

Doling out punishment

the rise and rise of social security penalties

A joint research paper by the National Welfare Rights Network and ACOSS¹

Summary

Research conducted by the National Welfare Rights Network and ACOSS shows that the number of harsh social security penalties being imposed on people receiving unemployment benefits has dramatically increased.² The key findings are:

- The number of penalties imposed for infringements of social security rules has increased by 250% in the past three years to a total of 302,000 in the 1999-2000 financial year.
- Almost 200,000 unemployed people and students were penalised in the year to 30 June 2000, with many being penalised more than once.
- Many penalties are being imposed improperly or indiscriminately, as evidenced by the fact that an extraordinary additional 172,000 penalties were applied by Centrelink but later revoked. This is around 35% of all penalties recommended.
- The penalties levied on unemployed Australians and students in the last year led to Government "savings" of an estimated \$170 million.
- The high financial penalties are out of all proportion with the seriousness of the "offence" — a penalty of between \$280 to \$340 is imposed for failing to reply to a letter, and a penalty of between \$630 and \$1300 applies for failure to attend an interview.³
- Case studies of people who have been breached show that homeless people are particularly affected by these harsh penalties because Centrelink or Job Network letters go to an old address or are received too late. Other vulnerable Australians likely to be breached are those who have difficulty meeting often complex social security rules such as:
 - ~ young people, with over 53% of people breached being under the age of 25;
 - ~ people with psychiatric conditions;
 - ~ people with alcohol or drug problems;
 - ~ people with low literacy skills;
 - ~ Indigenous Australians;⁴ and

¹ With thanks to the work of Carla Mullins, Senior Policy Officer Welfare Rights Centre (Sydney).

² See also previous ACOSS research on this topic: [Social security breaches: penalising the most disadvantaged](#), ACOSS INFO 204, March 2000.

³ These penalties are for 1 Jan. 2000. Since 1 July 2000, they are even higher.

⁴ A comprehensive two-year study of social security breach rates among Indigenous Australians found that Indigenous Australians were receiving twice as many Administrative Test breaches as non-Indigenous Australians, and that Activity Test breach rates were consistently higher by a factor of about one-and-a-half for Indigenous Australians. See Sanders, W. 1999 *Unemployment Payments, the Activity Test and Indigenous Australians: Understanding Breach Rates*. Centre for Aboriginal Economic Policy Research, ANU, Monograph 15.

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- ~ those who find a job but wait to declare their new earnings to Centrelink until their first pay cheque arrives.

The rise and rise of "breaches"

The number of social security penalties, called "breaches" by Centrelink, has skyrocketed over the past three years — with total breaches increasing by 250% since 1997 and Activity Test breaches increasing by 291%.

A breach occurs when Centrelink imposes a penalty on an unemployed person or student for failing to meet an "Activity Test" or Administrative requirement (see page 6 for more detail).

- 120,718 breaches were recorded in 1997-98;
- 165,492 breaches were recorded in 1998-99;
- 302,494 breaches were recorded for 1999-2000.

Figure 1: Breaches from 1997 to 2000 ⁵				
	1997-1998	1998-1999	1999-2000	% change in period from 1997 to 2000
Activity Test breaches	60,981	88,751	177,759	291%
Administrative breaches	59,737	76,741	124,735	208%
Total	120,718	165,492	302,494	250%

It should be noted that breaches are not about social security fraud — they relate to infringements of often complex rules and/or increasingly tight Activity Test requirements. In fact, there has been no corresponding increase in the instance of actual welfare fraud. In 1999-2000 there were only 2,881 convictions for 'welfare fraud' — this is slightly down from the 1998-99 figure of 3,011 convictions.⁶

In 1998-99, out of the more than 6 million Australians receiving social security, less than 0.1% — one tenth of one per cent — of recipients fraudulently obtained benefits.

One-sided obligations

Since its first election in 1996, the Coalition Government has significantly increased the obligations imposed on unemployed people.

