



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

COMMUNITY AFFAIRS REFERENCES COMMITTEE

**Centrelink's compliance program**

WEDNESDAY, 9 OCTOBER 2019

MELBOURNE

BY AUTHORITY OF THE SENATE

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**SENATE**

**COMMUNITY AFFAIRS REFERENCES COMMITTEE**

**Wednesday, 9 October 2019**

**Members in attendance:** Senators Askew, Hughes, Siewert, Urquhart.

**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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**BARNES, Mr Gregory Joseph, National Criminal Justice and Human Rights Spokesman, Australian Lawyers Alliance**

*Evidence was taken via teleconference—*

**Committee met at 08:30**

**CHAIR (Senator Siewert):** I declare open this hearing of the Senate Community Affairs References Committee's 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 over 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's also a contempt to give false or misleading evidence.

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 objects to answering a question, the witness should state the grounds on which the objection is taken, and the committee may 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, the witness may request that the answer be given in camera. Such requests 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 and evidence. Additional copies of the information may be obtained from the secretariat, if you require further information. I advise that we are expecting media to attend at some stage during the day.

I'd like to welcome via teleconference a representative from the Australian Lawyers Alliance. Mr Barnes, thank you for appearing today. Before we continue, do you have anything to add about the capacity in which you appear today?

**Mr Barnes:** I am a barrister and I am one of the spokespeople for the Australian Lawyers Alliance.

**CHAIR:** I invite you to make an opening statement, and then we'll ask you lots of questions.

**Mr Barnes:** We've provided a brief submission to the inquiry, and we appreciate the opportunity to elaborate on it. We focused on two issues that might be of interest to the committee. They are effectively the issue of the use of averaging ATO reported income, which no doubt others have touched upon, and the issue of the incorrect calculation of alleged overpayments which results from that. But they are really the backdrop to one of the major concerns.

There are two provisions of the Social Security Act that we focused on, section 1222 and 1333, because as we read it the only way in which the department can recover a debt is by ensuring that the debt amount is accurate. But, secondly, we're concerned about the way in which there's effectively been a reversal of the onus of proof—in other words requiring people to prove their innocence, as it were, on the basis of very limited information. We see nothing in the legislation that allows Centrelink to do that—in other words, to say to a person, 'You need to show us that the debt's not due and payable'—because if one has a look at both of those provisions, which we've set out in our submission, there's certainly nothing that reverses the onus. In the normal course of things, if a department believes that a debt is due then it has to accurately state that debt, and then it's up to the department to prove, essentially on the balance of probabilities, that that debt is owing and then recover it from the person. There's nothing within those provisions that would suggest that the normal method of proof and means of proof of debt is reversed. In other words, the onus is reversed in this particular case.

We focused a little bit on a paper by Peter Hanks QC, who wrote about this in 2017, and also the Commonwealth Ombudsman's report, dealing with the issue of the accuracy of the debt figures. It's important that debt figures be accurate for obvious reasons but particularly because, under the act, it's only if the debt is accurate that it can be recovered. If one has a look at section 1222A, debts due to the Commonwealth, it's presuming that the debt that is raised is a debt that falls under that particular provision. Secondly, under section 1223, if a person has obtained a benefit and that becomes a debt by virtue of the fact that they're not entitled to it then there is a debt and the Commonwealth is entitled then to recover that debt. But, again, in section 1223 there's no reversing of the onus of proof. In other words, it doesn't say that it's up to the person then to establish that it's not a debt and that in fact it's a legitimate entitlement. They're the two matters we've focused on, and we'd be happy to take questions.

**CHAIR:** Thank you. I'll ask one before I pass to somebody else. Can I just ask: not being a lawyer, if something's not mentioned in an act, such as you've just articulated—it doesn't specifically allow or disallow—how is that interpreted? If the onus of proof is not allowed or not mentioned, how is that interpreted?

