

Federal budget submission 2022

About Economic Justice Australia

1. Economic Justice Australia (EJA) is the peak organisation for community legal centres providing specialist advice to people on their social security issues and rights. Our members across Australia have provided people with free and independent information, advice, education and representation in the area of social security for over 30 years.
2. EJA provides expert advice to government on social security reform to make it more effective and accessible. Our law and policy reform work:
 - Strengthens the effectiveness and integrity of our social security system;
 - Educates the community; and
 - Improves people's lives by reducing poverty and inequality.
3. EJA's recommendations for the 2022 budget follow on from those made in EJA's 2021 pre-budget submission. Some of the 2021 recommendations are no longer relevant with the expiry or extension of temporary coronavirus measures and the implementation of our recommendation to provide more time for people to provide an explanation before their income support payment is automatically suspended.

SUMMARY OF RECOMMENDATIONS IN THIS SUBMISSION

Recommendation A: Permanently increase social security income support payment rates, and provide supplementary payments that reflect specific costs people face, as proposed by ACOSS.

Recommendation B: Permanently abolish the newly arrived residents waiting period (NARWP) for Special Benefit; or in the alternative, extend the suspension of the Special Benefit NARWP to at least 30 June 2022.

Recommendation C: Provide all New Zealand citizens living in Australia with access to Special Benefit.

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

- i. Bridging Visas, all sub-classes
- ii. Student Visa
- iii. Temporary Resident (Skilled Employment) Visa
- iv. Pacific and Seasonal Worker Visa
- v. Temporary Graduate Visa.

Recommendation E: Amend s737(1) of the Social Security Act to enable full-time students to access Special Benefit. In the alternative, we propose that policy guidelines regarding administration of section 729 of the Social Security Act be amended by the Secretary of the Department of Social Services to enable full-time students holding a Safe Haven Enterprise Visa access to Special Benefit.

Recommendation F: Abolish the Community Development Program (CDP) and replace it with the comprehensive alternative model originally proposed by the Aboriginal Peak Organisations NT (APONT) - the Fair Work and Strong Communities: Remote Development and Employment Scheme (RDES).

Recommendation G: Cease compulsory income management. Provide people with the option to continue engagement with the Cashless Debit Card program or income management on a voluntary basis, or leave the schemes.

Recommendation H: Allocate substantial additional funding to enable Services Australia to employ additional Centrelink social workers, particularly given COVID-19 impacts, and the rise in risk and incidence of domestic and family violence and homelessness.

Recommendation I: Resource Services Australia to enable engagement of additional Multicultural Service Officers, Remote Servicing Teams and Indigenous Service Officers.

Recommendation J: Invest in adequate Services Australia staffing to provide oversight of automated decision-making processes, and support for people having issues with new automated systems.

Recommendation K: Provide funding to enable establishment of a Centrelink nationwide specialist hotline for community legal centre advocates.

Recommendation L: Inject \$5 million per annum of ongoing core funding to the 15 specialist social security community legal centres and programs across Australia and to Economic Justice Australia as the peak organisation.

Recommendation M: Provide additional funding to community legal centres serving regional and remote communities, to enable provision of specialist legal advice assistance on social security issues, particularly regarding the

Community Development Program, compulsory income management and the Cashless Debit Card program.

Address rate inadequacy

4. The reduction of the Coronavirus Supplement from \$550 to \$250 per fortnight is affecting over 1.4 million job seekers still relying on JobSeeker Payment, Parenting Payment or Youth Allowance in a crowded labour market. People whose lives were transformed by the effective doubling of non-pension payment rates are now unable to afford the essentials – food, accommodation and medications. The complete removal of this supplementary payment from April 2021 will plunge people back to unacceptably low rates that have been broadly criticised as entrenching extreme poverty.
5. EJA endorses ACOSS's Budget 2022 proposals to permanently increase JobSeeker, Youth Allowance, Parenting Payment and related income support to the same level as the pension plus Pension Supplement, and index these payments to wages as well as prices. EJA also endorses ACOSS's proposal that supplementary payments be provided that reflect specific costs faced.

