logged on their system.

Other clients have asked for copies of the calculations of the debt, for the most basic information about a debt that has been raised, but have been told that they need to apply for those calculations under freedom of information. This is a process that can take 30 days. It is necessary for Centrelink to provide these types of documents outside of the FOI process. Clients lack trust in the system. Even when debts are significantly reduced in quantum following a reassessment or a review, they still want to see how the debt was calculated.

The plan to extend the automatic system beyond PAYG data matches to include other types of businesses and other income is a cause for further alarm for us, as the problems we are seeing will be extended. It is of significant concern to our clients that our service and other welfare rights centres across the country are set to have a 32 per cent cut in our Commonwealth funding from 1 July 2017. This is occurring at a time when demand for our service continues to increase. Although the government has said that funding to community legal centres is not just a Commonwealth responsibility, the area of welfare rights and social security law is Commonwealth law and there still needs to be access to free legal assistance for those experiencing Centrelink problems, such as the debts which are at the centre of this Senate inquiry.

CHAIR: Thank you very much. Ms Eagle, did you have anything to add to that?

Ms Eagle: No, thank you.

Senator PRATT: Ms Beaumont, in your opening statement you made reference to a part of the Social Security Act. Can you draw that part of the act to our attention? I want to revisit your remarks.

Ms Beaumont: That is in relation to the application of the penalty?

Senator PRATT: No, the earlier part about—

Ms Beaumont: Obtaining information?

Senator PRATT: Yes. Then I think there was a part about the obligation of the department to work out whether the debt is real.

Ms Beaumont: We have read the Department of Human Services's submission to this inquiry. It seems that the way that they are explaining it is that there has been no change to the way that Centrelink calculate or work out and raise a debt.

Senator PRATT: That is certainly what they have told us.

Ms Beaumont: I have worked in the area. I have had 20 years experience working for the Department of Social Security and Centrelink and I have had 16 years working at Welfare Rights & Advocacy Service. In that time I have dealt with many debt matters. In all of that time it has been the usual process that, if there is employment income, it is verified with an employer. That is what would have normally happened in these instances. Yes, there is contact with the client to see if the client is able to provide that information, but in the absence of that information they will usually do an employer report request to an employer, and that I guess is the basis for the debt being raised.

Senator PRATT: What can you tell us about your experience of the legal basis on which Centrelink is able to change its practice in this case? They are arguing it has not changed. Clearly it has changed. I am interested in the extent to which they have a legal mandate to do that, particularly because it is patently obvious how unjust this is, and whether there is a flaw in the underlining parameters of the act. The Constitution says that the Commonwealth cannot take property off people unless it is in a just way. The assumption here is that this was the Commonwealth's property and, therefore, it is taking its own property back. There must be some principles within the Social Security Act in that regard.

Ms Beaumont: The principal for working it out for someone on income support payment is a fortnightly income test, so the basis for income to be taken into account is that the person declares their earnings at the time they do the work—it is not when they get paid; it is when they do the work. That has been the basis of that income test for as long as I can remember and probably—I think Helen started with—

Ms Creed: Yes, that is right. It comes before even me.

Ms Beaumont: That is the basis for the calculation of it. Yes, there are other payments, such as family tax benefit, where they work on a taxable income per year. They do that at the end of the year, to work out whether or not someone has received their correct entitlement. But, for income support payments, it has always been a fortnightly entitlement.

Senator PRATT: In essence what the department is doing here is that it has calculated the debt not on a fortnightly basis and it is then asking someone to prove, many years later, the peaks and troughs in their income, even though it was reported correctly at the time.

Ms Eagle: If you average over a year, and the person has had consistent income over the year, then their debt will be the same whichever way you do it, because it might be greater in one fortnight than it should be but less in the next fortnight. Where it has a negative impact on people is where people have been in and out of work and on and off payments. I think the two groups that we saw that were affected that way mostly—and the case studies in the National Social Security Rights Network submission draw them out—would be students who have been on and off payments but also in and out of work (which makes sense; they work when they are not studying) and people who may get a job that pays quite well towards the end of a year, when they have been on payments prior to that, or the opposite way round. As Kate was saying, for family tax purposes, if your income goes up and down it does not matter, because at the end of the financial year they do the calculation. Many people wrongly think their income support payment was calculated that way. This does not work that way. It is interesting to note that, in the past, where clients have correctly declared their annual income for family tax benefit purposes and thought that that would do for their Centrelink payment, because they did not understand that difference, they still got whacked with a debt, because the Centrelink system could not use that global income figure to work out their payments. So it is the reverse, if that makes sense.

CHAIR: But where they have been in and out of work—it is my understanding, and we have been through this a number of times—and they have been reporting, and the ATO information comes in, then, because they

have been in and out of work and they have had the peaks and troughs, the data does not match and they get a notice. If they do not respond or they cannot provide the information, it then does the averaging, and that is where they are getting caught up.

Ms Eagle: Yes. In this fortnight, if I earn—Kate might be able to tell me what the cut-off is for Newstart at the moment—

Ms Beaumont: I do not know it off the top of my head.

Ms Eagle: Pretend it is \$500 as the cut-off for Newstart for this fortnight. If I earn \$5,000 in this fortnight, I am cut off for Newstart. It does not matter whether I earn the \$500 that is the cut-off or anything above. In the next two fortnights, I might have no income, so I have got an entitlement to Newstart for two fortnights. If you average my \$5,000 across those three fortnights, I have got a debt for the two fortnights.

CHAIR: And that is exactly what is happening.

Ms Eagle: Exactly, over a longer period.

CHAIR: Yes, over the year.

Ms Eagle: It is not going to be just three fortnights, yes.

Ms Beaumont: There is information there on the system as well about where a person goes off payments, on the benefit history, to say when someone has gone on and off a payment. That should be one of the things that are being looked at and whether or not the computer looks at those sorts of issues about someone who has only been on a payment for a part-year. The employment income—if an employer has put the PAYG details in to say that it is for the whole year rather than a part-year—is another issue, but it is not necessarily an issue that the client has caused.

Senator PRATT: In that context, when you are working with Centrelink on a particular client's case, at which point are they starting to reflect on what the client reported at the time in terms of the peaks and troughs in their income? They have not taken that into account in the sending of the initial notice, and it is not really apparent to the committee at which point it is. Centrelink have really not been forthcoming. They say: 'Yes, we're giving out the information. The obligation of a case officer is to work with a client and give them information about their case.' They are stating that is a given whereas we are hearing evidence that people need to FOI calculations and FOI their files to get any real basis for how Centrelink is calculating their debt. What information is Centrelink giving you or the client in saying, 'Actually, while you have got this debt notice, I am looking at your file and I can see your peaks and troughs. This is what you reported at the time.'

Ms Beaumont: They probably do not get that level of detail just because—

Senator PRATT: How can you calculate a debt without that detail?

Ms Beaumont: We cannot necessarily get a copy of the calculations. Just because of the numbers of them, if we can provide advice so a client can do it themselves, we assist them with that. So it might be about saying: if you need to put a freedom-of-information request in, this is what you need to include in it. One client received bonus payments, which would have been recorded somewhere else on the Centrelink computer system so it was really important for her to get that information and those historical screens to be able to say, yes, it was taken into account. Something that was not mentioned in the DHS submission was that debts occur because of Centrelink error—I did not actually see that mentioned anywhere, which potentially could be waived. And there can be those sorts of contributions that may be there through FOI-ing a file that we can see that would not necessarily be apparent. Some of that is about stepping the client through what they need to do.

Ms Eagle: I also suspect that once we are involved, you are more likely to then have somebody looking at it. We do not know what happens with all the people that never come to us but, I suppose, based on the fact that the people that do come to us report an inability to speak to anyone. So I do not know that there is a case officer allocated to every person that has a query about an overpayment but if there is then that is a lot of case officers. It might take a while but, once we are involved, we tend to get the information we need because we know what to ask for.

Senator PRATT: If you put yourself in our shoes, asking Centrelink the right questions about their practices here, it seems extraordinary to me that there is no guarantee that before a debt is generated the algorithm or the case officer has actually looked at how income is reported at the time in terms of bonus payments or other pockets. We have asked about the algorithm. You would think it would be looking at the various places where money was reported. But it is clearly apparent that debts are coming down because the algorithm or the computer has not taken into account this information.

Ms Beaumont: In our experience, that is what has occurred—it is that human case officer overseeing the number of cases, the debts being raised. I would question the capacity of the number of staff in the compliance team to have perused all of those debts to check to see whether or not it was accurate. I think the part that is missing is that human oversight, as is the verification of employment income with employers.

Senator PRATT: Where does that leave us on a technical basis for whether or not it is a valid debt? What are your cases telling you?

Ms Eagle: I think as far as whether or not it is legally incorrect, there is a little section on this in the National Social Security Rights Network. It has not been to court, it has not been tested because that is obviously a time-consuming, costly process. There is an argument that it is not lawful. I think they give a couple of examples where it is specifically authorised in the legislation, and it does not include for these payments.

Senator PRATT: Can you explain that a little bit more?

Ms Eagle: Again, I am just going off submission No. 107 by the National Social Security Rights Network. They have referred to the authorisation of averaging income in some circumstances—I think it is for the age pension. As lawyers, we cannot say it is definitely unlawful to do it this way. That is not what we are saying. We have concerns about its legality because it is not specifically authorised.

Senator PRATT: Aside from its legality, in terms of the reality of whether the debt is in fact real or not and whether it was correctly calculated, what are your cases telling you about the nature of the debts being raised?

Ms Beaumont: Many of the clients who are coming to us are coming because they have attempted to have reassessments completed and have had inconsistent advice back from Centrelink. There was someone who had been told in December that their \$4,000 debt was now \$0. They were then contacted about the repayment of that debt in early January. They were told, 'Yes, the \$4,000 was right, not the \$0.' It is that toing and froing that occurs. These are people who are quite articulate and probably able to advocate for themselves to provide the information to Centrelink, but, at the end of the day, they are getting these inconsistent messages back.

I have a client with particular vulnerabilities. Her debt is \$250. She is really concerned because she declared her earnings correctly at the time. Her experience was that she went into the local Centrelink office and, because she was not computer literate, a Centrelink officer helped her to print out the pay slips that she had gotten sent from the pay clerk for a period from five years ago. She then had an interview with someone. Nothing has happened with those pay slips. That was in November of last year. She contacted us in January, so I have gone through the process of resubmitting all of the pay slips. It is now with an ARO. That was for someone who has vulnerabilities and real difficulties with navigating the system herself. I do believe that she went into the office and did what she said she did, but, when I checked with the office, they said, 'There is nothing on the file; there is nothing in the docs.'

CHAIR: Has she already had to start repaying the debt?

Ms Beaumont: Yes. She is on a low income and paying \$20 a fortnight to repay the debt. By the time the ARO review is completed, she will have repaid that debt. She is someone who is on the DSP. She is on a low income and cannot even afford \$20 a fortnight, but she is doing it to ensure that she has a payment arrangement in place.

Ms Eagle: When some of the other clients describe to us what has happened, we might say to them: 'We think your debt will be wrong, so go through this process. This is what you need to do.' We do not necessarily hear back from them as to what the outcome was because they do it themselves. We tell them: 'Follow this process and do this. If you can show these gaps in your employment, your debt will be wrong.'

Ms Creed: There was a case study from one of our other centres, which is on a slightly different but related issue, where the deduction for one client was \$180 per fortnight. She got the letter and was told that the deduction was \$180 per fortnight. The intervention of the community legal centre reduced that to \$25 per fortnight. She was notified of the debt and then the \$180 started coming out.

Senator PRATT: Unless someone was committing some kind of Centrelink fraud at the time, it seems inconceivable to me that people would have a legitimate debt of that scale because the system is designed to accommodate for peaks and troughs in income. It appears to me that someone like that may have a \$7,000 debt because they stopped work and then they went on benefits but the averaging happened over their whole income for that year. What does a case like that tell you?

Ms Creed: This is a person who retired and then took casual employment and so notified the department about the work, and it goes, supposedly, back to five years. The debt was \$2,000, but the repayments that started immediately were \$180 per fortnight. This is someone—

CHAIR: That is more than 15 per cent.

Ms Beaumont: The repayment rate would be higher where someone has other income. The standard repayment rate is 15 per cent, but then there is an extra percentage that is charged if someone has other income coming in. That would account for that. Obviously, we have had other clients with higher rates of repayment, which they have not been able to afford. It is that negotiation of lower repayment rates.

Ms Creed: Because she is an age pensioner.

Senator KAKOSCHKE-MOORE: I have some questions for Ms Beaumont, who raised these points about how you have seen an increase in the number of clients since the automated debt process started. You made the comment that you are also seeing an increase in the time it is taking to assist these clients. Could you drill down on that little bit more for the committee?

Ms Beaumont: As these automated debts have started to emerge, we have had a database that we use to record the problem types of clients that are coming to us. We thought it was important, because of the numbers that we were having coming in, to review through our past data to see which were these automated debts, because we obviously get lots of other debt matters as well. Sometimes it is also to clarify for clients that this is not an automated debt; this might be a family tax benefit reconciliation or another type of income debt—those types of things. Some of it is also that we take time with clients to explain, because they have it in their mind that it is one of these robo-debts.

We tracked the period from when the automatic debts started to happen. Probably August or September was the first time that we had one of those clients—and it was one that Catherine had. We have provided 27 advices over that period of time. That was up till the middle of March, when we went onto a new database. We had 68 other debt matters in that same period. So, for that period, from 1 July through to 17 March, all in all, we had 95 debt matters, and 27 of those were automatic debts.