**Mr Barns:** That's a very good question. It's a question of statutory interpretation. Generally speaking, if you've got legislation, such as this type of legislation, that allows for the recovery of debt, the normal rule is that it is up to the person to whom the debt is owed to prove that the debt is owed. As a matter of common law, for example, if I owe you money under a contract, the onus is not reversed. I don't have to show that I don't owe the money. You have to show that the money is owed and you have to produce the appropriate documentation or conversations et cetera. It's no different as a matter of statute law. There is provision for the recovery of debts—there's no doubt about that—but it depends on the debt being accurate and therefore lawful, which goes to the question of the matching of income et cetera and that issue. But then, secondly, there is nothing in these provisions that suggests that it is up to the individual to prove—or, in other words, that the onus shifts—that the debt is in fact not owing. One would have thought that if the legislature had wanted to reverse the onus, in the normal course of events there would be an explicit provision. There are many pieces of legislation—you would have seen them—where legislation does provide for the reverse onus. In other words, it shifts an onus to the individual. But there's nothing that suggests that in this particular legislation.

**Senator ASKEW:** One quick clarification, Mr Barns: the first piece of correspondence or contact that someone would have with the department in relation to this would not be the raising of a debt. It would just be seeking clarification or further information.

**Mr Barns:** Yes.

**Senator ASKEW:** At what point would you say that it turns into a debt and becomes an issue? I would have thought that it would be quite legitimate for the department to be seeking further clarification if things didn't add up to or match the data provided.

**Mr Barns:** The difficulty with that, and this is not so much a legal issue as it is a policy issue, and it's our experience, is that often people have limited information. If the department's processes are such that they're asserting that a debt is owed—and this is when the onus does reverse in a practical sense because they say: 'We're concerned that you may owe us a debt of X amount. We'd like you to clarify that or give us some further information'—people are often dealing with limited information.

The other point I'd make is a practical point. I practise at the bar in Tasmania and in Melbourne, but I'm particularly conscious in Tasmania of this happening: people, particularly people with mental illness, for example, or people who are under a lot of stress, are getting really stressed out by even a letter seeking clarification and being asked to go through documentation to clarify particular matters. The question is whether or not the department could provide a better system and a system which lessens the need to have people running around trying to collate pieces of information. That's at a more practical level. But I agree with you that the department is, of course, entitled to say to a person: 'We're just seeking clarification of particular matters.' There is an obligation on that person to provide that information, but they can only provide it if the questions or points of clarification being sought by the department, in fact, make sense and are accurate.

**Senator ASKEW:** Obviously, if there is a lack of communication or response, it would be at that point there would need to be further clarification or follow up.

**Mr Barns:** Yes.

**Senator ASKEW:** That's all I've got at this point, thanks.

**Mr Barns:** Thank you.

**Senator URQUHART:** I have had a number of people who have incurred a debt come into my office. I work in the north-west of Tasmania, which has a very high level of people who are reliant on welfare payments because of unemployment and a whole range of other issues. The stress that this has caused many of them is impacting on their health and a whole range of other things. One of my major questions is: what are the main causes for the length of time it takes to resolve disputed claims that you have come across?

**Mr Barns:** Somebody described to me a person, quite a well-educated person, who got one of these letters—it was about parenting allowance—and sent back information. They said it was like going into a black hole. They heard nothing for months and months and months. It was quite a sizeable amount—\$4,000 or \$5,000 or something like that—and they disputed it. They weren't particularly stressed by it, because they could deal with it. They sent back the information and then they just heard nothing for, I think, eight or nine months. Certainly I've heard of people having this experience of a complete lack of communication. First, people get this brutalising letter, which is originally what was happening. Then they scramble to put together information and then hear nothing for months and months and months. And then, on some occasions, they have the department come back and simply say, 'There's a debt and now we're going to recover it.'

I would have less experience than you, Senator, because I'm aware that you would see quite a lot of this. But it's certainly the lack of communication and the communication comes in a fairly blunt form to individuals, which I think has created real stress for people. I'm aware that people I deal with—for example, in the criminal justice system—might have a range of financial pressures, including court fines and other things, and sometimes this Centrelink debt just goes to the bottom of the pile. They just don't want to deal with it; it's just too complicated. This is the real-life experience of people in the justice system rather than it being particularly a legal issue, which we focus on. But, certainly, that's the sort of feedback I've had.