At the same time, the planned expenditure on the amount of assistance it provides to help disadvantaged jobseekers was cut by \$1 billion a year.

These measures have been undertaken under the policy mantle of "Mutual Obligation" and its one-sided nature is the reason that this term has become mainly associated with imposing penalties and punishment on unemployed people, particularly those who are young.

⁵ Data supplied by Department of Family and Community Services in response to Welfare Rights Centre FOI request.

⁶ Department of Family and Community Services Annual Reports.

Administrative requirements and Activity Tests have been tightened and the obligations imposed on unemployed people and students have been increased by:

- ~ Removing the "earnings credit" scheme which assisted casual unemployed people with the declaration of income, and introducing an Activity Test breach for failure to declare income.⁷
- ~ Increasing the use of "employer contact certificates".⁸
- ~ The introduction of job seeker diaries.
- ~ Increasing the number of jobs a person has to apply for in a given fortnight (up to ten, depending on the particular region).⁹
- ~ Making the failure to notify Centrelink of a change in circumstances an Administrative penalty.¹⁰
- ~ Technological change which has led to the automatic, computerised generation of larger numbers of interview and referral notices by Centrelink.

Excessive penalties for breaches

A recent study by ACOSS and the state and territory Councils of Social Service found that two-thirds of welfare agencies and charities across Australia had experienced a rise in demand for their services.¹¹ Many have specifically reported that the increasing number of social security breaches has added to the demand of low income people for emergency financial relief and material aid.

This is not surprising considering the rapidly rising number of breaches and the harsh effect that the penalties have on the pockets – and lives – of those affected.

Unemployed people already receive social security payments that are well below the poverty line. And, because applicants for social security must use up the major part of any savings or termination payouts before they become eligible for payments, they have nothing to fall back on once they are receiving benefits.

It is clear that breaches are pushing more and more Australians into poverty and increasing the pressure on charities and welfare agencies.

The following tables show that the penalties for social security breaches prior to July 1 2000, ranged from \$281 for Administrative breaches (when the person's payment is reduced by 16% for 13 weeks) up to a massive \$1,304 for a third or subsequent Activity Test breach.

These penalties are out of all proportion to the seriousness of the "offence". Remember that these are breaches of social security rules; they are not instances of social security fraud and cannot be considered "criminal activity".

Activity Test penalties which range from \$632 to \$1304 are clearly excessive and unjustifiably harsh when compared to the average fines for serious criminal offences such as "Assault occasioning actual bodily harm" (\$681); "Break and enter" (\$706); "Vehicle theft" (\$627); and "Driving under the influence" (\$546).¹²

⁷ The Social Security Legislation Amendment (Budget and Other Measures) Act 1996, Act no 84 of 1996.

⁸ The Social Security Legislation Amendment (Budget and Other Measures) Act 1996, Act no 84 of 1996.

⁹ July 1996.

¹⁰ The Social Security Legislation Amendment (Budget and Other Measures) Act 1996, Act no 84 of 1996.

¹¹ [Australians Living on the Edge](#), ACOSS Paper 109, October 2000.

¹² NSW Criminal Courts Statistics 1999, Table 1.11 *Average penalty, persons found guilty in local court appearances finalised*, NSW Bureau of Crime Statistics and Research (2000) Sydney.

	Rate reduction	Penalty for unemployed adult#	Penalty for young person (unemp. or student) #
Activity Test *			
First breach	18 % reduction for 26 weeks	\$763	\$632
Second breach	24 % reduction for 26 weeks	\$1,017	\$843
Third breach	8 weeks no payment	\$1,304	\$1,081
Administrative *			
All breaches	16 % reduction for 13 weeks	\$339	\$281

Penalty depends on actual rate of payment. These examples are based on the rates of payment, not including Rent Assistance, as at 1 January 2000 for a single Newstart Allowance recipient over 21 (\$163.35 p/wk) and a single, independent Youth Allowance recipient 20 years (\$135.15 p/wk), respectively.¹⁴

* Activity Test breaches accumulate and the penalty increases for each breach incurred in a two year period. Administrative breaches do not accumulate.