Recommendation A: Permanently increase social security income support payment rates, and provide supplementary payments that reflect specific costs people face, as proposed by ACOSS.

Enhance access to Special Benefit

1. Under the newly arrived residents waiting period (NARWP) that ordinarily applies for most social security income support payments, new migrants generally have to wait four years before they can receive payment. The exception is Special Benefit – for which the NARWP may be waived if the claimant has 'suffered a substantial change of circumstances beyond (their) control' after arrival in Australia.
2. The temporary suspension of the NARWP under the special coronavirus measures has meant that people who would otherwise be precluded from income support payments by virtue of the NARWP have been able to access payment (including JobSeeker Payment, Parenting Payment and Youth Allowance – and Special Benefit, without the 'substantial change' requirement), with any residual waiting period to be served once the NARWP suspension ends.
3. The NARWP suspension measure will end on 31 March 2021. This means that from April 2021 new residents subject to a NARWP who have no means of support will either have their income support payment cancelled, or will be refused payment on a new claim. Income support will only be available to people with minimal available funds who meet the strict criteria for qualifying for Special Benefit during the NARWP.
4. New residents in this situation will potentially have difficulty establishing eligibility for Special Benefit given the need to establish that they are in financial hardship due to

having 'suffered a substantial change in circumstances beyond (their) control' since arrival in Australia. This criterion can be difficult to satisfy, including for people who have been unable to secure permanent employment in Australia but have been able to support themselves and their family with intermittent casual work.

5. Special Benefit is the social security safety net payment of last resort, with tight eligibility criteria that restrict payment to people who are in severe hardship and have no means of support.
6. The suspension of the NARWP ordinarily applying to Special Benefit as a COVID special measure was in recognition of the need to ensure that new residents would not face destitution and homelessness during COVID. We propose that while, arguably, it may be reasonable to reintroduce the NARWP for other social security payments from 1 April 2021, the impacts of COVID on migrant communities has highlighted the need to permanently abolish the NARWP for Special benefit. No person with the right to reside in Australia should be denied income support for themselves and their family in the face of destitution.

Recommendation B: Permanently abolish the newly arrived residents waiting period (NARWP) for Special Benefit; or in the alternative, extend the suspension of the Special Benefit NARWP to at least 30 June 2022.

7. There is a cohort of people on long-stay temporary visas, who have been residing in Australia for some time who have lost employment due to the economic impacts of COVID but are not able to access Special Benefit due to their visa status. The cohort includes: New Zealand citizens living in Australia; international students and graduates; and skilled and seasonal worker visa holders.
8. These people may have been in Australia for several years (or in the case of New Zealand citizens, for many years), and have worked, paid tax and settled here with their family.
9. The pandemic has highlighted the precarious financial and living situations of these cohorts. Without support, these groups are at ongoing risk of entrenched and extreme poverty.

Recommendation C: Provide all New Zealand citizens living in Australia with access to Special Benefit

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

- vi. Bridging Visas, all sub-classes
- vii. Student Visa
- viii. Temporary Resident (Skilled Employment) Visa
- ix. Pacific and Seasonal Worker Visa

x. Temporary Graduate Visa

Recommendation E: Amend s737(1) of the Social Security Act to enable full-time students to access Special Benefit. In the alternative, we propose that policy guidelines regarding administration of section 729 of the Social Security Act be amended by the Secretary of the Department of Social Services to enable full-time students holding a Safe Haven Enterprise Visa access to Special Benefit.

Permanently suspend the Community Development Program

10. The Community Development Program (CDP), the Australian Government’s employment and community development service for people who receive unemployment social security payments and live in remote Australia, was suspended from 23 March 2020 as a measure to stop the spread of coronavirus. The CDP resumed full service on 19 October 2020.