**Senator URQUHART:** I know that it's about a lack of communication, but are there other areas that you think are the main causes for the length of time to resolve the disputed claims? I can cite an elderly couple in my electorate who were issued a notice in 2017, I think. The gentleman has dementia and hasn't worked for a very long period of time. In fact, it's been over 12 years, I think, since he worked. He and his wife were both sent a compliance letter of \$22,000 each, which seems quite bizarre given that she had worked but he hadn't worked. They've only just got that resolved through my office, about three weeks ago. The debt was written off because it was deemed to have not actually incurred. The concern for me is that we've got people like that living in the community. In this case, the partner of the gentleman with dementia was looking after him and had to deal with this issue and was at the end of her tether. Why is there such a length of time? Why does it end up at the bottom of the pile? Why do people have to go through these issues, in your opinion? Is it the process where they have to try and prove the information and get the information out—the reverse onus of proof—or is it that a number of people are working on the processes within the Centrelink environment?

**Mr Barns:** It's probably both. One of the points that we make is that having inaccurate debt calculations is a problem, because that, of course, complicates the entire process. When a person like the people you just described gets the letter, they say, 'That's impossible. That's simply wrong,' but then of course the department says, 'You tell us how it's wrong.' That's the reverse onus of proof, which is particularly unfair on a people who might be—such as in the case that you were talking about—carers of a person with dementia, people who have considerable stresses in their life or people who may not have any sense of financial literacy, which is another important point, or no literacy at all, as you and I both know exists in some parts of Tasmania. The question of course is: why haven't these major flaws been addressed more quickly? In other words: why can't there be greater accuracy in the crystallising of the debt? Why is it that the department is fobbing off what we say is its legal responsibility on to the individual, with the reverse onus of proof that I talked about, to prove that the debt is not owed? This is a bit out of our field, but it's surely either a resourcing issue or it's been a particular strategy that's been taken by the department in order to, in a sense, lessen the burden on it and place it on very vulnerable consumers of Centrelink services and Centrelink payments.

**Senator URQUHART:** Do you have an opinion on which one it is?

**Mr Barns:** I don't because I don't know enough about it. I suspect it's a bit of both. We said, I think in paragraph 8, that the two major flaws haven't been addressed. We surmise that it would require a great increase in resources in Centrelink in order to ensure that you're not getting these incorrect calculations of overpayments. The effect of a reversal of the onus we think can only be put down to the fact that Centrelink doesn't have the resources to do what it ought to be doing, and what any creditor does, and that is to prove its debt and do so in a way that's both accurate and timely, and ensure that it does it in a cooperate sort of way to the extent that it can with the individual.

**Senator URQUHART:** One of the recommendations in your 2017 submission was that the online compliance program be suspended pending the outcome of a review of the error rates and costs. Do you want to give us bit more detail around what you mean by that?

**Mr Barns:** I think what we said—I don't have it in front of me—was that, as senators would be aware, when this first emerged there was a great deal of concern expressed, particularly around the inaccurate data matching. In fact, Gavin Silbert QC, who is the former deputy DPP in Victoria, took up this issue upon retirement—I think he had a relative in this position—and has done quite a lot of work on this. If you can't crystallise your debt in an accurate fashion—and, of course, it's a nationwide program—then you ought to suspend that program until you can get it right. You can't have a situation where a government department, which impacts on more people's lives than most government departments, is continually sending out what effectively are debts which are not owing, and which have no basis in law because they're not accurate under the act, and then demanding people effectively come back to them and tell them why it's not accurate. That's what we were saying at that time, that the program ought to have been suspended, because it was causing enormous community angst, as we know.

I know a number of lawyers who are particularly concerned about it. There is, of course, a current case—which we won't comment on because it's before the Federal Court—an unjust enrichment case, which is now being

pursued through the Federal Court. This could have been avoided if, instead of soldiering on, there had been some reckoning and some reflection, and a much better more robust system and a legally sustainable system created.

**Senator URQUHART:** Here we are in 2019. Is that recommendation still relevant from your point of view?

**Mr Barns:** I think to the extent that there are inaccurate, incorrect calculations of alleged overpayments, to the extent that the department is still seeking to reverse the onus, we would say the program is fundamentally flawed in those two respects. It ought to be suspended, because we think there are certainly some serious issues relating particularly to the interpretation of the two provisions in the act. It's important, of course, that a government department, particularly given the way in which government departments like to purport that they comply with the model litigant policies of the Commonwealth, ought to suspend programs to ensure that they're accurate, particularly one which has the sort of breadth and scope of this program.

**Senator URQUHART:** Thanks very much, Mr Barns.

**Senator HUGHES:** If I can just clarify at the start, has the ALA actually provided a submission to this current inquiry or are you relying on the submission that you made in 2017 to a previous inquiry?