Social security payments rose on 1 July 2000 to incorporate GST compensation.¹⁵ The following table shows how much a single unemployed adult on Newstart Allowance or a single, independent person on Youth Allowance currently receives after a breach is imposed.

	Unemployed adult		Unemployed young person or student	
	Per week	Per day	Per week	Per day
Basic payment rate	\$175.40	\$24.91	\$140.50	\$20.07
Payment after first AT breach*	\$143.43	\$20.49	\$115.25	\$16.46
Payment after second AT breach	\$133.40	\$19.06	\$106.85	\$15.26
Payment after third AT breach	\$0	\$0	0	\$0
Payment after an Administrative breach	\$147	\$21.00	\$118.05	\$16.86

Figures based on the rates of payment, not including Rent Assistance, as at 20 September 2000 for Newstart Allowance recipient over 21(single) and Youth Allowance recipient 20 years (single, independent), respectively.

* Activity Test (AT) breaches accumulate and the penalty increases for each breach incurred in a two year period. Administrative breaches do not accumulate.

¹³ Other excessive penalties not listed in this table here owing to the small number imposed, include the breach for "Moving to an area of reduced job prospects" which results in 26 weeks no payment — the equivalent of \$4,247 for NSA recipients or \$3,513.90 for YA recipients.

¹⁴ See above.

¹⁵ Note that social security payments rose from 1 July 2000 to incorporate GST compensation. The penalties for an unemployed adult on Newstart Allowance (\$175.40 p/wk) are currently: first breach — \$820.85, second breach — \$1,094.50, third breach — \$1,403.20; Administrative breaches— \$364.80. For a young person, independent aged 20 (\$140.50 p/wk), penalties are currently: first breach — \$657.70, second breach — \$877.00, third breach — \$1,124.40; Administrative breaches — \$ 292.30.

Multiple breaches

It is important to note that, because many people receive more than one breach during the course of a year, the number of individual people affected by breaches is less than the total number of breaches imposed.

The following table shows slightly more than 1.7 million people received social security payments that were subject to Activity Testing in 1999-2000. Of these, almost 200,000 received at least one breach.

	Newstart Allowance	Youth Allowance - Full-time Student	Youth Allowance - Other ¹⁷	Austudy Payment	Special Benefit	Youth Training Allowance	Total
Total number on payment during the year	1,095,718	366,102	216,487	58,046	3,496	4	1,739,853
Number with at least one breach on record (Activity Test or Administrative)	150,147	6,314	40,476	1,064	22	0	198,023

As the table below shows, most people (69.5%) who were breached received only one Activity Test breach in 1999-2000. A significant number (22.2%) received two breaches, while 7.7% received three breaches.

Case studies from the National Welfare Rights Network, some of which are included below, show that people may be breached multiple times in a very short space of time – sometimes as a result of a single incident or episode.

	Activity Test breaches	
First breach	123,521	69.5%
Second breach	39,541	22.2%
Third breach	13,647	7.7%
Unknown	1,050	0.6%
Total breaches	177,759	100.0%

¹⁶ This data, provided by the Dept. of Family and Community Services to ACOSS in November 2000, is for all customers paid in the 12 months to 7 July 2000 with 4 week lag (not mutually exclusive). It has a slightly different time frame and, as a result differs from the other data received from the Dept. of Family and Community Services in response to the Welfare Rights Centre FOI request.

¹⁷ These are young unemployed people.

¹⁸ Data supplied by Department of Family and Community Services in response to Welfare Rights Centre FOI request.

10 most common reasons for breaching

Unemployed people and students are subject to two different types of punishments: Administrative breaches and Activity Test breaches.¹⁹

Administrative breach penalties are imposed when people fail to satisfy administrative requirements, such as failing to attend a Centrelink office when required, failing to reply to correspondence, or failing to notify of changes in their circumstances.