Because we are a small centre, we also took a snapshot of just the welfare rights work that we were doing over that December to March period. We found that 28 per cent of our work was to do with debts. If you took a snapshot of the previous year, it was 1.4 per cent of our work, so there is quite a significant increase in the numbers that we are dealing with. As I said, over the last full year, 14.4 per cent of our welfare rights work was debts.

Ms Eagle: Regarding taking more time to do the work, I think that is for a few reasons. One reason is that we are having to get the client to look, or look ourselves, into how the debts have been calculated, whereas, in the past, if a client had a debt we just had to see the debt calculations, which was a very quick process. We knew that it was based on the employer information because the eans screens showed us what had been inputted into the system, whereas now we are having to go through that whole process of working out, or getting the client to work out, how the debt has been calculated—what has been taken into account and what has not been taken into account; what can you provide; how are you going to get hold of that; if you can't get your pay slips, what are you going to do as an alternative. I think that is more time-consuming.

As well, for the clients, it has been very difficult to know what has happened to a client's request for review.

Kate mentioned earlier about clients thinking that they had requested a review and so, normally, we would have said to a client in the past, 'Well, you'll get a decision and, once you get a decision, get back in touch and we can give you advice.' Whereas now, they just will not hear anything, so then we have to contract Centrelink, which is a slower process than it used to be, and they will come back and say, 'Well, there's no review logged.' So then we are trying to go back to work out: has it been logged; hasn't it been logged; is there a review; what has happened to the pay slips that have already provided; the uploading of information onto the system—has it been logged, coded, dealt with? I think those have been extra steps in the process.

Senator KAKOSCHKE-MOORE: Thank you for that. That was really helpful. You made a point about bank statements previously—clients were not given the opportunity to provide bank statements as evidence of their income. You said that that was an issue in December and January. Was that because the department never offered or said that bank statements could be used; or were your clients attempting to use bank statements and the department said, 'No, we're not accepting those'?

Ms Beaumont: I know that the National Social Security Rights Network had a briefing on, I think, around 7 or 8 January to get more information about how the system worked because, in some respects, we were in a vacuum: we did not necessarily know how this new system worked and, yet, we had clients coming to us about it. So that briefing from the department helped us to have more of an understanding of how all of it worked, and it was at that time that the agreement was made that clients could use bank statements as an alternative means of

proving their income so they would have net figures of their income rather than the gross figures where people had been to employers and not been able to get the requisite information from the employers.

We did have clients and there was, I think some inconsistency in the messaging from DHS over that period of time where people were sent away and told, 'No, you can't use your bank statements.' So we had a number of clients in that circumstance, even though we were given clear messages that: yes, if a client isn't able to provide the pay slips or documentation from their employer, they could then use bank statements as an alternative process. We think that there would probably be quite a few clients who tried to have reassessments done over that particular period of time that may have had blockages—whether it was their local customer service centre. I think it was just because knowledge of the system—yes, the compliance officers knew about it, but I am not too sure that those officers at the front end of seeing people, whether it be at Morley or Innaloo, necessarily knew that.

Senator KAKOSCHKE-MOORE: That would be a huge worry, because that could have led to a situation where somebody was issued with a debt notice and could have used bank statements to demonstrate their income but were not allowed to. Therefore they might have just agreed to the debt, because they felt like there was no other way that they would disprove it. It makes me feel very uneasy.

Ms Beaumont: This might be an opportunity as well, because there may be people who are saying, 'I don't agree with the debt that has been raised'. Centrelink or Department of Human Services have the power in section 192 to send an employer report. If there is doubt about whether the overpayment is correct, they have clearly got coercive powers to be able to do that. One would have thought that that would be a logical opportunity for people—who obviously did not agree with the decision, were not able to provide pay slips from an employer and were denied the ability to use their bank statements—and that an employer report would be the logical thing to do if we were trying to come up with the correct and preferable decision of the correct debt or, potentially, no debt.

Senator KAKOSCHKE-MOORE: That is right. Just turning to the issue of submitting FOI requests, the comment was made that even just basic information about how the debt was calculated can only be accessed after submitting an FOI request. I get the feeling from the other evidence that that was not necessarily the typical way you would have to go about getting information in the past for other debts; that other information was already there when the notice was given—is my understanding right?

Ms Eagle: Clients have never had to ask for documents under FOI if it is things like debt calculations. As far as I understand it from DHS, it is not required. It has just been the experience of some clients that that is what they have been told they have to do. It is not a requirement that they have to do it, and, if they knew that they could argue the toss, they would not need to do it. It is more that, if that is what they are advised they have to do by whoever they speak to, then that is going to lead to a delay. Some documents are only available through the FOI process, but things like debt calculations are not in that category.

Senator KAKOSCHKE-MOORE: Do you know why that is? Do you know why you have to use FOI to get those debt calculations?

Ms Eagle: You do not have to use FOI.

Senator KAKOSCHKE-MOORE: Sorry, I misheard you.

Ms Eagle: No, you do not.

Senator KAKOSCHKE-MOORE: We heard from some other witnesses earlier on in the inquiry that, when they did use the FOI process, it felt like they were overwhelmed with the information that they got as a result, and that it was almost like looking for a needle in a haystack. Sifting through all the paperwork—a lot of it was internal Centrelink documents—it might not have been readily apparent to someone who is not familiar with Centrelink documents exactly what they were looking at. Has that been the experience for you or any of your clients?

Ms Beaumont: That is often the experience of our clients, but we, as part of the process, will usually say, 'If you get a bundle of documents and don't understand them, recontact us, bring them in, and we'll have a look at them and go through them,' just so that we can try and translate where there might be issues. That is something that we offer to our clients, because they can get a stack of documents and not be quite sure what they are looking for. That can be some of the difficulty.

There was supposedly the ability to get the debt calculation from the online tool, but a client to whom I said, 'You need to go to this particular tool,' reported back that she still could not access the debt calculation by using that part of the tool. I just thought, 'Well, I'll add some information to help this particular client, rather than her going through FOI,' but she said that it did not work for her.

CHAIR: Was that with the myGov site or with the special access code where they can get in more directly?

Ms Beaumont: It was with myGov, because they were January cases.

Senator KAKOSCHKE-MOORE: That was my last question, Chair.

CHAIR: Senator Reynolds, you had a question before that Skye did not hear you trying to ask.

Senator REYNOLDS: It was in relation to the problems you were discussing with Senator Kakoschke-Moore. You said that was the situation at that particular time, so, in terms of those issues you have identified, what is the situation like now? I think you said there were 27 pieces of advice you gave at the time. Today, have you still got the same volume of issues, or has it changed? In relation to the situation, what are you finding now?

Ms Beaumont: We are still getting regular contacts from people about these automatic debts. They are at different times or parts of the process. It is probably not the volume, because there was a peak in that Christmas and New Year period, up until the end of January and through February. It has quietened down a little bit, but, from the stats from the Department of Human Services, I also think that some of that compliance activity may have reduced a little bit over that period of time as well. There are only particular people who come to us. A lot of people just accept that a Centrelink debt is right and repay it and do not question it. This can be particularly vulnerable parts of our population.

Senator REYNOLDS: To clarify: some of the issues that you identified with that higher volume, initially at the beginning of the year, were in terms of compliance and other issues. Are you seeing that they are now less of an issue? I would imagine, as long as these notices are going to be issued, you are still going to regularly get people seeking advice from you. But, in terms of the problems you have identified, are you seeing any visible reduction in those problems?

Ms Eagle: I think one thing has improved with the change to say that, for example, they will accept bank statements. That helps people because previously people would say, 'What can I do?' We would never have suggested supplying bank statements because that only shows net income, which is not part of the calculation. I actually recall having a conversation with somebody in Centrelink in early December trying to nut it out, saying, 'Maybe if they could provide their bank statements that might show periods in and out of work.' The person said to me, 'Actually, yes, that would be helpful.' This was just one person and me, not at a national level. Things like that, I think, are helpful because it has meant that we can say to clients, 'Try these processes first.' If we intervene we try to get Centrelink to ask for an employer report as well, which they might do.

CHAIR: They have said that they would? They are saying that is what they are doing?

Ms Eagle: Yes.

Senator REYNOLDS: In terms of your engagement with your clients and with Centrelink, are you seeing that whilst there are undoubtedly issues they are in good faith trying to address those issues as they go? In terms of that, that was a good example you gave of trying to be a little flexible.

Ms Eagle: I think if we are dealing with individual Centrelink officers ourselves, I have not had anyone being obstructive about the process. Again, I do not know if this has changed, but I know that clients were finding that if they went into an office—which is often how clients try to resolve their Centrelink issues—they were being told: 'No, we can't. No, we don't know anything about this.' The message they got was that they could not deal with that.

Senator REYNOLDS: We heard a bit of that this morning—that this is a specialist issue so going in and talking to someone over the counter—

Ms Eagle: It is not going to help.

Senator REYNOLDS: They are not trained in it.

Ms Eagle: We completely understand that they do not have that training, but it does make it very hard. There is a whole cohort of clients for whom that is how they do business with Centrelink; they either do not trust it, their phone is always flat, they do not have credit or they do not have a computer. I do not know the statistics on how many people do not have computers, but it seems a lot of our clients do not have one, do not have access to one or do not have broadband.

Senator REYNOLDS: And it is just human nature. A lot of us actually do prefer to do things online, but it does not suit everybody.

Ms Eagle: Exactly. That is why I think sometimes these systems are designed for people who are really good record keepers and really good at—

Senator REYNOLDS: They work really well for the majority, but you always have to make provisions for those who do not fit into that.

Ms Beaumont: But who here would have their payslips from seven years ago or their bank statements from seven years ago?

Senator PRATT: I have just changed banks!

Ms Beaumont: So we were expecting something more of everyday people. On top of that, they may not be literate or they may be homeless. So you have all of those other factors. I know the department is trying not to target those with vulnerabilities.

Senator REYNOLDS: So you are not seeing anything that would indicate to you that the department is unwilling or the officials you are dealing with are unwilling to deal with these issues? It is just a matter of identifying the issues and then fixing them as you go.

CHAIR: Or trying to.

Ms Beaumont: Our experience is different because we are advocates. In our work we know the language to use and what to ask, whereas it is not necessarily always the experience of our clients. That is who we are trying to represent here.

Senator REYNOLDS: I think it is safe to say that is the case with any bureaucracy, quite frankly. They are all confusing. One final question: in relation to the Ombudsman's report and the issues you have been encountering and have identified here, obviously we have heard from the department they are now in a process to implement those recommendations. In terms of the issues you have identified, is there anything that is not in the Ombudsman report that you would recommend the department also look at to fix this issue?

Ms Beaumont: One thing is around repayment of debts. I mentioned using your credit card. If you look at the DHS website, that is the first option for someone who is no longer on a payment. So if I were looking at that I would be concerned. Some people are fearful of Centrelink and the messages that come out about Centrelink fraud and all of those types of things. How it is characterised is that some people will go into debt to repay a Centrelink debt so that they do not have to worry about it, and then they end up owing the credit card company. I was under the impression that the mercantile debt collection agencies were not meant to do that, but that is the first option they give people as part of their script to repay a debt.

Senator REYNOLDS: That is a very interesting point. So out of the issues that you have raised today the ability to use a credit card facility to go into debt to pay off a Centrelink debt is the major issue that is not being dealt with for us to take away. In relation to the Ombudsman's report, what is not in there? Is there anything else that can be done in a positive way?

Ms Beaumont: They could use section 192 to obtain employment reports—because, really, that is the only way that they are going to get these debts correct. Also, I know the delegation around the penalties is discussed in the Ombudsman's report. It is not a recovery fee; it is a penalty and that is what it is detailed in the act as being. It needs to be a person that considers that. If you think of the percentage of people with those penalties, it was around 70 per cent per month who were getting those penalties, and, whether Centrelink has reconsidered those or not, they are one of the most unfair things because they will immediately inflate the amount of money that is being recovered through this program.

Senator REYNOLDS: The credit card issue is still a live issue, using section 192 on employment records and what is in the Ombudsman's report about the delegations and that sort of issue are the three main outtakes for us.

CHAIR: Averaging.

Ms Beaumont: Income support payments are paid on a fortnightly basis and that is the information that is meant to be used. Centrelink also have lots of records. If they were able to look at the records for people who have been on payments for part years, they would probably be able to get rid of some of these debts quite quickly, through human intervention rather than necessarily using a computer that has got set parameters.

Ms Eagle: That is actually what used to happen. What used to happen with a data match was that we would get the documents for other clients, at some point, and the data match would come in and a person would look at it, see there was a discrepancy and say, 'Oh, I've had a look at the system and they were only on payments for half a year. That explains it—that's the end of that.' The idea that somebody is oversighting every one of these and that is not being looked at just does not make sense to me.

Senator REYNOLDS: But you are not saying to do this for all cases; you are just saying human intervention should be used where there is some form of discrepancy. You are not suggesting we ditch the automated system altogether, are you, and go back to a manual system?

Ms Beaumont: We do think that it probably should be a human system.

Senator REYNOLDS: Really?

Ms Eagle: Yes.

CHAIR: The problem is that discrepancies are arising for all these 220,000 people, where the letters have gone out.

Senator REYNOLDS: I understand that, but the implications of—

Senator PRATT: The letters are based on a discrepancy.

Ms Beaumont: A discrepancy—and then the onus is then put on the client as opposed to the department. Centrelink are raising a debt on the basis of using the ATO information and Centrelink have not done any sort of double-check of that, and they have also got the powers to recover money very quickly. They are not like other creditors where they have to be able to prove the debt. It is a very different system.

CHAIR: Ms Beaumont, you gave us your figures for the number of advices that you have provided. I would like a bit more information on those cases. Are they continuing cases that you have got on the books or cases that you have had on the books that you have been actively engaged with, and/or do they include where you have given some advice over the phone and they are no longer clients?