**Mr Barns:** This submission that we've placed into this inquiry includes material from the previous inquiry, as I understand it. I didn't appear at the previous inquiry but it certainly includes some submissions.

**Senator HUGHES:** If I can just clarify with you that the committee has not received a submission from the ALA with regard to this inquiry at all, and, in fact, the only information we have is from your submission in 2017?

**Mr Barns:** Right.

**Senator HUGHES:** I guess my concern is since the 2017 submission there have been a significant number of changes to the program since then. There have been some—

**Mr Barns:** I understand that—

**Senator HUGHES:** significant improvements since then. I want to clarify a couple of things that you mentioned through your previous evidence. You suggested that people get stressed when they receive even the current CUPI letter seeking clarification of a discrepancy. I just want to be clear: this is not a debt. This is not a figure that they're receiving. Surely you're not suggesting that we make public policy based around the stress levels of individuals? As a member of the court, you know that people receive summonses and there's other legal engagement with them as individuals. We can't be making public policy on the basis that it might stress someone out in regard to receiving a request for information or clarification.

**Mr Barns:** I think you're missing the point. The point—

**Senator HUGHES:** Really?

**Mr Barns:** Well, if you'd let me finish—you've asked a question, and I'll answer it as best I can. The first point to make is this: in relation more generally to the law, there is a great deal of work which is being done within legal systems here, in the United States, in the United Kingdom and elsewhere to try to reduce the amount of inherent stress that comes about as a result of people's interactions with the legal system. In fact, policy in the justice area is now taking much greater account of the way in which users of systems interact and trying to reduce the stress levels associated with that.

My point is not that Centrelink shouldn't send a letter asking for clarification. My point is simply that there needs to be an understanding that it would be preferable for Centrelink to crystallise the debt accurately, to set it out and, perhaps, to provide support to that person in understanding why it is that the debt is set out in that particular way rather than saying to the person, 'We're seeking clarification,' particularly to people who don't have great financial literacy, some of whom don't have literacy at all and, furthermore, when they see a letter from Centrelink become highly stressed. It's a way of managing the way in which you interact with the community. As I said to you, there is a great deal of work that's been going on in relation to the justice system, broadly, in seeking to communicate in much more humane ways with individuals and much more understanding ways with individuals. Certainly, public policy ought to be based on ensuring that there is a smoother operation of the system. That is particularly the case when you're dealing with vulnerable people.

**Senator HUGHES:** Have you actually seen the new CUPI letter under the new program that's actually involved in the compliance?

**Mr Barns:** I have.

**Senator HUGHES:** Do you understand that that was actually developed in consultation with people who are welfare recipients in order to ensure that people are able to speak to the department without having the burden of

a specific debt or without looking at people to immediately make a payment? They're actually reaching out to them and asking them to help clarify discrepancies.

**Mr Barns:** I don't think I'd use the words 'reaching out' in relation to Centrelink.

**Senator HUGHES:** Would you like me to read it to you? I've got a copy of the letter here.

**Mr Barns:** You've asked me a question. That's the second occasion now that you've interrupted me. You seem to be wanting to make political points. I'm not interested in making political points. I'm interested in giving you, to the extent that I can, accurate information. So if you'd like to just remain silent while I answer your question—you've asked me a question; I'll answer it. All right?

**Senator HUGHES:** Okay.

**Mr Barns:** My point, and I think the point of many people, is this: why is it that Centrelink continues to—and it does reverse the onus—effectively say, 'We're seeking clarification in relation to the following matters, and we'd like you to assist us with that'? Why is it that an individual needs to effectively tell Centrelink how to do its job or, in other words, how to match its data correctly? Has that problem been fixed? In other words, has the data-matching problem been fixed? Or is the reason for these letters that it hasn't got the capacity to accurately data-match?

**Senator HUGHES:** If the ATO has a report of someone with a tax return of \$20,000 a year and Centrelink has a report of, say, \$12,000 a year, do you think that Centrelink and the department are then entitled to ask the question as to why there is that discrepancy? Do they, in fact, have a legal obligation to potentially attempt to recover any debt that is owed to the Australian taxpayer?