11. In February 2020, EJA published a research report, developed in partnership with the North Australian Aboriginal Justice Agency, exploring the impact of the CDP penalty system on Aboriginal and Torres Strait Islander people living in the Northern Territory (NT).¹ The research interviews expose the reality for many CDP participants and their communities that the CDP program, rather than alleviating these structural barriers, appears to be creating further obstacles. For those interviewed, the CDP compliance and penalties system:
 - Creates financial hardship for families and broader communities which negatively impact on their food and housing security, physical and mental health and well-being
 - Is little understood by the people subject to it
 - Seems to have little relevance to participants’ hopes of finding paid work
 - Does not adequately take into account the cultural, geographic and historical context of the overwhelmingly Indigenous participant population
 - Does not provide participants with the same rights as other workers
 - Is racially discriminatory, requiring participants to engage in more job activity hours than jobseekers in non-remote areas and subjecting participants to strict non-compliance measures.

12. It is unfortunate that the opportunity was not taken with the suspension of the CDP due to the pandemic to permanently suspend the flawed program and replace it with a more effective model.

Recommendation F: Abolish the Community Development Program (CDP) and replace it with the comprehensive alternative model originally proposed by the Aboriginal Peak Organisations NT (APONT) - the Fair Work and Strong Communities: Remote Development and Employment Scheme (RDES).

¹ *Community Development Program — The impact of penalties on participants*. National Social Security Rights Network (EJA). February 2020. http://ejaustralia.org.au/wp-content/uploads/2020/03/NAAJA-NSSRN-Report_FINAL.pdf p.5

Abolish compulsory Cashless Debit Card and Income Management

13. For the reasons set out in EJA's submission to the Inquiry into the Social Security (Administration) Amendment (Continuation of Cashless Welfare) Bill 2020², EJA proposed that the Bill, now passed, be rejected.
14. EJA continues to strongly oppose area-based compulsory quarantining of social security payments and supports ACOSS's recommendation that compulsory income quarantining cease.

Recommendation G: Cease compulsory income management. Provide people with the option to continue engagement with the cashless debit card program or income management on a voluntary basis, or leave the schemes.

Increase Services Australia staffing

15. One of the most critical areas of investment required to improve outcomes for all people who need support through the social security system is Centrelink staffing, particularly investment to improve access to social workers. Within the Centrelink environment, social workers are uniquely equipped to work with clients with complex needs, including in relation to domestic and family violence (DFV) and homelessness.
16. EJA's research into DFV³ indicates better outcomes for clients when they had timely access to Centrelink social workers. The assistance of Centrelink social workers is often key to: identifying cases of DFV; helping victims obtain payment; and appropriately addressing cases where victims have incurred social security/family assistance debts or face repaying a substantial debt due to being coerced by an abusive partner into misreporting their circumstances.
17. Our members report that clients are more likely to disclose DFV to a Centrelink social worker than to teleservice or frontline office staff, and that social workers are able to take a holistic view of a client's circumstances in order to address circumstances of domestic violence.
18. Research into homelessness and social security policy by EJA and Canberra Community Law indicates that while Centrelink provides specialist staff to assist homeless people, these staff are thinly spread across regions and are not always available.⁴

² Accessible at https://www.ejaustralia.org.au/wp/wp-content/uploads/CDC-Bill-Inquiry_Economic-Justice-Australia-submission.docx.pdf

³ *How well does Australia's social security system support victims of family and domestic violence?* August 2018. <https://ejaustralia.org.au/general/how-well-does-australias-social-security-system-support-victims-of-family-and-domestic-violence/>

⁴ *Homeward Bound: Social Security and Homelessness*. December 2019. Canberra Community Law; and National Social Security Rights Network (now Economic Justice Australia). <https://ejaustralia.org.au/general/homelessness/>