Ms Beaumont: They are client matters that have come to us. Some of those are cases, but the majority are advices. The majority of that work is advices and I could give you a breakdown of those figures.

CHAIR: If you could, that would be very helpful.

Ms Beaumont: I can provide you with those figures.

CHAIR: I would like to ask about the AAT. In some instances some of the community legal centres are active in the AAT and have taken some cases through, although I acknowledge that they are only just getting to that point. Have you acted for anybody or provided any advice to anybody through the AAT process yet?

Ms Beaumont: Not yet. There is one that came in because they got an adverse decision from an authorised review officer. They were concerned about whether the pause on debt recovery still occurred after that internal review process, so there was some confusion about that. They have been provided with advice and it may be a case that we would deal with, but that has only happened in the last two weeks. Because so many of them were not sure whether or not they were being reviewed or reassessed, that has probably stalled some of that progress through the system.

CHAIR: Okay.

Ms Creed: I am happy to follow up with the other centres.

CHAIR: I have some questions I want to ask you about the other centres. So you have not reached that point yet?

Ms Beaumont: No.

CHAIR: Where we have been talking to other community legal centres, I think it is pretty fair to say that in nearly all of the cases where they have been acting for clients the debt has been reduced. Have you reached that situation with any of your clients? Have they gone far enough for you to be able to comment on that yet?

Ms Beaumont: We have had some that have been reduced in those earlier stages, but, as Catherine said, a lot of people, once they have got the advice and they have been able to rectify it themselves, do not necessarily—

CHAIR: Tell you.

Ms Beaumont: It is only once in a while someone will ring up and say, 'Hey, I've got granted special benefits,' which is a big thing for them. You do not necessarily hear back from some of them, but then some others will come back to get further advice through the process.

CHAIR: A lot of the issues that have come up are for people who are vulnerable, but this is not necessarily indicated on their records or as a client of Centrelink. They have issues with English as a second language, they have some mental illness that is not actually enough to record or they have not had a vulnerability marker. We also have single parents who seem to have very complex cases. Are you seeing those particular cases in your client base, or are they more general across the board?

Ms Beaumont: Because for the most part they are working age payments that we have had into our centre, they include each of those cohorts. You might have a client that has a mental health issue as well as being on DSP and they might be a sole parent, so you have got that range of people. We have people in quite difficult circumstances as well currently, and the debt just kind of almost puts them over. They are struggling, and this creates more of an issue for them.

CHAIR: Ms Creed, you have picked up on where I wanted to go in terms of the people south of the river. Sussex Street Community Law Services and Fremantle Community Legal Centre are, I understand, the two centres who are handling the other welfare income support recipient cases. Do you know if there has been an increase there at a similar level to what Welfare Rights has found? What is the number of cases they have been handling?

Ms Creed: I do not have those statistics from them, but Kate may.

Ms Beaumont: My understanding is that at Fremantle particularly they have also had an increase in the work that they have been doing and in cases that they have been able to resolve for clients. We could probably get the statistics for you.

CHAIR: Could you? That would be great.

Ms Beaumont: Yes; that is okay.

CHAIR: So the statistics in general, but also an indication—if they are at that stage, and I appreciate some of your clients will not be—of how they have gone in terms of being able to address the debts? Have they confirmed them? Have they had them reduced or taken down to zero? That would be appreciated. The other area that would be useful for us is: have they taken any cases through or have any of their clients gone through to the AAT process yet, and what the outcomes for that have been?

Ms Creed: Certainly the case I provided before came from Fremantle, but I am happy to follow up and see if we can get statistical information about any change in their workload for those two centres, similar to the kinds that Welfare Rights presented.

CHAIR: Thanks, that would be very much appreciated if you could.

Ms Beaumont: There may be some difficulties, because we have all moved from a database to a new database, so that—

CHAIR: I understand that. We came across that in the east as well.

Ms Beaumont: could be an issue. I know I extracted the information before we lost the old database, but we will see what we are able to do as far as that is concerned. It is still sitting there.

CHAIR: That would be appreciated. One of the other areas is this: are you able to provide—I should have been asking this of more people in our other hearings—what types of payments they are on? Is it single parenting payments, is it Newstart, youth allowance, DSP or pension?

Ms Beaumont: We should be able to extract that from the system.

CHAIR: That would be very much appreciated.

Senator PRATT: Ms Beaumont, you made some statements about the nature of advice people are getting from the frontline staff in Centrelink offices. This has been a little bit difficult to unpick because, as you have acknowledged and as Centrelink says, frontline staff are not there to provide advice. That is being done through the 1800 number and people who have more technical information. Notwithstanding that, you have made statements about people going into their offices to seek support and to sit down with someone to look at their case. Can you unpack that? Centrelink seems to be telling us that they are just turning everybody away from sitting down with frontline staff to deal with these matters. It does indicate to me that, in part, some people seem to be getting something useful from their face-to-face interactions, but those staff seem to have been advised that it is not their job to do so.

Ms Beaumont: Depending on which office someone goes into they will potentially get a different 'offer' of what will be done for them. Clients with a particular vulnerability—I can say that they helped my client to print out a payslip so that those things could be lodged. So that was documentation. That is something that is being provided, although the documents got lost after that. This is difficult for a client, who thinks, 'I've given to Centrelink what I was told to give to Centrelink.' Unfortunately documentation does go astray on a fairly regular basis—

Senator PRATT: It has happened to me!

Ms Beaumont: and that is a difficulty and a frustration for clients. But sometimes they do want to do their business face-to-face, and getting directed to a phone or to a computer screen does not necessarily work.

Senator PRATT: Particularly if it involves scanning and uploading files. You want to be able to hand your documents over, particularly if you are not particularly technical.

Ms Beaumont: Yes. Someone who does not know how to print out a payslip does not have that computer know-how to be able to do that.

CHAIR: I am going to have to wind this up. Would you mind taking a few questions on notice, if Senator Pratt has more questions?

Senator PRATT: Ms Creed, on the record, given the cuts that have been experienced across the sector, what is your assessment of whether vulnerable people are able to get an accurate departmental assessment of their debt?

Ms Creed: You have heard from Welfare Rights the difficulties that they have had.

Senator PRATT: And you would say that is broadly representative—

Ms Creed: Across the sector. We are seeing increasing times, in terms of waiting lists for people to be seen, as centres are responding to the funding cuts by reducing the hours that they are operating, or reducing the staff that they are employing. That is only going to get worse.

CHAIR: Thank you. Perhaps, because we really are over time, you could take on notice the waiting lists for the centres that are involved in this particular issue. That would be much appreciated.

Ms Beaumont: If I can take 30 seconds, I can say that in the mix of our centre's advice and casework, because of the number of people accessing our services, we have to do more and more advice rather than ongoing casework. It means that for vulnerable people whose cases we would probably have taken on in the past, assisting them through the whole of the process, we do not actually have that ability, and it is going to be worse from 1 July.

CHAIR: Thank you very much for your evidence today. It is much appreciated. Thank you in advance for what you will provide us in response to the questions you took on notice.



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

COMMUNITY AFFAIRS REFERENCES COMMITTEE

Centrelink's compliance program

FRIDAY, 4 OCTOBER 2019

MANDURAH

BY AUTHORITY OF THE SENATE

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SENATE
COMMUNITY AFFAIRS REFERENCES COMMITTEE

Friday, 4 October 2019

Members in attendance: Senators Hughes, McCarthy, Siewert.

Terms of Reference for the Inquiry:

To inquire into and report on:

Centrelink's compliance program, with specific reference to:

- a. the ongoing impact of the Federal Government's automated debt collection processes upon current and past income support recipients;
- b. data-matching techniques used by Centrelink, including limitations and uncertainties of data-matching techniques and error-handling processes;
- c. the handling of under-payment errors, including the number of payments identified and made through data-matching following an under-payment error;
- d. the use of real-time wages data and other techniques to prevent overpayment;
- e. the capacity and adequacy of Centrelink and the Department of Human Services to deliver the program, including the use of contract staff and the impact of staff performance targets on the program;
- f. the error rates in the issuing of initial letters and debt notices, the causes of these errors and what steps are routinely taken when errors are identified;
- g. the procedures that have been put in place to prevent future errors;
- h. the number of initial letters and debt notices sent out and the number of debts that have been recovered;
- i. the review process and appeals process for debt notices, including the number of reviews and appeals undertaken;
- j. the use and legality of the debt collection processes used by Centrelink and the Department of Human Services;
- k. the use of debt collectors in the compliance program; and
- l. the cost of the compliance program to date, including the projected and actual amount raised from the program.

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BEAUMONT, Ms Katherine (Kate), Executive Officer, Welfare Rights and Advocacy Service

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JACKSON, Ms Sharryn, Executive Director, Community Legal Centres Association of WA (Inc.)

WALLIS, Mrs Jackie, Community and Tenancy Advocate, Peel Community Legal Services

Evidence from Mr Gonzalez was taken via teleconference—

Committee met at 09:31

CHAIR (Senator Siewert): I declare open this hearing of the Senate Community Affairs References Committee inquiry into Centrelink's compliance program. We acknowledge the traditional owners of the land on which we meet and pay our respects to elders past, present and emerging. These are public proceedings, and a Hansard transcript is being made. The hearing is also being broadcast via the internet.

I remind all witnesses that, in giving evidence to the committee, they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated as a contempt by the Senate. It is also a contempt to give false or misleading evidence to a committee.

The committee prefers all evidence to be given in public, although the committee may determine or agree to a request to have evidence heard in private session. If a witness other than those who have already told us they want to give evidence in camera—we are already prepared for that—wants to give evidence in camera, the witness should let us know. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer, having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may also be made at any other time.

The committee understands that all witnesses appearing today have been provided with information regarding parliamentary privilege and the protection of witnesses. Additional copies of this information can be obtained from the secretariat.

I now welcome representatives from the Community Legal Centres Association of WA, Welfare Rights and Advocacy Service, Peel Community Legal Services and, via teleconference, Fremantle Community Legal Centre. Thank you all for appearing today. I now invite whoever wants to give an opening statement to do so.

Ms Beaumont: I am the executive officer of Welfare Rights and Advocacy Service, a specialist community legal centre which provides assistance in the area of social security law in Western Australia. I am appearing with colleagues from the broader community legal sector: Sharryn Jackson, from the Community Legal Centres Association of WA; Jackie Wallis, from Peel Community Legal Services; and, via teleconference, Antonio Gonzalez from Fremantle Community Legal Centre. Welfare Rights and Advocacy Service, Fremantle Community Legal Centre and Sussex Street Community Law Service are the main providers of welfare rights assistance across the state of Western Australia. We are members of the National Social Security Rights Network and support their submission, to which we had input, to the inquiry.

Working with clients with Centrelink and family assistance debts is part of our regular work. The introduction of the automated compliance system in 2016 has resulted in increases in clients accessing help with Centrelink debts. Whilst there have been some improvements to the online compliance system since the initial introduction of the program, the automated debt process has changed the fundamental basis of how debts are calculated and raised by the Department of Human Services. Apart from an ATO data match, Centrelink no longer requires corroborating evidence from an employer to verify the periods of work and the gross amounts earned by an income support recipient per fortnight to raise and recover a debt. Instead the current or former income recipient is issued with a letter and requested to provide information about a discrepancy in the amounts of PAYG income recorded on their tax return and the earned income recorded on the Centrelink system. If information is not provided by the recipient within the time frame a debt is automatically raised, with income apportioned or averaged across the entire period irrespective of the amounts actually earned on a fortnightly basis.

The difficulty for many of the clients caught up in the automated debt system is that they are asked by DHS for information and clarification of periods up to seven years prior. To provide the requested historical information, including weekly or fortnightly earning amounts, the clients have to approach past employers. Those contacting our services experience difficulties as some businesses no longer exist or are unwilling to provide information, or have not retained historical records as a breakdown of wages paid. The discrepancy may be as a result of the DHS computer system, as not all employment income is recorded on the Centrelink earning screens.

The alternative of providing bank statements was not an option in the initial version of the automated compliance system, and was a welcome change to the program. It remains an insurmountable problem for some, as the costs associated with obtaining historical bank statements are beyond the means of many of our clients. Centrelink has coercive information-gathering powers, in section 192 of the Social Security (Administration) Act 1999, to obtain information. Centrelink may also struggle to obtain fortnightly employment income details from past employers historically, but would more easily be able to obtain bank statements without a cost to the client. There were likely substantial numbers of debts raised in the early robo-debt period, where the alternative of obtaining bank statements was not an option that would result in a debt being reduced or no longer existing.

Our experience of the review and appeal process for many clients who have had automated debts raised has been more convoluted, and clients are confused. Although they are asking for a review of the decision, it is initially referred to a subject matter expert within DHS. If the subject matter expert is unable to change the decision, then it should be automatically referred to an authorised review officer for review. We have not seen this occur, and clients regularly have to make further contact with DHS to progress their appeal further.

There remains a question mark over the legality of the debt program, as, even after three years, we are yet to see any published decisions of the Administrative Appeals Tribunal general division. Anecdotally, we understand that reviews of robo-debt decisions that reach the general division are often settled by the respondent. In terms of debt recovery, it should be a priority that the legality of any automated debt is well established. DHS has such broad powers in terms of recovery of its debts through garnisheeing and even preventing overseas travel if there is no debt repayment arrangement in place. We have had clients unaware that a debt has been raised; they only become aware of the existence of an automated debt when they are contacted by a mercantile debt collection agency or their tax return is garnisheered. There needs to be greater oversight of mercantile debt collectors, as, at times, they give the impression that they have all of Centrelink's powers.

In the future, with legislative change, the introduction of Single Touch Payroll may provide some improvements in payment accuracy. This will, however, be dependent on parity between ATO and DHS reporting requirements. Unfortunately, many clients have the impression that there is greater matching of government data, on a more regular basis, and this can impede clients satisfying their reporting and notification obligations. DHS should be concerned not only about the accuracy of the payments they make but also about the accuracy of the debts that they raise and recover.