**Mr Barns:** I will answer your question this way: the department is only entitled to recover a debt which is an accurate debt. Secondly, as I understand it, the reliance on ATO income data is problematic. I think the Ombudsman addressed that in a 2017 report. I go back to my fundamental question though: why is it that you're seeing such discrepancies and therefore are going to the taxpayer, effectively, and saying, 'Can you help us work this out?'

**Senator HUGHES:** They're the welfare recipient, and I think we're asking them to clarify the payments that they've received from the Australian taxpayer.

**Mr Barns:** Why should they?

**Senator HUGHES:** Because they've declared income to the tax office.

**Mr Barns:** You're the one, Senator—

**CHAIR:** Mr Barnes—

**Senator HUGHES:** Mr Barns, they've declared income to the tax office, so it's in relation to income shared between government departments, and it's information that that individual has provided to both government departments. So the individual has provided then, in effect, two different figures. One department is asking the individual to clarify that. You've stated here that you clearly don't think the department should be going to the individual and that it has no rights and should have no ability to do that. My next question to you is: do you think the department should then perhaps forget the individual, override them totally and just go to their bank and go to their former employers and demand information on people without any regard for their individual rights? Is that the better and more effective way of getting that information?

**Mr Barns:** I don't accept the premise of your question.

**Senator HUGHES:** Then what is the premise of the question? How do the two departments reconcile the two different figures provided by the individual to two different departments?

**Mr Barns:** Let's try again, Senator. Here's what I said on a number of occasions this morning. Firstly, no-one disputes the right of the department, pursuant to its legislation, to recover a debt which, in fact, is an accurate debt, because that's the only debt it can recover. No-one disputes the right of the department to be able to engage with individuals to seek clarification. The point being made, and I'll make it again for you, is this: with these letters—and there have been changes in the system; acknowledged—there are many, many occasions when people get letters, and the suggestion is that, if there were more work done at the Centrelink end, either there would be less of a discrepancy or, alternatively, the data-matching processes would be more accurate and therefore perhaps potentially there would be fewer letters. The second point I make is it's the way in which one engages. No-one is suggesting—and I have not suggested for one moment—that people should not be engaged. Of course they have to be engaged. The question goes to this: firstly, what you want in the system is Centrelink to have as accurate a record of crystallised debt as possible; and, secondly, it ought not be reversing the onus onto the welfare recipient, who then has to, with limited information, seek to justify their position. So I think you're at

cross-purposes with me. I'm not suggesting, and no-one is suggesting, there ought not be a system for debt recovery. It's the mechanics of the debt recovery and it's ensuring that it's lawful. I don't think being ultra defensive of a government department is ever helpful. I think government departments can always improve their systems, and getting feedback from organisations like ours is I think very important. As I said, I'm not here to make political points. I'm not here to be hypercritical of Centrelink. But we are responding to concerns which have been raised with us, and in work that we've done, about the way in which the system works.

**Senator HUGHES:** I agree with you that government departments can improve, which is hence why this program has now had three iterations in the last couple of years. The CUPI letter has now been developed, in great consultation with those who are recipients of these letters and to make sure that the program is working in a much more humane way, to use your language. But I'll ask the question one more time, and then I think we may have to just agree to disagree, because I'm really not sure we're going to get there. Either we use a CUPI style of letter asking people to clarify a discrepancy or we just go over the top of them to their bank and their former employer. I'm not really sure where the middle ground is, because we're looking at individuals and their direct reporting within a financial year, and it's one or the other if we're clarifying information, if we're saying: 'There's a possible debt here. We just want to fix it and find out if that's the situation. If it's not here and you can provide us with the information, great; it all goes away.' If you can tell us what a better system is, other than asking these people to go straight to the department and declare any discrepancy—I'm really not sure how you are suggesting we can do this better, other than trampling over a person's individual rights and going straight to their employer and bank without any form of consultation at all.

**Mr Barns:** I think I've answered your question on a number of occasions.

**Senator HUGHES:** I think we are at a total impasse here.

**Mr Barns:** You asked me a question again, and again you've interrupted me. I'll answer your question this way: I've answered your question on a number of occasions. At no point have I suggested that 'one or two'—to use your language—trample on someone's rights and go straight to their bank. At no point has that been suggested. That's a rhetorical flourish of yours and you are entitled to it. But at no point has that been suggested. There are problems with this system, which we have outlined. There have been changes, there have been iterations—

**Senator HUGHES:** I don't mean to interrupt you—I realise your sensitivity to it—but the submission was made in 2017. There have been two iterations of the program since then, so your submission is considerably out of date when considering the way the program is modelled.

