

Committee Secretary
Senate Community Affairs References Committee
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600
AUSTRALIA

23 February 2017

Dear Madam or Sir

Senate Inquiry - Better Management of the Social Welfare System initiative.

I have knowledge of the Better Management of the Social Welfare System because I assisted my daughter to deal with an alleged debt that was falsely raised by Centrelink. My daughter is currently living and working in Canada, and was consequently unable to respond to Centrelink's flawed claim.

In my submission I will be addressing the following Terms of Reference:

- 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; and
- 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.

Terms of reference

(a) Impact of automated debt collection

The impact of automated debt collection has put lots of stress on tens of thousands of people. Many have seemingly just accepted unfair assessments (with no details to establish a debt) because they have seen it as too hard to challenge. Many examples of the impact of this system on

others can be found in the NotMyDebt Stories.¹ In extreme cases this system appears to be implicated in a young man's suicide.²

I spent in excess of 30 hours dealing with Centrelink and its demands that I disprove a debt (where Centrelink provided no details about how the 'debt' was calculated).³

I am in the fortunate position to have a range of skills as an advocate, a complaint-handler, and a former public servant with knowledge of how to resolve similar matters. I also am not a recipient of any Centrelink benefits, so had no fear of any adverse consequences in challenging Centrelink's decision. I believe that the vast majority of people facing alleged debts do not have the requisite skills to tackle a claim against them, and lack support from advocacy groups (including community legal centres) due to the scarcity of such services. Media reports will give the Committee some idea of the extent of this problem: from my discussions with many others caught up in this fiasco, I estimate that the percentage of people with alleged debts who are unable to challenge them to be far in excess of 90%.

Requiring people with alleged debts to immediately commence repaying them (or withholding amounts from ongoing benefit payments) is inequitable. Approximately 70% of benefit recipients live below the poverty line, and are further impoverished by this practice. It also appears to be contrary to the Commonwealth's *Model Litigant Policy* (see Recommendation 2).

A report from an unnamed Centrelink compliance officer (23 December 2016) indicated that only a handful of alleged debts turned out to be genuine.⁴ Other anecdotal evidence supports this view.

Finally, there is an opportunity cost involved in having people do the work that should be undertaken by Centrelink: that is, Centrelink should establish that a debt exists and produce evidence to support it, not require benefit recipients to spend tens of hours to prove they do not owe money. I can only provide details relating to my own situation: I spent at least 30

¹ *NotMyDebt Stories* at <https://www.notmydebt.com.au/stories/notmydebt-stories>

² *Centrelink's debt collection 'pushed him over the edge'* McKenzie- Murray M 18 February 2017 <https://www.thesaturdaypaper.com.au/2017/02/18/centrelinks-debt-collection-pushed-him-over-the-edge/14873364004249>

³ *Man Spends 30 Hours Disputing False \$5500 Centrelink Debt* Butler J 16 January 2017 <http://www.huffingtonpost.com/2017/01/15/man-spends-30-hours-disputing-false-5500-centrelink-debt/>

⁴ *Centrelink officer says only a fraction of debts in welfare crackdown are genuine* Knaus C 23 December 2016. <https://www.theguardian.com/australia-news/2016/dec/23/centrelink-officer-says-only-a-fraction-of-debts-in-welfare-crackdown-are-genuine>

hours and then confirmed that my daughter had properly reported all income. Based on a conservative \$30 per hour, this is in the order of \$1,000.⁵ It is clear that Centrelink had no evidence to support raising a debt, and that is 30 hours I could have spent engaged in other activities.

(b) Administration of customers' records

My daughter could not access her records or change them. She is overseas, and does not have a mobile phone with international coverage. Even if she did, the costs would be prohibitively expensive due to long delays in answering calls, and the inadequacy of responses generally. She could not access MyGov because that required validation sent to her former Australian mobile phone number. She could not change the linked phone number because she could not access MyGov to make the change: even if she had been able to do so, it is not clear if the validation would have been sent to or received by a Canadian mobile phone number. My daughter requested (25 November 2016) that any further information be sent to her email address: this was not agreed to, and eventually I was told that Centrelink couldn't send emails to people!

I was offered the option of installing a smartphone app to transfer documents to Centrelink. This did not work because I could not get a password. I had provided 6 unique identifiers, but this was not enough to verify my identity and get a password. It mattered not that I had established that I was registered as a nominee for my daughter. I was told that I could go to a Centrelink office to verify my identity, but I had no confidence that a visit there would resolve this.

I am now forced to be a conduit for communications between my daughter and Centrelink, because Centrelink refuses to give her a viable way of direct communication with them. This unsatisfactory situation should be resolved immediately.

(c) Capacity of DHS/Centrelink's services

Many have commented on the inadequacy of Centrelink's services⁶. A major factor is having insufficient staff to meet reasonable response times.

I had phone contact with staff to deal with my daughter's issue: none of the online services were available to me. I was one of the lucky ones in that I eventually got preferred status because of my complaint to my local MP..