CHAIR: Thank you.

Mrs Wallis: Peel Community Legal Services is based in Mandurah, but we cover the whole of Peel. Most of our clients are disadvantaged and on low incomes of \$50,000 or below. We don't have sufficient funding to enable legal representation, so we can offer advocacy up to the last stage of appeal but basically, when a law firm is engaged by DHS, we can't progress any further; we do more referrals.

In the past, we have had quite good success rates with automated Centrelink debts. Just recently, probably in the last year, we are not having those successes. Basically, if we're finding it quite an unfair and unequal system, we can imagine how the clients are feeling. On Tuesday I had six clients, four of them with Centrelink debts. There was significant risk to each person: for example, there was a self-harming young person and somebody going through radical surgery. They seek a little empathy or sympathy from Centrelink, but they still have to jump through these hoops to get to the appeal process.

Sorry, I had very little time to prepare. I only found out on Tuesday that I was coming today, as well as having all my appointments. So I apologise. That's as far as I got: the inequality. Kate really summed up the issues for us as well.

CHAIR: Thank you. We will have lots of questions for you. I suspect that will bring out more of what you are thinking about.

Mrs Wallis: Yes.

Ms Jackson: It might be good to give Antonio a chance to speak.

CHAIR: Mr Gonzalez, would you like to go next?

Mr Gonzalez: Yes, thank you. I thank the committee for giving me the opportunity to talk to you today about the common difficulties that I observe that people with robo-debt are facing. Firstly, there is an element of surprise. People are in shock when they receive the news that they have a debt. They don't understand why. It goes back many years, and now this comes up, so it raises a lot of confusion or a state of shock. Some people get very anxious, of course, especially people who are going through issues of disability and financial pressure. The next question that they are confronted with is how to establish whether the debt is correct. This is a fundamental issue for anyone who's dealing with these matters but also for their client, because they feel: how can they owe so

much money? Bear in mind that most people we deal with are very disadvantaged people in the community, and they don't have the skills to deal with these complexities and to challenge Centrelink decisions or even understand the reason for the decision.

So there are a number of hurdles to overcome for many clients. The first is the difficulties in getting pay slips from employers, especially when some of the debts go back even eight years. There was one yesterday that was raised from 2011 and the employer no longer save the pay slips. The person could not find the pay slips. It is also the case, as I hear from many people, that they come to report it on a fortnightly basis. Even if they've done it online, they don't know how to retrieve that or the records are no longer there, so that's an issue.

Then there is the issue of getting the appropriate help out from Centrelink. I think every staff member may respond differently—some are very kind and helpful and some are not. But the people who do experience that don't get the help they need. When they ask for an explanation for their debt, or even when they ask for the overpayment calculation, they are discouraged from getting that information.

Basically, they are told, 'You owe the debt and you have to pay it and that's it.' But that's not satisfactory in terms of fairness for the client or for our system. The other issue that is common that I have observed in recent time is the method of data-matching. It takes a person's taxable income and assumes that the person has worked for the whole period of the debt. That is not appropriate for every case, because there are a number of instances where people have not worked the full year or the full period of the debt. Therefore, that method of calculating the overpayment is incorrect. It doesn't take into account the whole of their circumstances of the individual, and each case is different.

Sometimes there are issues with self-employment. People are allowed what is called allowable deductions. Some of this information may have not been taken into account and so there are a number of overpayments that are incorrect and, when they're challenged or when people ask for advice, we'll ask them to reassess the debt, if we suspect that there's something not right. Through this there have been a number of cases where, after the debt has been recalculated, they have reduced it. I can mention four or five of those cases from recent times. That tells us that, unless the correct information is taken into account, errors in the calculations are likely to occur. This is happening. In the end, people want to know, if they have a bill, that the bill is correct. I think that's a right. That's the first part that DHS have to address. In the end, when people are clear and understand why they owe the debt and that it is correct, they are more likely to accept it. They'll say, 'Well, that's the case.' And if they're able to repay it, they can do that.

The introduction of this automated debt has created many problems for people with a lack of literary skills and for people who may not have computers and are not able to deal with the new technologies. There is an increase in demand for practical assistance. Assistance often means working face-to-face through all of these hurdles and trying to arrive at the correct decision and the correct amount of debt. That is time-consuming and that involves a lot of effort from the people who understand the system. We're talking about disadvantaged people who don't have the skills to deal with these matters.

We've certainly received an increase in demand for assistance, but we deal with a lot of other issues. Issues with overpayment come from different angles—for example, family tax benefits—but I am referring specifically to automated debt. That has more difficulties. It's a question of resources. In my opinion there is definitely more need for actual human help from the department itself and also on the ground to help these people, unless there is an option to consider not raising these debts, especially for the most disadvantaged people in society.

Then there's the question of whether raising these debts is actually economically cost-effective. I'm not an economist, but I'm thinking of cases where the debt is only \$800 or \$500. It's a long process to get to the bottom of it, and maybe Centrelink has to employ some staff to do the working out. All that costs money. So whether it would be better to waive the debt, or not raise it is, I think, one option, and it would be good if that could be achieved, especially if they know that the client who is receiving the debt is not in a position to repay it.

There is a lot of pain out there unfortunately. People are doing it tough. Raising these debts is depriving them from having the essentials like food and rent. If these debts are not raised—I'm talking about the smaller debts—I think that would help individuals to manage better, financially and socially. Every dollar that is spent in their local community is better for everybody—

CHAIR: Mr Gonzalez, I might ask you to save your further comments until we get to the question session, if that's okay?

Mr Gonzalez: Yes, sorry, I probably went too far. Thank you for that.

CHAIR: Thank you very much. I'm keen to hear from Ms Jackson and to enable the committee to ask questions.

Ms Jackson: Thank you for the opportunity to appear this morning as well. Can I commence by reiterating Ms Beaumont's comments that the community legal centres association endorses the submission of the National Social Security Rights Network. I'd like to hand up, if I can, a very colourful infographic of the kinds of clients we serve in Western Australia. I think it's really important to my first point, which is that people lead very complex lives, and we often find that our clients come to us not with one simple legal problem but with a multiplicity of interrelated issues. To that extent, hopefully the infographic points out the kinds of people we see and the sorts of problems they have. You can see from the top six legal problems that these are issues that go to the heart of people's lives—where they live, where they work, the debts they have, family and domestic violence issues, child custody and property. So, if you like, we're at the frontline. If I need to confirm this idea of complexity, a recent study by the Law and Justice Foundation in New South Wales analysed the Legal Australia-Wide (LAW) Survey—which is the widest legal survey in the world—for people experiencing domestic violence. It discovered that people with domestic violence issues were more likely to have other legal issues associated, in some cases, as many as 20 other legal problems. But there are certainly much higher rates of family, civil and other legal issues. And, of course, the compliance with welfare systems and income support sits right in that mix. I guess the point of saying people live complex lives is to say that their outcomes and their experiences as community members are as a result of their interaction with the whole system, so the compliance with Centrelink is one part. A recent survey in Victoria done by the Centre for Excellence in Child and Family Welfare, which focused on single parents in the Shepparton region, discovered an issue like debt in income support payments is often the trigger to a crisis for a particular individual and their family. I want to make that point because I don't think you can look at a compliance system with our social security safety net on its own. It's supposed to be serving people with complex lives, and outcomes are created by a much wider interaction than just with Centrelink payments.

What we also want this committee to understand is that we think government needs to take great responsibility for the justice impacts or the flow-on impacts of things like its compliance system. I know the Law Council last year completed a very detailed report, which was chaired by former Chief Justice French, on justice issues in our community. One of their recommendations was that government ought to have a justice impact type statement or examination associated with any matter or legislation that they're dealing with. Based on my own past experience, I'm not sure that just impact statements along with legislation will fix the problem, but there is an absolute connection between the decisions in the compliance area in Centrelink with the flow on to problems caused and the complexity of issues that clients face, which lead to a greater demand on our community legal centre resources. Yet, when the government decided to implement this policy, one assumes they gave little or no consideration to the social impact of their decision. If they had, they may well have seen the need to provide additional legal support services, for example, to assist people in the process, particularly when the people we deal with, as some of the representatives from the CLCs have covered today, are often from culturally and linguistically diverse backgrounds where English isn't their first language. As the ATSILS submission points out to you, there are real issues about both communication and ability to interact with the system.

I'm not intending this to be just a plea for more resources like everybody else, but it's interesting to note that in some cases, like, for example, the royal commission that's on now into disability services, the government acknowledged that there would need to be a system to support people who are intending to appear, in the same way they did for the child abuse royal commission—there was a recognition there that people might need legal assistance and support. Yet, when it comes to the administration of the compliance issues, there doesn't appear to be that same understanding of the likely consequences of their decision on the community. If I could ask you to take anything away from this hearing, it is to really give consideration to that. In Western Australia we almost turned away the same number of clients as we assisted as a result of a lack of resources in our sector.

CHAIR: Sorry to interrupt. For 'across the board', do you mean in community legal services?

Ms Jackson: In Western Australia. I haven't included these figures in our 2018-19 financial year figures. We have 28 community legal centres who are members of the association, and it's data from 26 of our centres and does not include the specific data from Family Violence Prevention Legal Services, but a lot of their information was captured and is part of the ATSILS submission to this committee.

Those were really the two issues I wanted to raise. People's lives are complex. You can't have a simplistic system without human involvement without understanding the impact that that's likely to have in their lives—how it will add to the complexity of their lives. And there's no such thing as a simple thing like a problem-identified, service-delivered outcome. That's not how it works in the real world. I'd ask in particular that this Senate inquiry, when people make decisions about new policies or procedures, think about, examine or have some sort of regard for the likely social and justice impact of those policies and decisions.

CHAIR: Thank you very much. I know very well that we're going to run out of time for questions, because I've got a lot already and I'm sure everybody else has. There are three iterations of this program. There are the OIC, EIC and the CUPI process. Has there been an improvement that you've seen, and has that resulted in a drop-off in need for support now that we've moved into the CUPI system, realising that there are still people with debts that are in the other two systems? Has there been a drop-off in new clients coming through, because CUPI is making things better?

Ms Beaumont: Obviously, we've seen the different iterations and, I guess, our clients' experience of those different versions and interactions to try to resolve their automated debts or potential automated debts. We have seen an improvement, but I did pull out figures and things like that just to see how many clients we've got coming to us about automated debts, because that was one of the things that we did as a CLC—as in, 'This is an emerging issue.' So back in 2016 we put in a different code to differentiate our automated debts from our regular debt activity, because it's part of our work. So in some respects we've had waves of clients coming to us at different times, and the experience with the first system was obviously atrocious, but I think that system also wasn't user-friendly. I know that, with the second system, we had some input into some of the design aspects and also gave feedback to the department at our conference in, I think, 2017. These were things that we could see as advocates, which is different from even, say, DHS or their user groups looking at it. We gave a different perspective about it and we obviously have the anecdotal information from our clients about the difficulty that they had with the system.

So I guess we haven't necessarily had people saying they're having difficulty with the current system to the same extent. We have seen a great difference, but I guess it's also, in some respects, about the data that they need to provide as well, because you actually need to input that data. I know the difficulty with the initial thing was the lack of user help or assistance from DHS. It was really on the end of the phone. Clients with literacy issues really did struggle with their ability to navigate the system. But then, as some of the data requests are for more recent periods, it can be that they're more able to get things like payslips. Currently, we don't necessarily have the same issues if it's a request about last year or the year before. It's really those outliers which are kind of seven years ago. As DHS gets up to date with that, the requests are less for a long time ago.

CHAIR: To clarify: the concerns you're getting now, if they're from the CUPI process, are not about the process. The process itself is easier to interact with, so the issues then go to the detail of the debt.

Ms Beaumont: Yes. We have clients who come to us, and the first time that they know they've got a debt is because of the garnishee of a tax return.

CHAIR: Yes, I want to come to that.

Ms Beaumont: I guess that's kind of at the end of the process, where they have this happen. And there are the delays with the re-assessment process as well. We've had clients who have been told the re-assessment is going to take months. They've engaged with the process after a debt's been raised, but they are then told it's going to take a few months for that to happen and, in the mean time, yes, there's the option for pausing of the recovery of the debt, but not all of the clients who have come to us have said they have had their debts paused. We obviously give them that as an option. If they've already got an existing debt, that other debt's going to be recovered anyway or there's a debt arrangement in place, but there are quite a few that we've had more recently who haven't had those arrangements put on pause. There's still a level of anxiety that, even if they're getting it re-assessed, their tax return is going to be garnished, so that's in the back of their minds. 'Will I do my tax return, because that could be taken?' We've had people on payment arrangements who are paying \$20 a fortnight, so they've got a payment arrangement in place but are still the garnishee of a tax return, which we think is probably illegal.

CHAIR: Is that a mistake? I've heard of that before and thought, 'Maybe it's a mistake in the system and the system isn't properly noting the repayment.' The department's gone through the effort of negotiating a process where you repay, but then they garnish the tax return anyway. Have you spoken to anyone in the department about what's going on there? Do you have an understanding of what's going on there and how that happens?

Ms Beaumont: In other instances, it's really to say that we've got a debt arrangement in place because the person has limited means to repay the debt. However, because the tax return has come in, their means may have changed. But really the legislation for garnishee of tax returns within social security law requires that there isn't an adequate debt arrangement in place. Whether or not they're taking the adequacy or whatever, we have had that occur—and in recent times, so it's not something from a couple of years ago. And they're often the clients who are coming to us having had their tax returns garnisheered or not having known that they had a debt.