**CHAIR:** Mr Barns has already said it is his understanding that the Lawyers Alliance has put in a submission. We obviously haven't received it. Mr Barns thinks it is here. Mr Barns, my understanding is that you are also talking to your most recent submission. Is that correct?

**Mr Barns:** That's my understanding. Can I just make this point also: the points we have made in this submission about reversal of onus and the unlawfulness of inaccurate debts—that is, sections 1222 and 1223—remain as true and relevant today as they were in 2017.

**Senator ASKEW:** Mr Barns, thanks for the comments. I want to clarify something. The letter from the department starts: 'We need you to check and update your past income information. We need to make sure that you received the right amount of payments from us in the past. The Australian Taxation Office has given us information about how much income you earned from work in the past. The information from the ATO is different from the information you reported to us. We need your help to check and update your information. You need to do this even if you haven't received any Centrelink payments for a while.' The key thing here is that they are the person who has actually advised the department how much they have got, and the department has taken that at face value and provided welfare payments to them. As a result of that, if there is different reporting coming in from their employers, it means they need to be the one who clarifies it; it can't be left to the department to try and sort out something that has been reported to them and they have taken at face value. So I'm not sure how you can say 'the unlawfulness of incorrect debts' when we haven't actually got to the point where there is a debt; the department would just be trying to clarify exactly what that difference would be and whether there is a debt.

**Mr Barns:** The unlawfulness comes at a later point, as I said earlier. The unlawfulness would come if, for example, having spoken to that person, Centrelink maintained its position. As I understand it, there are some difficulties in the matching process when using ATO income data, which is relied upon, which is different and has different matching periods than Centrelink. That, of course, is a matter between the ATO and Centrelink—to ensure that, to the extent that it can, it is able to match data more accurately.

Coming back to your question—and I've said this a number of times—no-one is suggesting that one ought not seek clarification. What I have said is that, if a debt is said to be owing at the end of that process, it is, in effect, left to the individual to prove that the debt is not owing once it gets to that point. But at the point you are talking about, it is not at reversal of onus; in a sense, what that's doing is seeking to engage with the person. And it's a question of the parameters of that engagement. It is also, as I said earlier, obviously quite stressful for people. It is also about whether they have financial literacy et cetera. It is also about whether we can minimise the number of letters that are sent out by having better data-matching processes. In other words, there is an onus on Centrelink and the ATO to make sure that the discrepancies in income reporting periods et cetera—which is a highly complex equation, as I understand it—is reduced to the extent that you can have fewer of these letters because the discrepancy can be, as it were, worked out in the back office.

**CHAIR:** I want to get back to the issue of the mismatch between datasets. Is it not correct that it is highly likely that, if I have only been on Centrelink benefits for a certain period of time during a financial year, the information I give to the ATO and the information my employer gives to the ATO are inherently going to be different than what I have been telling Centrelink because I have been working for a period when I haven't been on Centrelink benefits?

**Mr Barns:** To answer your question more broadly: we would point out—and I think this was highlighted by the Ombudsman in 2017—that there is difficulty between how you match ATO income data and Centrelink data. Sometimes these debts emerge as a result of an inaccurate matching. What I just said a moment ago was that it is incumbent upon Centrelink and the ATO to try and iron out those kinks in the system so that you get fewer of these letters going out.

**CHAIR:** In the past, didn't Centrelink check with employers before these letters were sent out?

**Mr Barns:** I don't know the answer to that, sorry.

**CHAIR:** Do you have clients you have been helping with this process?

**Mr Barns:** That work is done by solicitors. I am a barrister. But I am very aware of it, and I have certainly dealt with people in the criminal justice system who, in addition, have these sorts of issues. We speak with people who are in this sector, and I am certainly very conscious of the work that my colleagues do in this sector.

**CHAIR:** Can I go back to the issue of stress, which you were talking about earlier. We have gone through a number of iterations of the process, and the CUPI letter is gentler than the previous ones. But do people still see these letters as debt letters regardless of what they are called by the system—the first letter?