Activity Test breach penalties are imposed when a person receiving certain payments fails to satisfy Activity Test requirements without a reasonable excuse.²⁰ The Activity Test is designed to ensure that unemployed people are actively looking for work and willing to accept offers of suitable employment or undertake activities which are assumed to improve their employment prospects. It may also require people to participate in specific programs and/or education. For students, the Activity Test requires people to make satisfactory progress in their studies.

Social security breaches can be triggered for a broad range of reasons. The table below shows the ten most common reasons for breaching in 1999-2000. The case studies in the Appendix help explain how the problems can arise.

	Type of Breach	No. of Breaches
failed to attend information seminar	Admin	47,052
failed to correctly declare earnings from employment	Activity	42,368
did not attend interview with service provider	Activity	35,275
failed to attend 3 month/9 month interview	Admin	19,380
failed to attend an agency office interview	Activity	17,848
failed to reply to a letter	Admin	14,006
voluntarily unemployed (left work without sufficient reason)	Activity	12,202
failed to enter into activity agreement	Activity	11,449
failed to carry out an activity agreement	Activity	10,353
failed to attend Work for the Dole project	Activity	10,140

¹⁹ Note that Administrative breaches and Activity Test breaches do not currently apply to pensioners, such as those who receive the Age Pension, Disability Support Pension or Parenting Payments.

²⁰ Social security payments subject to Activity Testing are: Newstart Allowance, Austudy Payment, Special Benefit, Youth Allowance, and Youth Training Allowance.

²¹ Data supplied by Department of Family and Community Services in response to Welfare Rights Centre FOI request. Note that this table provides only the top ten reasons for breaches.

Overtaken breaches and appeals

Although there were 302,494 breaches imposed in 1999-2000, a further 172,000 breaches were applied but later revoked by Centrelink.

In other words, there were actually about 474,000 breaches applied in the previous financial year by Centrelink, with more than one in three being later revoked. As the Department of Family and Community Services Annual Report states:

In addition to these imposed activity test and administrative breaches [302,000], a further 172,000 breaches were incurred but later revoked. This is around 35 per cent of all breaches recommended. Breaches can be overturned by the original decision maker or other Centrelink staff following a review of the breach decision. This may occur when customers provide an acceptable reason for not meeting their requirements or when further evidence is provided.²²

Anecdotal information from public servants suggests that breaches are sometimes used as a device to get a person who has been out of contact with Centrelink back in touch. Once the person attends the Office, the breach is then revoked. However, this is a very blunt instrument which does a lot of damage in the meantime.

The Social Security Appeals Tribunal and the Administrative Appeals Tribunal also received over 9,000 requests for review of a Centrelink decision. While precise data is not currently at hand, it is likely that a significant number of these appeals also related to breaches.

However, it is also common knowledge among welfare agencies dealing with social security recipients that many people who might otherwise successfully appeal an adverse breach decision are dissuaded from doing so for a number of common reasons:

- their lack of knowledge of their appeal rights;
- the complexity and difficulty of the process;
- incorrect information provided inadvertently by Centrelink staff discourages them from pursuing an appeal.

Breaches by age group

There is little data available about the characteristics of people being breached. (This is a concern in itself). There is, however, some data that shows the age of those being breached. It reveals that a disproportionate number of breaches affect young people.

In the 1999-2000 period 53% of all breaches were incurred by people under the age of 25. An even higher proportion (58 %) of all Administrative breaches were incurred by people under 25.

The number of young people affected by penalties is not surprising given that the majority of the "Mutual Obligations" introduced by the Government have been targeted at young people. However, from the experience of Welfare Rights Centres, it is this age group that is the least likely to lodge appeals.

²² Page 145, FaCS Annual Report 1999-2000.