CHAIR: Thank you. We didn't get onto garnishing too much with the department, but we're coming back to that, so that's really useful. I'll make sure we follow that up when we get the department back. Senator Hughes.

Senator HUGHES: I want to confirm what you just mentioned to Senator Siewert: that there has been an improvement in the system since CUPi has been introduced. We have seen an improvement. Obviously, we can't go back and change what happened at the beginning, and everyone can acknowledge that perhaps that wasn't the best system, but there have been improvements since CUPi and a reduction in people coming to you?

Ms Beaumont: I guess there has been some reduction, although, as I said, they're a wave. As more debts are raised, we get people coming to us. Similarly, when there's stuff in the media about robo-debt, recovery of debts and things like that, we sometimes get waves of clients in, but we're still getting a couple a week about robo-debt. Yes, the current system is much better than the old system, but we also have concerns about the debts that were raised under the old system where clients have had debts raised and recovered but who will never, ever challenge them, because they think DHS always gets it right. There are probably incorrect debts that are in that space that probably need to be looked at again, because they haven't had access to using things like bank statements.

Senator HUGHES: But we don't really know about them, because they haven't come to you. Or is that just anecdotal?

Ms Beaumont: I guess it was the system at that time. Even when bank statements were allowed to be provided, which was in about January 2017—

CHAIR: Once the noise started again.

Ms Beaumont: yes—when we were told, 'Yes, people can use bank statements,' we still had clients who for a long time after that were told, 'No, you can't use bank statements. You need to use this.' This was because, I guess, the system wasn't necessarily geared for it, but there was some inconsistency in the messaging that they got from compliance staff at that time as well.

Senator HUGHES: You've mentioned robo-debt a couple of times. I want to talk about the fact that it's a bit of a misnomer, particularly under the current system, and I think using that term is probably creating a bit more anxiety than is required. If we're trying to reduce the anxiety around this, not using that term, particularly in these sorts of settings, would probably be helpful. I'm just wondering if you understand, or if you understand now, how the income compliance process works under the CUPi system and if you're aware of how those debts are generated. Anyone can answer.

Ms Jackson: I make the observation that I think great attempts have been made to improve the system, but I'd make two other observations. One is that that is entirely contrary to best practice debt recovery, which is what is being used in the private sector across the board. They actually focus on the person with the debt and try to discover the reason for the debt, because poverty isn't a crime and it shouldn't be something you're punished for. So, if it's something where we can intervene early and assist, we've found that the outcomes are substantially better. That's not just from community sector sources; that's from the private sector. It seems passing strange that such a massive scheme can be introduced, and now we're trying to fix it as we go along. What it is causing is impacting people's lives. So, yes, it's better now, but we've got a massive backlog of people's problems that should be resolved that could have been avoided.

Senator HUGHES: I agree on working towards that and improving the system, and it's great to hear you acknowledge that the system has improved, but the question that I asked was if you understood how the compliance system works now. Maybe I can help take you through how it works now.

Robo-debt is a misnomer. It's incorrect to suggest that this debt is somehow generated without human intervention—without there being some sort of discussion with an actual person. Now people are contacted—they're contacted via registered letter and they're contacted via their myGov email—if there might be an issue with regard to their payments, and a discussion then takes place. If there is an issue and there needs to be debt raised, that's when the process then proceeds. So there has been engagement with the person involved in this process before the debt is raised. So people can't be coming to you surprised about a debt under the new system.

Ms Jackson: I think you're assuming that people receive the letters—

Senator HUGHES: Well, they have to receive them, because they're sent via registered mail, so they have to be signed for, or they have to be read-receipted under the email system in myGov—one or the other—and they have to speak to someone before that debt is raised.

CHAIR: They don't have to speak to somebody.

Senator HUGHES: They have to make contact and then, if they—

CHAIR: They do it online.

Senator HUGHES: continue not to make contact, that would be when a debt could be raised. But they will have received the letter via registered mail or read the email via a read receipt.

Ms Beaumont: Respectfully, some of these debts were raised a significant time ago, so it doesn't necessarily mean that they were only raised last week. They could have been sitting there for a couple of years or raised under the older system.

CHAIR: Just to clarify, if they were raised under the older system, they stay under the older system.

Ms Beaumont: Yes.

CHAIR: They can't go to the—

Senator HUGHES: I'm aware of that, but we're were talking about the newer system now. So to continue to refer to this as 'robo-debt' is incorrect and is ignoring what the actual process is now.

Ms Jackson: I think Kate referred to media reports about robo-debt. It's not a term we would use.

Senator HUGHES: It's been used in this room this morning.

CHAIR: Can we not argue about the name. I'm concerned about timing, because we haven't got to Senator McCarthy.

Senator HUGHES: Okay. Moving on from that, then, if we can fundamentally agree on what the process is: do you think it is appropriate for Centrelink to look for more information where they find discrepancies, where they detect that there are issues between what the ATO has on record and what has been declared to them?

Ms Beaumont: We do. They have information gathering powers under section 192 so that they are able to send off employers reports to verify what the earnings for that particular person were. We have no objection to Centrelink or DHS using those powers similarly to send off to the banks to get verification of past pay periods through bank statements. We have no issue with that, because then at least we know that that's what the fortnightly income for that particular person was, rather than the current approach that's used with automated debts where someone hasn't engaged with the process, and averaging or apportionment is used for the period.

Senator HUGHES: To come back to that, and this is where I'm a little bit concerned: from a legal perspective you would be happier with the government going to a bank and requesting information about an individual without engagement from the individual?

Ms Beaumont: The old data-matching process, which has run since the 1990s—there was an initial letter that went to the client to allow the client to provide information to them. That was part of the original data-matching process with the ATO. We don't have any objections about notifying clients that that's occurring and them having the ability to provide it if they've got it, but it's also that they've got the powers to be able to verify earnings by using their powers. Our clients don't—

Senator HUGHES: I find it extraordinary that, if someone doesn't engage—if a person receives a request for information and chooses to ignore it—you think that the government should be able to take that ignoring of contact as permission to go to their bank or their financial institution for information.

Ms Beaumont: Senator, I would suggest that it would be going to the employer first so that they would try to seek that information—

Senator HUGHES: Again, isn't that a breach of privacy in going over the individual?

Ms Beaumont: It's what they have always done. It's DHS's power. Prior to the implementation of the automatic debt process, employers reports were sent on a regular basis by DHS to verify what their earnings were for a particular period of time. That was the basis for the raising of numerous debts over decades. That is the issue that we have about using an apportionment approach: it's unlikely to give an accurate result unless someone worked and earned exactly the same amount for the whole year and didn't have any gaps in their Centrelink payment, because it doesn't necessarily account for those things that occur.

CHAIR: Ms Jackson, you wanted to make a comment?

Ms Jackson: I just wanted to make a comment on some work we've been doing on debt recovery in other areas of government utilities. It's the lack of engagement that flags the need for the agency to make contact with that person.

Senator HUGHES: The lack of engagement with whom?

Ms Jackson: The lack of engagement with someone who owes a debt or potentially is seen to owe a debt. This is in the context of my example—

Senator HUGHES: I'm trying to understand, though, how much engagement you think there should be that then equates to an appropriate level of engagement. If we're using registered letters and read-request emails—what is the appropriate level of communication that: 'There's an issue. Get in touch so we can have a chat about it,' without a debt being raised? What is the appropriate level of communication that needs to be made before we're

saying, 'Well, the department has tried to do this.' Would you agree that the government has a legal obligation to try to recoup any debt? I mean, it's taxpayers' money.

Ms Jackson: And I'm trying to use an example of what the Western Australia government is using with respect to debts owed to government utilities. Yes, you get sent out a notice. Yes, you get letters. What they found was that often people didn't engage as a result of that—for a whole range of different reasons, and I'm not saying that's right necessarily or defensible. There could be some very good reasons for that. But that's what triggers Water Corporation then trying to make contact with that particular client—actually speak to them. There are a number of assessments that need to be made. Is it a person who can't pay or is it a person who won't pay? What are the reasons for them not paying? Is there some other issue sitting there? For example, the call centre staff at the Water Corporation have been trained in hardship recognition. They have been trained in how to recognise FDV situations so that their debt recovery processes don't further impact on what is already a person in crisis or in a difficult situation. If it is someone who won't pay, then, yes, by all means pursue whatever legal rights are open to you.

Senator HUGHES: I realise we're running out of time, so I will finish up so that if Senator McCarthy has any questions she can ask them. So I can clarify: Ms Beaumont, you think that the department should potentially be looking to put the impost onto businesses and employers rather than onto the individual to report earnings? We should be looking at employers being responsible for making declarations to—

Ms Beaumont: They already are.

Senator HUGHES: They do. This is how the data then comes to the tax office and DHS can see the discrepancy. But then there's that secondary compliance that should be done when there are Centrelink debts involved. Rather than the individual who has been receiving the benefit of Centrelink payments being responsible for making the reporting, the additional impost is on that business, which is quite often a small business.

Ms Beaumont: I would suggest that it should be done, because we're trying to work out what that particular recipient was entitled to. The only way that you can do that is to know what the fortnightly earnings were, because that's how the income test works and entitlements work—what someone was entitled to or not entitled to. You can't necessarily get that from an ATO declaration, which is for a whole year.

Senator HUGHES: No, but the person that was receiving the Centrelink payment could have made the reporting requirements at the time.

Ms Beaumont: And they may have, and I guess that's—

Senator HUGHES: And I guess that's when they responded, if they had responded to the very original letter saying, 'We think there might be a discrepancy,' and said: 'No, I don't think so. This is the work that I did. This is worked out over the year.'

Ms Jackson: Depending on when that contact is made, that information can be easier to provide.

Senator HUGHES: It could be a very simple phone call back to the specific phone line that goes on the original letter, registered mail: 'We think there's an issue. Give us a call for a chat.' They can ring up.

Ms Jackson: As long as you don't live in Oombulgarri. Western Australia is a pretty big state. We have lots of places where—

Senator HUGHES: That's all right. I lived 80 kays west of Moree, in the far north-west corner of New South Wales, and they managed to track us down, too, sometimes, so I understand the challenges with distance. I'll hand over to Senator McCarthy.

Senator McCARTHY: I'd like to look at your experiences with external debt collectors. I'm wondering whether that's something each of you may want to respond to. The question is not to anyone in particular. Perhaps I can start with you, Mr Gonzalez.

Mr Gonzalez: In my experience, the commercial debt collectors normally put a lot of pressure on individuals to collect money. Their methods of contacting people can be quite scary. I remember a young girl some time ago who had a Centrelink debt. They sent her one of these threatening letters, and she was very frightened. She sought assistance, so we rang the agent and said: 'This looks like we need to talk to Centrelink. Can you put that on hold?' We appealed the decision and in the end there was no debt. The issue for the young girl, she confided to me, was that she was feeling very anxious. She was shaking when we rang from here. I think there should be a bit more caution when dealing with people, because it may put them in a very awful position. On the other hand, I have been with some agents that have been very understanding and we set up a repayment arrangement, which was appreciated. Overall, they can be quite aggressive in recovering the money, no matter what. I think the

request is that they should treat people more humanely and know that at the end of the line people may be going through a difficult time and should be handled with care.

CHAIR: Thank you. Could I just double-check to see whether any of our witnesses have other comments to make.

Ms Beaumont: Our experience with mercantile debt collection agencies is that they will often ask for higher rates of repayment than our clients are able to afford and there's a degree of, dare I say, bullying behaviour in not accepting an amount and not taking into account that the person could be in financial hardship. Even if they're working, people can still be in financial hardship. Clients basically feel very powerless in those interactions. Also—and I said this in my opening address—the concern is that they will often say to clients: 'We can prevent you from travelling overseas or garnishee your tax returns.' DHS has that power, but mercantile recovery agents do not have those powers. There are some concerns in relation to that.

Senator McCARTHY: Could I clarify, Ms Beaumont: are you talking specifically about mercantile agents?

Ms Beaumont: Yes, I'm talking specifically about mercantile agents. In DHS, we regularly refer clients to negotiate repayment plans, and they're usually quite open to that, taking into account the client's circumstances. Obviously, they have to go back every three months or 13 weeks to show that they don't have increased means and that can sometimes be an onerous burden on the debtor. Repayment rates can revert to higher amounts. People negotiating lower repayment rates can be on Centrelink payments as well, so the recovery is coming from their payments. That can sometimes prove difficult. We tend to advise them when it's the best time to ring the debt recovery unit so that, for example, they're speaking to someone in Western Australia near the end of the day.

CHAIR: Mrs Wallis, do you have anything you want to add to that?

Mrs Wallis: On debt recovery, basically it's across the board in the agencies. Yes, it does cause a tremendous amount of stress for a person and it just complicates their life even more. Usually, they're quite frightened when they come to see us.

Senator McCARTHY: Regarding the debt collection agencies, I think Ms Beaumont pointed out the example of not going overseas. When they step across a boundary that really isn't there to step across, what do you do?

Ms Beaumont: We are aware that the debt collection agencies have customer complaints lines. We've referred clients through to those on occasion. If it's unable to be resolved, it would go through to the Commonwealth Ombudsman's office. That would be the regular complaint mechanism that we would refer clients through to. We usually don't have the capacity to do it for a client, because the demand for our services goes towards other areas of the work that we do.

Senator McCARTHY: Do you know whether there has been that referral to the Commonwealth Ombudsman's office?

Ms Beaumont: Often clients don't come back to us unless there's a further issue. If something can't be resolved, they may come back to us. They come back to our service for further advice, but usually, when we give the initial advice, we give them the option: 'If this isn't resolved in this way, these are your options.' In some instances it's also about asking Centrelink to take the debt back. It's probably more difficult for the debt recovery to go back to DHS.

Senator McCARTHY: Thank you very much, Chair.