**Mr Barns:** Yes. I take the point that is being made, that at that point it is seeking clarification. Certainly it gets referred to as a debt letter. I have heard it referred to as a debt letter. But, when you have a look at it, it is not a debt letter; it is seeking clarification. People do give it that nomenclature; it is inaccurate, of course, as a matter of law. But I think it is fair to say that whenever you get a letter from a government department saying 'We think you've been overpaid; can you tell us whether that is right' it creates a great deal of stress. Of course there has to be clarification, but we ought to be minimising it as much as possible. In other words, what is it about our system that leads to this high rate of debt which is not debt at all or the quantum is different? Alternatively, what is it about our system that we have to send these letters out and say to individuals that they need to clarify their income? Of course, there will always be cases where that may happen. But, generally speaking, one assumes that the administration of the Social Security Act, particularly in relation to debt collecting and the crystallising of debt, systems are in place to ensure it is as accurate as possible so that clarification doesn't need to be sought.

**CHAIR:** Is your argument that they basically need to improve the data-matching system between Centrelink and the ATO, for example, prior to even the discrepancy notices going out?

**Mr Barns:** Yes. The discrepancy ought to be the last resort, in a sense. Can we resolve this matter? Can we work this matter out internally? If we can't work it out internally, then we should send out a letter to an individual seeking clarification. It ought to be the last resort. If people are running a business, they don't send a letter out to people saying they owe them a debt until they have worked through their internal systems and found that there is a problem or that they need to clarify something and get in touch with the person. It ought to be done as a last resort. I'm not familiar enough with Centrelink's internal systems to see whether that has been done.

There is one other interesting point that I will add to that. There have been, as I understand it, challenges to the debt which have gone to the door of the court—people have taken them on, particularly in Victoria—and Centrelink has then said it would wipe the debt. I think there was a case recently. As I said, Gavin Silbert has done some work in this area. It is an odd system. Effectively, if you challenge the debt and go to court, as I understand it, in many cases Centrelink is simply saying, 'Let's not go to court; let's wipe the debt.' If I was advising a person, I would say Centrelink think there is some flaw. And I know that Mr Silbert has a strong view

that there is a legal flaw in this debt collection routine. One needs to get to the bottom of that. No doubt Mr Silbert will give evidence to your inquiry, if he hasn't done so already. There are issues that have been raised by lawyers about the lawfulness of the debt recovery process, and it is interesting that Centrelink has decided to either wipe the debt or settle matters rather than pursuing them through the courts. In other words, Centrelink is not confident enough of its own legal processes.

**CHAIR:** Thank you. Could you follow up where your submission is at?

**Mr Barns:** I will certainly do that. I will get off the phone now and ring my colleagues in Sydney.

**CHAIR:** Much appreciated. Thank you for your time today.

**Mr Barns:** Thank you.

**CARNEY, Emeritus Professor Terry, AO, Private capacity**

**O'DONOVAN, Dr Darren, Private capacity**

[09:18]

**CHAIR:** Thank you for agreeing to give evidence today. I understand that we do have some media present. The committee has already met and agreed that we are happy for the media to be present. That may not accurately reflect the nature of the discussion! The committee has agreed for the media to be here. Are our witnesses happy to be filmed?

**Prof. Carney:** Yes.

**Dr O'Donovan:** Yes.

**CHAIR:** Thank you. I remind the media that are present in the room that permission can be revoked at any time and the media should follow the direction of the secretariat. The media are reminded that they are not allowed to take images of senators' or witnesses' documents or of the audience. Also, media activity may not occur in the room during suspensions or after the adjournment of proceedings.

**CHAIR:** Professor Carney and Dr O'Donovan, would you like to comment on the capacity in which you appear before the committee today?

**Prof. Carney:** I am a social security expert at the University of Sydney and for 39 years I was a member of the Administrative Appeals Tribunal hearing these kinds of matters.

**Dr O'Donovan:** I am a senior lecturer at La Trobe Law School.

**CHAIR:** Welcome. I invite each of you to make an opening statement, if you wish, and then we'll ask you a heap of questions.