⁵ *The Economic Value of Volunteering in Victoria* Ironmonger, D (2012) pp. 7-8
<https://www.volunteeringaustralia.org/wp-content/uploads/The-Economic-Value-of-Volunteering-in-Victoria.pdf>

⁶ *Centrelink leaves 26 million calls unanswered* The Canberra Times, 20 May 2015
<http://www.canberratimes.com.au/national/public-service/centrelink-leaves-26-million-calls-unanswered-20150519-gh5iow.html>

This is unfair to the majority of recipients who are largely left to their own devices. However, it still took me more than 30 hours of my time to resolve an issue that should not have been initiated

Changing the focus to online transactions would be good if it was a route that worked, and where people had the option of making phone contact where it didn't. The reality for me was that the online services were not available to me (see previous term of reference).

I note that all the staff that I dealt with seemed to do all that they could to assist me: the barriers to assisting me seemed to be those set up by government policy and Centrelink protocols, coupled with unrealistic workloads stemming from under-staffing.

(d) Adequacy of complaint and review process

On 25 November 2016 my daughter provided clear authorisation for me to act on her behalf: it took nearly 7 weeks for Centrelink to acknowledge this and note me on their records as her nominee (letter dated 6 January 2017, received 11 January 2017). Consequently I wasted considerable time establishing my right to act for my daughter each time I contacted Centrelink.

On 25 October 2016 she provided clear information that should have been sufficient to resolve her complaint of an erroneous debt. Despite this, it seems that this was effectively ignored until such time as I made a complaint to my local MP, who forwarded it to the Minister. Once the Minister's office referred my correspondence to Centrelink, it seems that the complaint was then escalated to an individual complaint handler (6 January 2017) who then dealt with all complaint issues.

The review process is fundamentally flawed because only Centrelink knows how the alleged debt is calculated. Further flaws include:

- splitting of complaint handling and recovery, with recipients having to try to deal with both areas once action has commenced;
- the requirement to prove that a debt does not exist, while not knowing how it has been calculated;
- the failure to provide responses to letters I sent, or to specific issues raised in the letter;
- an offer by Hank Jongen to contact him if people had concerns. This was a complete waste of time as his response (email from Elise for Hank Jongen 21 December 2016) was that the request I made had been referred to 'the relevant expert area' to deal with my concerns;
- no apology for the fiasco once the 'overpayment' was amended to \$0.00, nor any explanation as to how it arose. I can only rely on the various assumptions I have made about the reasons (see term of reference e))

below.

(e) Data matching

In my daughter's case, she was not provided with details of how the alleged debt was calculated. However, I deduce the following apparent errors from my discussions with Centrelink staff, correspondence and reports from others affected by this initiative:

- firstly, as is common with all affected, income reported by the ATO is averaged over the period shown. For a full year, this would mean dividing the total by 26 to produce an average. This can produce many vagaries, especially if the person's income fluctuated due to varying hours of work;
- secondly, in my daughter's case she had fastidiously reported her fortnightly income. However, she reported her major source of income as coming from the name of the business that employed her. The ATO data recorded the same income as coming from a registered company. In the Centrelink process, this income was double-counted. This could have been avoided by simply checking the owner of the business name that my daughter had advised;
- it appears that Centrelink included income from an employer for whom my daughter worked after all benefit payments had ceased. Why this happened is beyond me, but clearly it should not have been included;
- my daughter worked for one employer for one day only – it appears that this income may have been averaged across a number of fortnights producing an unknown error (again, I cannot establish what this is because at no time has Centrelink provided details of their calculations);
- finally, some of the income that my daughter received (laundry allowance) was exempt income⁷ and should not have been included in any assessment. Automatic data matching does not appear to have the sensitivity to deal with this.

Recommendations

1. Data matching should only be used as a first filter. Then consideration should be given as to whether the ATO data shows a likely inconsistency with income reported by the benefit recipient. Centrelink should establish guidelines for how such assessments will be conducted. Errors that should be eliminated by Centrelink checks include, but are not limited to, double counting of income due to the use of company details on one hand, and a business name on the other.

⁷ "Income" Department of Human Services (retrieved 22 February 2017)
<https://www.humanservices.gov.au/customer/enablers/income>

2. Before raising any debt, Centrelink should at all times act in accordance with the Commonwealth's '*Model Litigant Policy*'⁸. This should include clearly identifying how the debt has been calculated, on what evidence it relies, and providing that information to the individual. That way a person can check and contest a claim if they choose.
3. Centrelink should not commence any actions to recover alleged debts while a matter is disputed. If a matter has been referred for debt recovery action, such action should be stayed until such time as all appeal rights have been exhausted.
4. Ensure that Centrelink has sufficient staff to handle the workload associated with verifying any claims before issuing them, and then resolving any queries and appeals in a timely fashion.
5. Ensure that all benefit recipients have avenues to effectively communicate with Centrelink. This is particularly problematic for those who are overseas, such as my daughter who had no effective way of contacting Centrelink directly. Review current avenues for contact and implement changes to resolve this.
6. There should be no requirement for a benefit recipient to provide any information that is earlier than the ATO's document retention period. If information relates to an employer that is out of business, or relevant information cannot be obtained, any debt relating to this information should be waived.

Yours sincerely

Ian Law

Attachments (confidential)

1. Contact details
2. My notes about dealing with this issue

⁸ "*Model Litigant Obligations: What are They and How are They Enforced?*" Wheelahan, E (2016) <http://www.fedcourt.gov.au/digital-law-library/seminars/ethics-seminar-series/20160315-eugene-wheelahan>

* I note that the current *Legal Services Direction 2005* was amended on 10 November 2016. However it seems that the model litigant provisions remain substantially the same as those in force in March 2016.