CHAIR: I have a couple more questions. Mrs Wallis, we're in the Peel region, so I want to follow-up what's happening here locally. You said you were getting six new clients, four of whom have Centrelink debts.

Mrs Wallis: Yes. They come in clusters. As Ms Beaumont was saying, we tend to get clusters of Centrelink auto debt recovery and then we won't hear anything for a month or so. I'm not sure whether they're just issued that way or it's a coincidence or whether it's media attention. I'm not sure why that happens. They are usually very vulnerable people. You really are quite concerned for their mental health, the suicide risk and what's going on in the family dynamics. It's usually quite extreme. It especially was on Tuesday. Every single one of them had a really sad story—a real-life story of what was happening in their life and what was impacting on them.

CHAIR: Are you able to give us, without releasing any details that might identify somebody—

Mrs Wallis: Yes. We had one lady who had undergone some surgery, which was quite radical, due to cancer. She was struggling mentally, physically and emotionally. She had an automated debt. Due to her partner's earnings—I can't quite remember off the top of my head why it impacted on her, but it did. He also had a debt. He had a breakdown because he wasn't coping with her issues. He had been told by his employment provider to do his fortnightly earnings via the internet—not the gross payment—so we had a debt that way. It was quite sad talking to them because you could see they were both struggling financially. They're due to lose their home

because they have not been able to pay their rent. Everything is on top of them. When I get in touch with Centrelink—I don't know if this is in every area—I find it very hard to engage with them, so I tend to go through the community engagement email. I tend to get more response that way. In the past, we have had good results, but not recently. It's like banging my head against a brick wall and I feel quite deflated for them. So, if I'm feeling like that, how do they feel?

CHAIR: I really hate asking NGOs questions on notice, because I know you're so busy. I scribbled down quite a lot of questions while you were speaking. Would you be willing to take some questions on notice? I'll try to keep the questions as short as I can. There are many things that I'm struggling with. When we spoke to Centrelink yesterday, they talked about the training they provide people and how they offer a lot of support. Then, when I talk to individuals on the ground—both customers and individuals from services—they outline some of their concerns. I'm struggling to bring the two together: what I hear about people's lived experience and what Centrelink think they're providing. I'm not suggesting they're not telling me the truth about what they're doing with the training; it's just that it doesn't seem to match with people's experience. We also heard that people make mistakes. Obviously customers make mistakes, but Centrelink also makes mistakes. Ms Wallace, from what you just said, it sounds like the service provider makes mistakes. In your experience—because people get a lot of advice from their job providers as well as from Centrelink—what is the degree to which the advice people rely on has been inaccurate?

Mrs Wallis: In that particular case, I asked what happened to the person, because I wanted to take that information further with the service provider. They didn't know for a fact that the person no longer worked there. They had made a complaint. It was good that we were able to do that, but it didn't actually help them. It was still their fault and they hadn't intentionally set out to defraud or do anything wrong. It was the same with another client that day. A young homeless man ended up living with his grandparents. He had mental health issues. He was on youth allowance and didn't actually attend TAFE or school or whatever, so he was no longer allowed. So he had a debt for that amount. We're talking about a really young person that's really, really vulnerable.

But, yes, I think a lot of the information both from Centrelink—I checked with the young man; I said, 'When you've been into Centrelink, have you been referred to a service such as ours or to anyone within WA?' No. On the last visit they had somebody they thought was a social worker, who was absolutely brilliant, and Centrelink had referred them to us finally. But that had taken 18 months for it to get to somebody that actually cared enough to give him the information.

CHAIR: I am going to wind us up now, because we're going to run over time. Did anybody else want to make a comment on that?

Mr Gonzalez: I will just briefly say that, yes, there has been some slight in improvement, which is welcome. But I think that the real issues are still not resolved. With the complexity of what people are experiencing, I think that there is a need for more human help—if Centrelink staff can help, face to face, when the problem is so complex, with robo-debt and issues like that. There is room for improvement, and I thank the committee for doing all you can to keep improving the system.

CHAIR: Thank you.

Ms Jackson: The National Social Security Rights Network submission talks about their concerns about inadequate staff and resourcing at Centrelink, and I think that contributes. I think it's good that they're taking some steps to address that. I'd like them to go further. For example, we're trying to encourage community services to use the Legal Health Check, which is a really simple survey. It takes very little time to complete. But it actually identifies where a person may have a legal issue, and so they can make earlier referrals.

CHAIR: Ms Beaumont, do you have anything you want to add?

Ms Beaumont: The difficulty is, at times, with the inconsistency of the service offer. A client goes into a local office because they want to do something face to face. We know that obviously costs more. It's difficult sometimes for people from non-English-speaking backgrounds to be able to interact with the agency, but also being directed to a phone. I know that probably wouldn't be the easiest way to deal with a complex issue, rather than having that face-to-face interaction of knowing that someone's hearing your story, as opposed to the tyranny of distance of being somewhere else in the world or somewhere else in Australia.

CHAIR: Thank you very much for appearing today. I will draft up some of my questions on notice. I suspect others may have some as well. We'll get them to you as soon as possible. Thank you very much. We really appreciate your time.

Proceedings suspended from 10:38 to 12:59



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

SENATE

COMMUNITY AFFAIRS REFERENCES COMMITTEE

Centrelink's compliance program

THURSDAY, 19 AUGUST 2021

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SENATE

COMMUNITY AFFAIRS REFERENCES COMMITTEE

Thursday, 19 August 2021

Members in attendance: Senators Askew [by video link], Hughes [by audio link], O'Neill [by video link], Siewert [by video link].

Terms of Reference for the Inquiry:

To inquire into and report on:

Centrelink's compliance program, with specific reference to:

- a. the ongoing impact of the Federal Government's automated debt collection processes upon current and past income support recipients;
- b. data-matching techniques used by Centrelink, including limitations and uncertainties of data-matching techniques and error-handling processes;
- c. the handling of under-payment errors, including the number of payments identified and made through data-matching following an under-payment error;
- d. the use of real-time wages data and other techniques to prevent overpayment;
- e. the capacity and adequacy of Centrelink and the Department of Human Services to deliver the program, including the use of contract staff and the impact of staff performance targets on the program;
- f. the error rates in the issuing of initial letters and debt notices, the causes of these errors and what steps are routinely taken when errors are identified;
- g. the procedures that have been put in place to prevent future errors;
- h. the number of initial letters and debt notices sent out and the number of debts that have been recovered;
- i. the review process and appeals process for debt notices, including the number of reviews and appeals undertaken;
- j. the use and legality of the debt collection processes used by Centrelink and the Department of Human Services;
- k. the use of debt collectors in the compliance program; and
- l. the cost of the compliance program to date, including the projected and actual amount raised from the program.

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HO, Ms Leanne, Chief Executive Officer, Economic Justice Australia [by video link]

EAGLE, Ms Catherine, Principal Solicitor, Welfare Rights & Advocacy Centre [by video link]

[10:00]

CHAIR: We now welcome, via videoconference, representatives from the Australian Council of Social Service; Economic Justice Australia; and the Welfare Rights & Advocacy Centre. Ms Crowe, will Ms Goldie be appearing as well?

Ms Crowe: No, Chair, no, she will not. I apologise that that wasn't passed on to you sooner.

CHAIR: That's fine. That means we can now start; we don't have to wait. Thank you all for appearing today. I'm pretty certain all of you have appeared before, in other Senate inquiries, so you know some of the information that I'm about to tell you. First off, I will just double-check that you have received information on parliamentary privilege and the protection of witnesses and evidence.

Ms Crowe: Yes, Chair.

CHAIR: Thank you very much for your time today. It's much appreciated. I will invite each of you to make an opening statement. I'm pretty certain you know the drill. We'll ask you lots of questions. I will go with the order that I've got in the program, so I will go to Ms Crowe, representing ACOSS.

Ms Crowe: Thank you, Chair. ACOSS thanks the committee for giving us the opportunity to appear and provide evidence today. I also acknowledge that I am on Gadigal land, and I pay my respects to elders past and present.

As you would all know, this has been a very long-running inquiry, and, although restitution has been delivered to the victims of robodebt, they have not received justice, in our view. We, again, acknowledge and congratulate the thousands of people who came forward and did all they could to fight robodebt, including revealing their stories publicly so as to shine a light on the shocking abuse of power by the government. As Justice Bernard Murphy found in the recent class action ruling, robodebt is:

... a shameful chapter in the administration of the Commonwealth social security system and a massive failure of public administration.

This shameful chapter highlights the lack of basic protections that people receiving social security have in this country, in our view. Every one of us can see right now how important social security is to our society. With millions locked down and hundreds of thousands locked out of paid work, social security truly is a lifeline. Yet robodebt demonstrated a deep disrespect for people receiving social security, assuming that they were guilty of doing something wrong. There are 433,000 people who have received or will receive robodebt refunds, or who have had the unlawful debts that were charged against them dropped, who will not receive compensation for the hurt and anguish that this horrific scheme caused over many years. We are also without a guarantee that the federal government won't try to undertake this kind of debt recovery again.

We have said from the start that debt recovery must have people at its centre. If you are on a low income it is deeply distressing to get a notice that you have a debt, and we understand that, even with the pandemic, more than 1.2 million debt notices have been issued between November 2019 and May 2021. ACOSS is not opposed to the recovery of overpayments. However, recovery of overpayments must be done in a humane and fair way.

The full extent of the damage of robodebt has not been dealt with, nor has there been accountability for the scheme. This is why it's so important for there to be a royal commission or, at the very least, an arm's-length independent inquiry into robodebt, so that we can get to the bottom of what happened and understand who knew what when and who was accountable for this horrific scheme.

Ms Ho: I'm coming to you from the lands of the Gundungurra and Darug people, and I pay my respects to elders past, present and emerging. Economic Justice Australia appreciates this opportunity to give evidence to the committee. What I am going to talk about today is drawn from the expertise of its community legal centres, which provide free legal assistance to people having issues with Centrelink. I'm also joined by Catherine Eagle, who is the principal solicitor at our member centre in Perth, the Welfare Rights & Advocacy Service. She has many years of assisting clients to appeal unfair debts, including debts which were raised through the online compliance intervention known as robodebt without legal basis. I would really like to echo the sentiments that Charmaine has just given in her opening statement from ACOSS; we fully support those. EJA also acknowledges that income

data matching averaging has a legitimate role to play in ensuring the integrity of the system, but it should only ever be used as a starting point which triggers further investigation by Services Australia compliance officers.

The lack of human oversight was the central shortcoming of the online compliance intervention system. As the Federal Court confirmed in the Amato case, sole reliance on automated income averaging without human intervention as to the existence of the debt led Services Australia to raise these debts with no legal basis. The onus of proof was also reversed for these debts. Many debt notice recipients were only able to get a satisfactory explanation of how their debt occurred and how it was calculated by appealing the debt to the Administrative Appeals Tribunal. Many of [inaudible] our member centres advised that Centrelink denied them the right to internal review, and they said that Centrelink compliance officers had informed them their debt couldn't be reviewed unless they provided payslips for the debt period.

To comply with the law and also with ethical frameworks, Services Australia must not only bear the onus of gathering sufficient proof to accurately calculate and raise debts but also ensure that this evidence is transparent. People should have the opportunity to see and understand how the debt arose so they can meaningfully exercise their right to appeal if they believe it is not correct.

EJA is most concerned that these lessons from robodebt have not been learned. Take this recent example from one of our member centres, whose client had difficulty accessing a comprehensible explanation for her debt. We will call her Anita. She was told by Centrelink she had a debt of over \$20,000 because her young child had left her care. The child's father was extremely violent and had actually taken the child from her. She'd sought help from Legal Aid to establish that she was the sole carer of the child. She'd also got evidence from her church and community that she was always the carer. She said she didn't agree with the debt, and she wanted to know how it was calculated. So Centrelink told her to look at the Express Plus Centrelink app. But, when she looked there, there were no details. So she came to one of our workers. She said she had never received any letters from Centrelink about the debt. So she only had the word of the Centrelink officer who had told her that she owed \$23,000. The case worker from our member centre tried, and didn't find any information on the app either. They looked in the 'money you owe' section—nothing there. They looked at the letters section, and that said, 'Go to myGov.' Anita, with her background, didn't even know what myGov was. Finally, the case worker was able to find out directly from Centrelink that she had a parenting payment debt, and she now repays \$100 a fortnight.

This is a really concerning example of what's happening right now. We've got this extremely vulnerable person suddenly informed of a debt, with no explanation of how it arose, and it takes considerable intervention from an advocate who is a lawyer to actually find out what's going on. Centrelink staff should be able to explain the basics of why a debt has been raised when someone calls them on the phone, rather than referring someone to online screens like the app or myGov, which contain minimal information about the debt. It's mostly impossible for people to understand.

We acknowledge and support that Services Australia is rolling out a new internal review model, and we hope that this gives people more accessible explanations for Centrelink decisions. But, unfortunately, we're hearing from our member centres that clients with recent experience are finding that they're most likely to be met by a call centre worker who is only focused on debt recovery and on negotiating a payment plan to pay back the debt.

Beyond debt recovery, we're also concerned that the New Employment Services Model has seen an acceleration of the shift to digital employment services which introduces a range of online self-reporting obligations onto payment recipients. The proposed streamlining reforms of the Social Security Act and the Social Security (Administration) Act will likely create further scope for digitisation of decisions that were previously made by humans.

EJA supports the principles for government use of AI that are outlined in the Australian Human Rights Commission's *Human rights and technology: final report*, namely:

- The Australian Government should comply with human rights in its own use of AI, and it should ensure effective human rights safeguards apply to all entities that use AI.
- AI-informed decision-making systems should be tested before they are used in ways that could harm individuals, and those systems should continue to be monitored as they operate.
- An individual affected by an AI-informed decision should be given reasons for the decision, and they should be able to challenge the decision if they consider it to be wrong or unlawful.