19. Despite the crucial role played by Centrelink social workers, in EJA members' experience many people in crisis struggle to access a social worker, and there are often no social workers available when clients in acute crisis attend Centrelink for assistance. Many clients are not aware that Centrelink social work support exists; and clients in obvious need of social worker support are at times only offered a phone appointment with a social worker, which is not conducive to either disclosure or building rapport.
20. Members report that clients often have to wait 2-3 days for Centrelink social worker support, and express frustration at not being able to get an appointment when urgent assistance is needed. The loss of permanent social worker positions in Centrelink offices is keenly felt. There is a need for all Centrelink offices to have a social work unit, staffed at an appropriate level in light of local needs.

Recommendation H: Allocate substantial additional funding to enable Services Australia to employ additional Centrelink social workers, particularly given COVID-19 impacts and the rise in risk and incidence of domestic and family violence, and homelessness.

21. There is also a clear need for more Multicultural Service Officers and Indigenous Service Officers in Centrelink offices, to supplement and complement social work servicing – especially in regional and remote communities. These specialist staff are often at the frontline when it comes to dealing with issues such as family and domestic violence, and homelessness, but are under-resourced to adequately assess clients' needs and make appropriate referrals.
22. EJA members engaging with remote communities for legal outreach and community education advise that a primary issue for people in remote communities is frustration that Centrelink agents are unable to answer questions regarding social security eligibility, income tests and mutual obligation requirements.
23. EJA understands that there are constraints on Centrelink Agents in terms of providing information and advice. Our members advise that some communities do not appreciate that the Agent's role is limited and that the role of Remote Servicing Teams is wider. It is our observation that people are looking to agents for advice and assistance because of under-resourcing of Remote Servicing Teams and Indigenous/Community Liaison Officers.
24. Remote communities rely on Remote Servicing Teams for updates on social security and service changes. Feedback from EJA members providing outreach to remote communities is that there has been a significant reduction in the frequency of Services Australia Remote Servicing Team visits to some communities and that this has had impacts for vulnerable people at risk of disengagement from the social security system.
25. EJA members stress the importance of Centrelink Indigenous Customer Service Officers. Enhanced funding of these positions would enable officers to spend time in

communities developing relationships with community leaders, build understanding of access issues in that community, and provide feedback to Remote Servicing Teams.

26. There is a pressing need to significantly boost funding of the Department's remote programs.

Recommendation I: Resource Services Australia to enable engagement of additional Multicultural Service Officers, Remote Servicing Teams and Indigenous Service Officers.

27. The flawed online compliance program has been extremely costly both in terms of the resources required to identify and refund 'robodebts' raised through system, and the human impact on people who were incorrectly accused of owing debts.

28. Any ongoing and future automation of social security debt recovery and administrative decision-making should have a firm legal basis. This necessitates investment in specialist staff to provide adequate oversight of decisions made using such technology. It is well documented that automated decision-making can unfairly disadvantage certain groups of people. Automated decision-making systems that do not include provision for rigorous human oversight of the decision-making process, and the decisions being made, are prone to error.⁵

29. While it is anticipated that the simplification of income reporting and use of single touch payroll data will reduce the incidence of Centrelink debts resulting from confusion regarding income reporting requirements and processes, there will inevitably be issues with the rollout of the new system that will require human intervention to resolve. People confused by the new system should be able to speak to a customer service officer to help them resolve any problems.

Recommendation J: Invest in adequate Services Australia staffing to provide oversight of automated decision-making processes, and support for people having issues with new automated systems.

30. As the special coronavirus measures come to an end, including the pause on debt recovery, there will be an inevitable surge in requests for review and appeals from affected clients. EJA member centres observe that there are already long delays in completion of internal reviews, resulting in the need for advocates to call Centrelink to enquire regarding progress on reviews, seek that urgent matters be expedited and convey relevant information to review officers that clients have been unable to provide themselves.