Age groups	Activity Test		Administrative	
	1998-99	1999-2000	1998-99	1999-2000
under 18	4,828	6,668	5,425	7,886
18-20	19,872	35,438	18,026	29,044
21-24	23,564	45,936	21,298	35,949
25-29	16,202	38,000	13,523	24,943
30-39	14,145	33,594	10,716	18,713
40-49	7,205	13,402	5,447	6,014
50+	2,935	4,721	2,306	2,186

Govt saves what unemployed people & students lose

The table below shows that unemployed people and students in New South Wales received the highest number of breaches of all states and territories. Somewhat surprisingly, Queensland experienced a higher number of breaches than Victoria, despite Victoria's higher overall population.

State/Territory	Activity Test breaches	Administrative breaches	Total
ACT	1,699	2,004	3,703
NSW	63,458	45,120	108,578
NT	2,554	1,537	4,091
QLD	41,525	27,544	69,069
SA	15,463	10,129	25,592
TAS	3,005	1,409	4,414
VIC	34,028	26,813	60,841
WA	16,015	10,176	26,191
Unknown	12	3	15
AUSTRALIA	177,759	124,735	302,494

ACOSS conservatively estimates that in 1999-2000, the Commonwealth has reaped over \$170 million in "savings" through breaches.

This is an estimate calculated by multiplying the number of breaches by state and territory shown in figure 8 by the penalty amounts shown in figure 2. It underestimates the full amount of breach penalties by assuming that all Activity Test penalties are at the rate that applies to first breaches only.²⁵

²³ Data supplied by Department of Family and Community Services in response to Welfare Rights Centre FOI request.

²⁴ Data supplied by Department of Family and Community Services in response to Welfare Rights Centre FOI request.

²⁵ For the purposes of this estimate, it has also been assumed that, from figure 4, the proportion of penalties at the adult Newstart rate is 75%, while the proportion of penalties at the Youth Allowance rate is 25%.

State/Territory	Penalties 1999-2000
ACT	\$1.9 million
NSW	\$61.1 million
NT	\$2.4 million
QLD	\$39.3 million
SA	\$14.6 million
TAS	\$2.7 million
VIC	\$33.6 million
WA	\$15.0 million
Unknown	\$9.8 million
AUSTRALIA	\$170.6 million

Appendix 1

Case studies in unfairness

The following case studies from clients of the National Welfare Rights Network demonstrate the harsh and indiscriminate nature of the current breaches policy on some of the most vulnerable Australians, including:

- homeless people who are particularly affected by these harsh penalties because Centrelink letters or Job Network notices of an appointment go to an old address or are received too late.
- young people, with over 53% of people breached being under the age of 25;
- people with psychiatric conditions;
- people with alcohol or drug problems;
- people with low literacy skills;
- Indigenous Australians;²⁶ and
- those who find a work but wait to declare their new earnings to Centrelink until their first pay cheque arrives. Homeless people

Case study 1 — Isa

Isa is 19 years of age and receiving Youth Allowance.

Isa did not have stable accommodation and therefore used a youth agency as his postal address. The fact that Isa was homeless was coded on his computer records, but he was not exempted from the Youth Allowance Activity Test requirements. Accordingly, he was sent letters to attend Job Network provider interviews.

The large youth agency processed mail several times a week, on behalf of all of its clients. The result was that it took about three to four days from the time the mail was received at the agency to the time that the young person was given the mail.

Isa incurred two Activity Test breaches for failure to attend a Job Network interview. In both cases the reason Isa did not comply with his requirements was because he had not received the mail in time for him to attend the interviews.

Case study 2 — Mary

Mary is 20 years of age and receiving Youth Allowance. Mary is homeless and arranged for her mail to be directed to a youth agency. Mary has been addicted to heroin since the age of 16 but in April 2000 she started on a methadone program. The transition to methadone was difficult and very painful for her. A medical certificate as to the ongoing withdrawal problems was produced for Centrelink by the drug rehabilitation service.