Finally, for these principles to meaningfully apply to the social security system, there needs to be investment in Services Australia staffing to ensure it is sufficiently resourced to provide an adequate level and quality of human oversight over any future automation. This is to ensure not only accuracy in decision-making but also that people

interacting with the social security system are treated with dignity, respect and support. I'm going to hand over to Catherine now for a few more frontline case studies.

Ms Eagle: I'm speaking from the lands of the Whadjuk people of the Noongar nation, and I pay my respects to elders past, present and emerging. I would like to briefly describe how some of the issues Leanne has referred to are affecting our clients and our service currently. I've been working here at Welfare Rights & Advocacy Service, which is a community legal centre, for over 16 years. In my experience, the issues at Services Australia, with lack of sufficient staffing and lack of experience and knowledge amongst staff, have never been more pronounced. And here are some examples of how it's affecting clients.

A client receives a call from a private number, perhaps on a Saturday, and they're told they need to make an arrangement to repay a Centrelink debt. This is the first contact they've had. They ask what the debt is about. They're told they have to look on myGov or at the app. So the client checks, and there's no letter there that explains how the debt arose. They keep talking to the person from debt recovery, who can't explain how the debt arose. They then might, on the Monday, go into their local office, and no-one there can explain how the debt arose but tells them they need to speak to the debt team. The debt team might give a generic response: 'You were overpaid, and you have to pay it back'—that's usually the explanation for why they have a debt—and refers them to debt recovery. And then they might find their way to a centre like ours. For each of those steps, they would have been on hold for an hour or two to get through to those phone numbers. We might then contact services recovery and ask for a copy of the debt explanation, the debt letter. The response that we receive often indicates that the staff person that we're speaking to does not understand either the legislative basis for the payment the person is receiving or—and it follows on from that—they then can't explain the reason for the debt. So sometimes the response we get indicates that it can't be the correct reason because that's got nothing to do with the payment the person is on. There may or may not be a letter, which may contain a one-line statement that they've been overpaid. It might include the period of the debt, but it doesn't explain the reason for the debt, so their options are to request a copy of documents from the person's file under FOI. Now, in the good times, that would be a 30-day turnaround, but currently no FOI requests are being processed due to the reallocation of staff to do processing of COVID related disaster payments. That's been the case for some weeks, and we've got no indication of when that situation is going to change. Alternatively, the client could request a review. There are currently lengthy waits for an authorised review officer within Services Australia to undertake a review because we understand many of them have been reallocated to processing claims as well. So there's no timely way for a client to find out the reason for their debt, but they're expected to start repaying it immediately.

Clients have lost confidence that any debt letter they get is correct. Unless Services Australia staff can explain debts clearly to clients, this is unlikely to change. We spend countless hours, with many calls, explaining what a robodebt is and why, for example, if the person has got a family tax benefit reconciliation debt, that's not a robodebt. But, it's just a waste of our resources and it's a waste of the client's time, because they can't get an explanation of what, in fact, the debt is that they have.

Clients are appealing debts through to the AAT, because they don't understand what they've been told by Services Australia, or they don't have any trust that what they are being told by Centrelink is legally correct—again, a waste of the AAT's resources.

We're also seeing debts raised automatically without the debt raiser considering the client's or the person's circumstances. A recent example involved a client who had been separated for two or three years from a violent ex-partner, and she came to see us when a series of parenting payment, family tax benefit and childcare benefit debts were raised going back over two or three years. She tried to sort things out with Centrelink herself but just kept getting told it was because of shared care. She didn't understand this, because the children had always been 100 per cent in her care. Eventually, when we contacted Services Australia, after a lot of toing and froing, it came to light that somehow the violent ex-partner had persuaded Child Support that he shared the care of the children for the purpose of reducing his obligation under child support, and so Centrelink automatically applied this assessment to her Centrelink payments and raised debts without even contacting her.

A final example of automation that is affecting our clients was a client with an acquired brain injury on DSP, and we were assisting her to appeal a debt. She was referred to us from the AAT. Debt recovery was supposed to be paused whilst the review was completed. She'd been told this by Services Australia, she had been told this by the AAT and, when I contacted Services Australia, they confirmed that this was noted on her record. Despite this, she kept getting calls from a debt recovery team demanding she start repaying the debt. When I queried this, I was initially told it was probably a scam call and she should ignore it. She then got two more calls from debt recovery, and we went back to Centrelink. Then they basically said, 'Oh, yes. Actually it was us. The computer is initiating these calls and they can't be overridden. The best we can do is reduce the amount that she has to repay.' Now, this

was very distressing for the client. Ultimately, the outcome is that her debt was set aside by the AAT, so she doesn't actually have a debt.

They are just some examples I wanted to raise.

CHAIR: Thank you very much. I have a couple of questions before I hand over the call. I want to go back to the issue around FOIs being suspended because of disaster payments. What I understand from the evidence you just gave is that debt recovery is still proceeding. Is that correct?

Ms Eagle: Yes.

CHAIR: I presume you're specifically talking at the moment about the areas that aren't locked down—for example, Tasmania, South Australia, WA and the NT—because we're told that debt recovery has been suspended in areas that are in lockdown.

Ms Eagle: I'm in WA.

CHAIR: We'll check that with Centrelink. In those states you can't FOI material to have a look at and ask about your debt, but you're still subject to debt recovery. Is that what's happening? I just want to be very clear.

Ms Eagle: That is correct. To be honest, you shouldn't need to go through the FOI process to get your debt calculations and a debt explanation, but what we're finding is that, if you can't get it from Services Australia any other way, then that is the only way that you can get it.

CHAIR: We heard with some of our witnesses this morning that they've had trouble getting access to their information and that when they're given it—I think it was 168 pages—it's fairly unintelligible. How often would you need to go to FOI or use that approach to find out information?

Ms Eagle: Increasingly. We're pretty good at reading the gobbledegook that comes in those pages, so if we get access to debt calculations, particularly around income support payments, they're not difficult for us to work out. Sometimes, if you have either a childcare benefit debt or a family assistance debt, you don't get enough from those screeds to work out what on earth has happened. They are literally calculations rather than an explanation. So, through the FOI process, we would be asking for different documents—effectively, the documents that establish why the debt has come about. For example, if it's around an income support payment, we're asking for documents that might relate either to employment income or assets or to whatever it is that has triggered the overpayment. With family tax benefit, it could be that it's a nonlodger debt, or it could be a shared care debt, or it could be payment of arrears of child support. We know what is likely to have triggered or what could be the possible causes of these kinds of debts, but to get to the bottom of why this client has a debt we'd have to ask for a variety of documents, almost to test out which is the correct reason for this debt, and then give them some advice about whether it's likely to be a correct debt or not and about their review options.

CHAIR: So, while debt recovery is suspended in states—and in territories, for that matter—where there is currently a lockdown, it isn't in other states. But the coronavirus and the need to get disaster payments out is actually impacting upon other areas within Centrelink. So would you think that debt recovery, therefore, should be suspended in other areas because Centrelink's quite rightly focusing on getting disaster payments out the door?

Ms Eagle: Yes, if a client's not in a position to know why they have a debt. Some clients who have a debt might be happy to repay it now, particularly if they're still working or their circumstances aren't being impacted by lockdowns. But it should certainly be an option available to people, if they can't find out why they have a debt, to not have to start repaying it.

CHAIR: Thank you. Can I go to the other case you raised, which is the child support case, where it sounds like someone lied and then it wasn't checked and a debt was issued. I found that astounding.

Ms Eagle: It's tricky for us because, again, previously we have not had dealings with child support. We've always been able to say, 'We're not funded to deal with child support; we only deal with Centrelink issues.' But, in these cases, we're now being told by Centrelink that they can't do anything different unless child support change their assessment, so they're not going to have an independent look at whether the client had the children at all times, whether there is evidence of that and whether they were entitled to their family tax benefit, because another government department has, through its own mechanisms, decided that it's shared care and therefore it's changed the child support amounts. To be honest, I haven't quite got to the bottom of how we're going to resolve these issues.

CHAIR: I'm sorry. I'm having terrible déjà vu, because I was asking the ATO—I think it was the year before last—about when they were sent debts for which to garnish people's tax returns, and I specifically asked them, 'Well, do you check the debt with Centrelink?' and they said: 'No, Centrelink's done that. That's their job. We just recoup the money.' But here we are now, with Centrelink saying, 'No, we don't check, because that's that

department's business,' when we have already seen the disaster that happened with the ATO garnishing and with the robodebt. Now we're seeing another variation of departments not talking to each other and automatically processing and not interpreting that. That was a different debt, but it's potentially a lot of money that people are being asked to repay when someone lied.

Ms Eagle: That's right, and it just becomes a nightmare, even for someone who's legally trained, to try and work out how to unravel it. In fact, I can throw the ATO in as well, because this client also had a non-lodger debt which meant that, for one year, Centrelink were saying, 'Well, you haven't either lodged a tax return or declared yourself a non-lodger with the ATO, which means that we're raising a debt for all of your family tax benefit for that year.' The client hasn't worked at all, so normally she would just be able to go to the ATO and put herself as a non-lodger, and therefore that debt would disappear. The ATO told her: 'You can't be a non-lodger for that year, because child support, through making this reassessment, has created a debt of child support for you. Therefore, you have to lodge a tax return, even though you haven't worked.' So she's between the three organisations.

CHAIR: What that also says is that someone else can really screw up your life by telling a great big lie and create this massive problem. It sounds like it was a fairly easy process for someone to lie about that. If they'd contacted the person involved, they could easily have rectified that situation.

Ms Eagle: Particularly where there is family and domestic violence, it should trigger something within those government departments, at least in those cases, to be very vigilant about making sure that the information they're getting is accurate and that the person who's going to be so negatively impacted financially has the opportunity to provide evidence.

Ms Ho: Can I add something to that. We've actually been pursuing this issue with Services Australia over the past two years, so what we do have from them is the policy in relation to when Services Australia needs to contact the other party. When there is a formal decision about the share of care arrangements, they do not contact the parties unless the arrangement is in dispute. So we've gone back to say, 'How do you establish when there is a formal arrangement that is in dispute?' but we don't have a satisfactory answer to that. What we are seeing, especially in the domestic violence matters that Catherine was just talking about, is that they haven't been contacting the other party. We've got cases that are ongoing where this policy issue is really relevant, so we want an answer about when they are applying it and to strengthen the provision that is already in the policy—that they should be contacting where the share of care arrangements are in dispute.

CHAIR: Where there is a dispute, is it part of the arrangement that they don't pass on that information until they verify it? Is that part of it? That doesn't seem to have worked here—or perhaps this example was before that policy came into operation. If they haven't been able to contact the other party, or haven't done so, do they automatically still pass on that debt information to Centrelink, which is what happened here?

Ms Ho: Yes, that's my understanding. And it's not only about debt; it also leads to payment reduction or cancellation.

CHAIR: Yes, exactly. Also, as we've just heard, it has implications with the ATO as well. Ms Crowe, you made a comment about compensation. Could you explain that a little bit further. There was \$112 million—supposedly—for compensation. Could you just tease that out a bit more for me.

Ms Crowe: The key point there—and Justice Murphy made this clear in his statement of the case—is that there has been no compensation for the harm that robodebt has caused. If you take the legal costs out of the \$112 million that was part of the settlement, and apply that across everyone who is part of the class action, it is obviously a relatively small amount. I understand that they'll be doing calculations as to how much each person would receive—and that will differ, so it is hard to comment on that. But essentially there has been no compensation for the damage done to victims of robodebt—and that's what I'm referring to in that statement. Obviously it was horrific for many people. They spent months, if not years, in a high state of anxiety. We have heard of people who received a robodebt who have since suicided. It is absolutely tragic. As I said, there has been no compensation for that harm caused.

CHAIR: Thank you. Ms Crowe, you said you think there needs to be a royal commission to get to the bottom of this—which I presume means you don't think we've got to the bottom of it.

Ms Crowe: No. As you would be well aware, the government has not been forthcoming with information that we and probably everyone affected by robodebt have been demanding, which is about who is accountable for this scheme. Robodebt went for close to four years before it was stopped, and that was only because of the Federal Court case. We still don't know who knew what and when. We don't have clarity about what ministers knew and whether they had received advice that relying solely on averaging was unlawful. We just don't have that information.

We and many others, including the EJA and the welfare rights network around the country, were making very clear from as early as 2016 that there were serious problems with robodebt, and yet it continued. As Justice Murphy said in his statement it should have been obvious to ministers and bureaucrats that there would be clear problems with relying solely on averaging when calculating debts, and yet it continued. That is why we need a royal commission, or some form of independent inquiry that is at arm's length of government, to get to the bottom of what happened.

This is ultimately about restoring trust in government. It is crucial that we have a full understanding of what happened and who is responsible for it. Right now, as Catherine has indicated with respect to some of her clients, people aren't trusting the debt recovery system. Why would you, after what has happened? That is also why it's important that we get a much fuller understanding of what went on than we currently have.

CHAIR: Senator O'Neill, I'm guessing you have lots of questions.

Senator O'NEILL: I do have lots of questions. Thank you, Ms Crowe, Ms Ho and Ms Eagle for your evidence this morning. I want to take you through a line of questioning, and will probably come to some of those political assessments that you just concluded with. With regard to the process that you've been assisting people with, is the access to information the most critical issue that needs to be dealt with? There is a whole issue with financial literacy and government-interaction literacy that is at the heart of this—many people might not have encountered the system before. Do people automatically know about the opportunity to receive a refund of their debt, or have you had to issue correspondence or information about that entitlement along with the myriad elements of engagement you've described so far?