31. There is a need for a Centrelink nation-wide Advocates Hotline for community legal centre advocates, staffed by people with technical expertise and an understanding of administrative review rights. This would streamline advocates' dealings with Centrelink

⁵ *Centrelink's compliance program*. Australian Human Rights Commission. September 2019. <https://humanrights.gov.au/our-work/legal/submission/centrelinks-compliance-program>

regarding complex cases and ensure that highly vulnerable clients are dealt with promptly, relieving pressure on Centrelink frontline staff.

Recommendation K: Provide funding to enable establishment of a Centrelink nationwide specialist hotline for community legal centre advocates.

Increase funding to social security community legal centres

32. Despite chronic under-funding of the community legal sector, EJA and its specialist social security legal services have stepped up during the pandemic to provide critical legal help and information to people affected, many of these clients interacting with the social security system for the first time in an ever-changing and pressured environment.
33. The need for legal support for people seeking access to social security income support payments has greatly increased during the pandemic. Our members report that many newly unemployed people in the community are often confused regarding JobKeeper Vs JobSeeker eligibility criteria, and may be unaware that they are entitled to social security income support - or are deterred from claiming due to confusion regarding complex means testing and waiting periods.
34. There is an urgent need for specialist social security legal services to be adequately resourced to meet increased demand for legal assistance as the coronavirus temporary measures come to a close. Key issues for clients include: cancellations of payment when residential waiting periods resume; cancellations when assets testing recommences; reductions in payment once ordinary income testing resumes; imposition of non-payment penalties for mutual obligation breaches; waiver of compensation preclusion periods; and resumption of debt raising and recovery.
35. We note that \$63.3 million has been provided by the Federal Government for justice sector preparedness to provide legal support to Australians who need it during this time. Very little of this funding has trickled through to specialist social security legal services, however, with State and Territory governments required to divide the funds between all parts of the legal assistance sector, and a significant portion having been already earmarked for transitional IT costs and family violence services.

Recommendation L: Inject \$5 million per annum of ongoing core funding to the 15 specialist social security community legal centres and programs across Australia and to Economic Justice Australia as the peak organisation.

36. Some regional and remote areas of Australia have no funded specialist on-the-ground services providing social security legal advice and assistance. This leaves people without access to accessible information, advice and advocacy on social security issues. The Kimberley represents a compelling example. The Kimberley is twice the size of Victoria and the region is thousands of kilometres from the closest community legal centres providing specialist social security legal advice and assistance, these

being in Darwin and Perth. Whilst the Kimberley Community Legal Service (KCLS) is a generalist Community Legal Service, neither KCLS nor any of the other non-profit legal services in the Kimberley receive dedicated funding to provide social security legal help.

37. Lack of access to specialist social security legal advice is particularly problematic in the Kimberley given the high proportion of disadvantaged people in need of social security support, and the dramatic effects of social security problems - including disproportionately high rates of mutual obligation penalties for both mainstream social security payments and the Community Development Program. There is substantial anecdotal evidence in the Kimberley (and other regional/remote areas) of people with high needs withdrawing from the social security system and increasing financial pressure on families and communities due to people receiving Centrelink penalties or suspensions.
38. As initiatives such as extension of the Cashless Debit Card program are rolled out, it appears that no consideration is being given to the fact that a cashless debit card is of no relevance to a person whose social security payment has been suspended or cancelled, and who needs legal assistance to resolve the issue.
39. Many people with valid grounds to seek that they be exited from the CDC program are denied the right to do so because of lack of access to advice and support; and conversely, vulnerable individuals who may benefit from income management are lost to the program because they have disengaged from the social security system. If the expanded CDC program is to be applied with fairness and equity, it is essential that funding be provided to ensure that CDC communities have access to specialist social security legal assistance.

Recommendation M: Provide additional funding to community legal centres serving regional and remote communities, to enable provision of specialist legal advice assistance on social security issues, particularly regarding the Community Development Program, compulsory income management and the Cashless Debit Card program.

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