Mary incurred four Activity Test breaches between 27 June and 8 August. All four breaches were on the grounds that she had failed to attend a Job Network provider and therefore was delaying entering into an activity agreement. In two cases the breaches were overturned because it could be shown that the letters were never received at the youth agency.

In the subsequent two breaches Mary was able to show that on the dates and times for the appointments she was receiving medical treatment, and she had not been able to renegotiate

²⁶ A comprehensive two-year study of social security breach rates among Indigenous Australians found that Indigenous Australians were receiving twice as many Administrative Test breaches as non-Indigenous Australians, and that Activity Test breach rates were consistently higher by a factor of about one-and-a-half for Indigenous Australians. See Sanders, W. 1999 *Unemployment Payments, the Activity Test and Indigenous Australians: Understanding Breach Rates.* Centre for Aboriginal Economic Policy Research, ANU, Monograph 15.

alternative appointments as she did not have enough notice to contact the appropriate people at the Job Network agency.

Case study 3 — Lyn

Lyn was aged about 49 years and suffered from a slight mental disorder which resulted in her being quite vague and suffering bouts of memory loss (similar to the early onset of dementia). Lyn did not like to disclose her condition and by its nature she does not recognise that she has a problem.

Lyn is still quite motivated and keen to seek employment. She was sent to a Job Network provider who sent letters asking her to attend an interview. Lyn kept forgetting to go and lost the letters. Lyn was eventually breached. She asked her social worker to help after she tried unsuccessfully to clear the matter up herself. The social worker rang the Job Network provider and explained the situation. Lyn then arrived at the Job Network provider's office at 7 am, an hour and a half earlier than the appointment time. Lyn arrived so early because she was worried about missing the appointment.

Lyn was required to sign a letter to say she did not have to meet the Activity Test Agreement, as the Job Network provider realised that she was not able to do so. However, the breach was maintained and the client eventually appealed after she obtained assistance from a welfare rights worker. It took two months before the ARO considered the matter and reversed the decision to apply a breach. The result was that Lyn had to survive on a reduced income for nearly four months.

Case study 4 — Ethan

Ethan is 20 years old and has a history of homelessness since he was 14 years of age. He has had problems on and off with the criminal justice system, mostly related to auto theft and heroin addiction.

Ethan was given a community service order. He had a double booking with Centrelink and his community service requirement. He went to Centrelink and explained his circumstances and said that he could not attend the program on that particular day. However, the information was not passed on to the correct person at Centrelink. As a result he incurred his first Activity Test breach.

He was then sent two letters within five days asking him to attend interviews to discuss his non-attendance. He did not receive the letters because he was homeless, and had arranged for his mail to go to a friend's place. He was moving between the houses of his different friends and so sometimes he did not receive mail for a few days. He received a further two Activity Test breaches because of the non-response to the correspondence.

Centrelink gave him three Activity Test penalties within a week, even though two of them should have only been regarded as Administrative breaches. He was without income for 6 weeks before a welfare rights worker helped him appeal and have all breaches successfully overturned. Once Centrelink was forced to confront the young man's problems, it arranged for appropriate assistance.

Case study 5 — Darryl

Darryl was breached for failing to attend an interview with a Job Network provider to enter into an Activity Agreement and not contacting the provider to say he was unable to attend. An Authorised review Officer (ARO) in Centrelink noted that Darryl attended a funeral that day but affirmed the breach on the basis that attending the funeral was not a good reason for failing to attend the interview. The ARO also alluded to an earlier failure to attend a Job Network interview but did not provide details.

The Social Security Appeals Tribunal (SSAT) set aside the breach, commenting that its time had been wasted by having to hear this appeal and noting that there was no evidence of an earlier failure to attend an interview.

Case study 6 — John

John is 18 years of age and in receipt of Youth Allowance. John has been living on the streets for several years. He has Hepatitis C and is receiving treatment for depression. Some medical records indicate he has had paranoid schizophrenic episodes and hallucinations.