Ms Eagle: When you ask if people know they are entitled to a refund of their debt, are you talking about where there was a robodebt and people are asking for a refund of that debt?

Senator O'NEILL: Yes.

Ms Eagle: I think the confusion there arose because, for most people, once the refunds were announced they went through automatically. A lot of people got the original opt-in opt-out letter that went to more people than were probably affected. It went to everyone who had been initially affected, but it also went to some people whose debts were no longer robodebts. So that led to a lot of confusion because they thought they would be getting a refund when they weren't going to get a refund. An example of that would be where someone had a robodebt raised and they then as part of the appeals process provided all their payslips. The debt was then recalculated correctly and they were then issued with a new debt that could have been larger or smaller than their robodebt, but they got the 'opt-in, opt-out' class action letter and so were expecting to get a refund and didn't. We've had a few clients at our centre—I can't speak for the country—who did have a robodebt and didn't get a refund and had to get advice about how to go about that and eventually that occurred.

Senator O'NEILL: There's been confusion; you've made that pretty clear. We're clear about the confusion. But you're also saying there are people you've come across—and there may be many others out there as yet unknown to us—who are entitled to a return of an illegally raised debt from their own government, but they don't know how to go about it and they don't know if they're entitled to it?

Ms Eagle: I'm not sure about numbers. Services Australia might have that information.

Ms Crowe: Yes, it would be good to ask the department about that, today or tomorrow or whenever they are appearing. The latest data we have is that a relatively small number of people have not yet received a refund, and that is likely because Services Australia does not have contact details for them and it's ultimately relying on those people to come forward. It is a small number, but obviously it's a concern if they can't reach those people and alert them to the fact that they're owed money.

Senator O'NEILL: If you have any idea about the number, that would be helpful.

Ms Crowe: I can dig that up. It is from a couple of months ago, so it may change.

Senator O'NEILL: Also, are people experiencing waiting times for receiving their payment?

Ms Eagle: I'm not sure. Once they've identified themselves and once it's been established that they're owed a refund—but, again, I'm relying on only a couple of cases—I think the refund comes through fairly quickly.

Senator O'NEILL: Are there any problems that you know of with access to the refund process, including providing bank information in myGov?

Ms Eagle: I'm not aware of any.

Senator O'NEILL: If you find anything out about those, of course, it would be wonderful to hear from you through the secretariat.

Ms Crowe: As at the end of June there were about 10,000 people who Services Australia had not been able to contact yet regarding their refund. As I said, that may have changed since.

Senator O'NEILL: Okay. That's very helpful. Thanks very much. We can follow that up with the department tomorrow. The whole of this inquiry has been gobsmacking for me, seeing the level of incompetence and the evidence that was received about harassment. I remember the very first explanations we received from the department about robodebt being generated and then about individuals. I was particularly thinking about this because I have a 24-year-old son and I know a lot of his mates as well. If a 24-year-old had to go back and find all their payslips for the last seven years to provide to the government to prove that the government was wrong, it would not happen. It just not would not happen. There are a whole lot of people who, for varying reasons—including what you described as people fleeing domestic violence situations—the last thing they'd bring with them is documents and the last thing they'd have the capacity to take on was the weight of the government chasing them for a debt that's not theirs. In that context, I think you have given us a pretty good sense that really the current version of interactions with Centrelink is a continuation of robodebt. Robodebt isn't over. Robodebt's just shape-shifted. It's still with us with perhaps a slightly different name. Maybe this is the sequel. Could you explain to me what are the main lessons that we need to learn from robodebt and what are the effective safeguard measures that have to be put in place to prevent it from happening now and again into the future?

Ms Eagle: You just hit on one of them, which is the reversal of the onus of proof. The 24-year-olds you speak of shouldn't have had to prove that they didn't have a debt. It should be up to the department to establish that there is a debt with sufficient evidence. That is a principle that should remain and be upheld moving forward.

Senator O'NEILL: So there's a change that's required there, and I link that to evidence you gave to Senator Siewert about the nature of the communication that a person gets. You went through this—my God!—time-consuming experience of people trying to find out what's happened and then having to go through FOI. If the onus of proof were shifted back and the government had to prove its debt and outline for you the calculations and the evidence that it's based on, what kind of letter would people get, and how digestible and legible would that be, and what would that change about the system?

Ms Ho: You don't have to go too far back to see what letters used to contain. They would set out the period of the debt, how it arose, what were the reasons and what reporting obligation wasn't fulfilled, whereas what we're seeing now is letters with barely anything in them.

Senator O'NEILL: When did that change?

Ms Ho: Catherine is probably in a better position to say when that changed, having spent longer—

Ms Eagle: It's been a gradual process, but I think we've definitely run the gamut of letters and what needs to be in them and what doesn't. I'm not sure. Probably in the last—

Senator O'NEILL: Maybe you could take that on notice and give us a bit of an idea.

Ms Eagle: Sure.

Senator O'NEILL: I fear that in this period of tumult in the country, while COVID is raging and people are desperate, the government's continuing to act in the way that it did with robodebt. The fact is that there are now more Australians receiving money from the government than in our entire lifetime, and I wonder how many of us right now are at risk of being treated in this way by the government.

Ms Ho: I will just add a couple of things on that. The government has really significant powers to compel the provision of information from employers and various other sources, such as banks, to find out this information. It's not as if it's necessary for the most vulnerable people in society, who are on these payments, to go looking for this information. I can also say, in answer to your last question, that the most recent iteration of the degradation of these letters has only been in the last couple of years, when I've been on the scene. We've been consulted on new versions of template letters for Centrelink decision-makers, especially the authorised review officers, that dumb down the information in these decisions. We've provided feedback that this is not sufficient. Some of these draft template letters are being rolled out and used before those consultations are even finished. So, as we speak, I think this transparency issue is becoming more and more alarming.

Ms Eagle: I can comment on those authorised review officer decision letters. Previously, the first debt letters were variable, but they did contain a lot more information and explanation. If a person actually had a review done, those authorised review officer letters were very valuable, because an experienced individual Centrelink worker who understood the payment system would speak to the client, talk them through what happened and then set out, in two, three or four pages, exactly why the debt arose, what they'd taken into account, the conversation they'd had with the client and the evidence they'd looked at. It was an individual actually sitting and writing a decision, and as Leanne said, for various streamlining reasons and due to lack of resourcing, that's disappearing.

Senator O'NEILL: You mean the government's doing it on the cheap? Despite the fact that they were found to have acted in the most outrageous way and to have raised illegal debts against their own people—the Australian people—Mr Morrison's government has now cut Centrelink resourcing to the point where they are still relying—and based on your evidence are increasingly relying—on auto-generated letters and a reverse onus of proof for Australians to prove that they didn't do anything wrong. They are basically sending a debt for a number that they pull out of the air without any explanation, telling Australians: 'You owe me this. Pay up now.' Is that what's still continuing?

Ms Ho: It is still continuing. An additional issue—and I don't want to cast aspersions about why this might be the case—is that it makes it almost impossible to appeal the debt because you don't know how it arose or how it was calculated. It actually means appeals are less likely to be successful. Our own caseworkers, who as Catherine said would normally be able to interpret the gobbledegook, don't have access to FOI and don't know why the debt in the letter arose. And the client doesn't know what's happening, so there's no way of accessing justice for this cohort.

Senator O'NEILL: 'There is no way of accessing justice from the attacks of your own government.' That's a pretty significant statement. I happen to agree with you and I'm very concerned that this seems to be emerging and being embedded.

Ms Crowe: If you look at the numbers of debt notices that have been sent out over the past 15 months or so, you'll see it equates to about 15,000 a week. Many of those probably relate to the family tax benefit and other things which are a little bit different, but that is ultimately almost at the same level as the number of robodebt notices at the start of the scheme, which they were sending out en masse. The crucial question is: how is Centrelink able to do the necessary investigations to prove that a debt actually exists, and that the amount is correct, before they're sending out those notices?

As Catherine and Leanne have said, the debt notice itself has hardly any information. It basically says: 'You owe this much money. Please pay by this date.' And then buried in it is, 'If you don't think this is right, you can ask for a review.' I've heard from someone this week who did just that—she called Centrelink and asked for a review. She was fobbed off. I think it is because we have call centre staff who are not permanent, have not been trained in the same way as other Centrelink staff and are not aware enough of the low level of rights that people receiving social security do actually have to even do that review in the first place. This is obviously a problem. That person I referred to is highly educated et cetera and can stand up for themselves and take things further. What happens to people who are not in that position and just accept what their government is telling them?

Senator O'NEILL: We do want Australians to be able to trust the government, and never more than at this particular time.

Ms Crowe: Absolutely.

Senator O'NEILL: With regard to Centrelink and the government's sanctioning or development of structures that hide facts from Australians, it puts everybody at risk of getting caught up in this system and receiving an unexpected debt that is unable to be explained. That's particularly with regard to individuals. Can I go to matters of transparency. Having seen the hardship that has been caused by robodebt, do you believe that the origins of the scheme, including whether the government sought advice about the legality of the scheme and what that advice was, should be made public?

Ms Crowe: Yes.

Senator O'NEILL: I agree. Are you aware that the Morrison government is currently fighting to cover up the detail about the origins of the scheme through a public interest immunity claim? They're saying it is not in the public interest for this information to be released. Are you aware that that's the case?

Ms Crowe: I am, Senator. And, quite frankly, that's not good enough. Quite frankly, the public has a right to know what's happened. The public has a right to know so that we don't have a repeat of robodebt in the future. Otherwise, as I indicated in my opening statement, how can the public have confidence in the government and that this kind of thing won't be repeated?

Senator O'NEILL: To be clear, this committee has rejected the government's claims for public interest immunity. Whenever the government said, 'People don't need to know this,' we've said, 'Absolutely they need to know.' Hundreds of thousands, and now it's into millions, of Australians have been impacted. The government continued to say, even after the court case, 'No, you can't have any of this information. We're not going to reveal to you how we cooked it up,' which was Mr Morrison, 'We are not going to tell you about what happened with the AAT when they were finding it was illegal, three years before we went to court. We are not telling you anything about what we found out then. We are not going to tell the Australian Senate and the Australian people anything

about what we did. We just want to keep all that a secret behind closed doors.' What's the risk of that? And what are you seeing now because of that failure of transparency in the government's processes to establish robodebt and its 'children' that seem to be growing?

Ms Crowe: I think the key thing here is the government's use of that provision. Tell that to the hundreds of thousands of people who have been affected by robodebt—that they don't have a right to know why what was inflicted upon them was carried out in the first place and what the advice was that was given to government at the time that gave the government the impression that they could continue with this kind of scheme. They absolutely have the right to know what happened. All of the organisations that went to government and met with government and urged them to stop what they were doing because there were serious flaws in the scheme at the time have a right to know why the government continued with what they were doing. This is one of the largest failures in public administration that we have ever seen and we still don't know why the government continued with it and what advice they were relying on to continue with it. We absolutely have a right to know that.

Senator O'NEILL: I have to say I'm particularly interested in what happened at the AAT for people who got the debt—competent people with a degree of agency and confidence who went through the system themselves, managed it and got through to the AAT and got a decision from the AAT, saying, 'This is an illegally raised debt. The government shouldn't have sent you this bill. You don't have a bill. They did the wrong thing.' We know that happened on many occasions and that there was a handbrake structure embedded between the AAT and the ministers so that the ministers were deliberately, or perhaps not, kept from the advice of the AAT—kept from it moving through the department and on to the minister to say, 'This is illegal. Stop it now.' I think it's important for Australians to know that. Some of it goes to the new processes—the reversal of onus of proof that became embedded in a scheme designed by Mr Morrison, overseen by Mr Stuart Robert, and then further implemented, to the best of my knowledge, by Mr Tudge. I believe Senator Ruston had a hand in it, and now it rests with Minister Reynolds. None of them have indicated any accountability or responsibility for what happened. What's your view about the ministerial system of accountability with regard to robodebt and current iterations of debt being sent to Australians?

Ms Crowe: This is why an independent inquiry or a royal commission is so important, because, until we have a full understanding of which ministers knew what and at what time, the public can't have confidence in the future iterations of debt recovery et cetera. The reality is that we don't actually know what the ministers knew at what time, and that's why the inquiry is so important. If it is found that the ministers did know what they were doing was unlawful at the time, they should do the right thing and step down. That is ultimately what we're looking at here, but right now we don't have that information and that's why the inquiry is so important.

Senator O'NEILL: Perhaps that's why the government are finding it so hard to make sure that another transparency opportunity is completely covered up. This is a massive cover-up of costs to Australian people. The people we spoke to this morning, Ms Cole and Mr and Mrs Mundy, have never had any problems at all with the government and then got caught in a nightmare that took years, because of robodebt. Thank you very much for your evidence. If there's anything else you want to let us know about, we'd be really happy to receive that. Also, if there are any questions that you would like us to put to the department tomorrow, it would be great to receive them from you overnight. Thank you.

CHAIR: Excellent timing, Senator O'Neill. I was just about to say that would have to be your last question. Thank you very much for your time today. We very much appreciate it. Questions on notice—I think there were a couple, weren't there?

Ms Ho: There was one for us about when the debt letters started to degrade.

CHAIR: Yes. Do you have a copy of the most recent ones?

Ms Ho: Yes.

CHAIR: Would you mind sending us a copy of the most recent ones, please, that you have been dealing with for the clients that you are helping and supporting? It would be much appreciated if you could send us a copy, obviously de-identified. That would be very helpful because we've seen various iterations. It would be good to see the types of letters that the people of Australia are now dealing with. Thank you very much. If you have any questions that you want us to ask the department, obviously we will need those overnight, but, if you could get the other information to us by 2 September, that would be very much appreciated. Thank you for your time today.

Proceedings suspended from 11:02 to 11:18