John was half an hour late for an 8.30 appointment at Centrelink at which he wanted to provide Centrelink with a medical certificate. He had difficulty getting to the office because of public transport problems. When he arrived late for the interview, he was told that he would be breached for late arrival and would have to come back for another interview. However, he took the opportunity to ask them to look at the medical certificate so as to understand his situation. Centrelink took a copy of the certificate then lost it. At his next interview, he provided them with another copy of the certificate and was placed on the NSA incapacitated rate whilst he was receiving some treatment.

The breach was eventually overturned when, with the assistance of a welfare rights worker, he made an appeal.

Case study 7 — Aron

Aron is 23. He left jail on 2 August 2000 and on 18 August was due to start his community service placement, requiring him to undertake about 131 hours of community service.

Aron claimed Newstart Allowance soon after leaving jail, however by 14 August he had his payment cancelled on the grounds that he had incurred three Activity Test breaches because of an alleged failure to comply with notices:

- the first for failure to attend a Centrelink office to negotiate a preparing for work agreement;
- the second, for failure to attend a Centrelink interview to negotiate a preparing for work agreement;
- the third, for unreasonable delay in entering into an Activity Test agreement.

Aron had difficulties in obtaining his mail, because he was staying in a hostel and there were delays in receiving mail. He was spending a large amount of his time trying to find permanent stable accommodation following his release from jail. This was a requirement for him to be able to meet his community service placement.

Case study 8 — Peter

Peter is a single man of 43 who is long term unemployed. Peter was offered work for two weeks.

He was breached for not declaring income from his new job correctly.

If he had declared the income in the fortnight as soon as he started his new job, his Newstart Allowance would have been reduced and he would not have any money to pay for travelling to work. He had been living from hand to mouth for so long he had no savings. He declared his income when he received it, but Centrelink requires a person to declare income when earned, even if it is not yet received.

Not only did he acquire a debt of about \$300 for his failure to declare earnings, the Activity Test breach that was applied resulted in a 18 % reduction in his payment which worked out to be an additional penalty of \$800.

Case study 9 — Fiona

Fiona had casual work, the hours of which varied dramatically. She informed Centrelink that she was in casual work. She had difficulty working out her wages because her hours varied every week and she had to complete her Newstart Allowance form on Tuesday when her payday was Thursday.

Fiona dealt with this complexity by completing a pink casual workers form when lodging her fortnightly forms. On this form she would regularly declare her hours worked and the rate of pay. Fiona later found out that her employer had told her the wrong rate of pay.

Eventually, Centrelink determined that over a 4 month period it had overpaid Fiona \$625, because of her incorrect use of the hourly rate. Fiona incurred an Activity Test penalty because of her alleged failure to take adequate care in the declaration of her income. The result was that she incurred a penalty of about \$800 while at the same time having to repay a debt of \$625.

Fiona was eventually successful in her appeal to the Social Security Appeals Tribunal which found she had not been reckless in her declaration of income.

Case study 10 — Alan

Alan is 34 years of age and has had a long-standing heroin addiction.

For many years he had been placed on Newstart Allowance (Incapacitated) rate and had submitted medical certificates to Centrelink at three monthly intervals. Eventually Alan "got off" heroin and started to meet the Activity Test again. Unfortunately, Alan started to reuse heroin and was unable to control his use. The result was that he was unable to meet his Activity Test requirements. However, he did not think to obtain a medical certificate to exempt him from the Activity Test.

He was required to attend a Work for the Dole seminar but did not do so because of problems with his addiction. He appealed the application of the breach but the Authorised Review Officer said that a long-term addiction was not a reasonable excuse, as Centrelink had not been told in advance about the medical condition.

His appeal was successful at the Social Security Appeals Tribunal which accepted that his "dysfunctional lifestyle" meant that he was so consumed that he had a reasonable excuse for not complying with his requirements.