**Prof. Carney:** Thank you very much. I appreciate the invitation to give evidence. Senate committees play a really crucial role in the monitoring and making of public policy. At the outset, I want to make clear that while I have two very fundamental criticisms of robo-debt, I attribute them to the fact that the design was rushed—I won't go into the reason why it was rushed—when it was brought in, and too little time has been invested in correcting those fundamental design flaws. Having heard some of the previous evidence, it does actually go to issues around better letters and a quicker switching from the process of asking people to clarify something towards what used to be the issue, prior to robo-debt being introduced: namely, that Centrelink's extensive powers to approach employers and require production of pay slips or to require banks to supply that information was the exclusive basis upon which debts were raised in the seven per cent of data-matching cases in the pre-robo-debt era. Of course, what robo-debt does is set a process in train that people see as being a debt from their first letter, and, ultimately, it does generate debt letters in 100 per cent of those cases. I have very firm ideas—and I've published ideas—that I'm happy to expand on if required about how this could be fairly quickly put on a proper mathematical, legal and administrative footing.

The two flaws that I have identified in my written submission—I won't reiterate at any great length—are, first of all, that robo-debt fails maths. It fails maths because what comes from the ATO is an average. What is required for working-age payments like Newstart and youth allowance is an exact calculation fortnight by fortnight. An average, as any mathematician knows, doesn't speak to its constituent parts, particularly when people have fluctuating income, multiple jobs, periods of employment in between and so on. In a sense, although the CUI letter is an improvement, it still is like the cricket board going to Bradman and saying: 'We don't believe that your batting average is correct. Provide information to tell us why the average we think you had is different from the one that you think you had.' If it's a cricketing analogy, Bradman got 99.94 runs in his last innings, not a duck.

That's the mathematical mistake that the average produces. It's perfectly legitimate as a basis for Centrelink deciding to inquire into the matter; it's the way in which that inquiry is conducted that needs to be fixed. If it's a letter to Bradman, he needs to be told what it is about their information about his cricketing scores that he needs to know. At the moment that letter just doesn't tell you that—the one that was read out by Senator Askew. It doesn't even mention that the ATO information is an average. The vast majority of ordinary people have no idea—even professional people have no idea—about how the income-test calculations are made. That has to be not only explained; it has to be explained in a way that people will actually understand when they receive their letter. Centrelink has put work, over about 30 years, into trying to get their letters better. Do they generally manage to communicate, at the level of the ordinary person, the information that they rightly want to communicate? No, they don't. Experts in communication need to be part of the process—not this internal process that has led to these slightly revised, lipstick-on-a-pig kind of improvements to the scheme.

So the maths is wrong and the law is wrong. That has partly been outlined in the previous submission, but not fully. To Senator Siewert's question about when the legislation is silent, in this case, when the legislation is silent the full court of the Federal Court—page 3 of my submission at the bottom—said a long time ago that there is a practical onus of proof on Centrelink in matters like the raising of a debt. That's why the silence of the legislation doesn't help to make Centrelink's case.

There was reference to the fact that Centrelink has never challenged behind-closed-doors AAT overrulings on the illegality basis. I handed down about six of them myself when I was a member of the tribunal. It never appeals them to the second level, where the decision would become public. Why not? Because, I believe, it doesn't have any confidence at all in the legal foundations of its position. I believe that that accounts for other events in litigation in the Federal Court.

It's now over two years—nearly 2½ years—since Peter Hanks QC and myself published detailed reasoning as to why we see that there is an onus of proof on Centrelink, and unless it is discharged no debt can lawfully be raised. In that time, it's only in the submissions to this committee that, for the very first time, Centrelink identifies what they think is a section. Frankly, it's a risible, laughable attempt to justify its position. It points to section 66A of the Social Security (Administration) Act as being some being some basis for there being an onus on people to advise about and respond to the kind of letter that Centrelink is now generating in the CUIP program. That section has no relevance at all to what this committee is examining here today.

So that's a legal flaw. That's why the program should be stopped and why it should be fixed with a widely consultative inquiry or reference group of people who understand how it is that you can get this balance straight between when the match comes in, advising people and contacting people so that if they do have their pay slips from up to seven years ago—and most of us wouldn't—and if you can get them if you don't have them—and not everybody can, by any means, because you're often working in casual work in restaurants and so on, and the place has closed down. Of course it's appropriate that you settle it as quickly as you can by uploading in an online system. But most people are not in a position to do that. Either Centrelink gets the information entirely by the use of its powers, as it once did in the seven per cent of the cases that I mentioned, or there's a vastly better process than one that has people hanging on the phone for an hour and a half to be told, 'No, go back to Centrelink, get onto the online system and have another go at trying to correct the record' or seeking to request an authorised review officer review or to lodge an appeal to the Administrative Appeals Tribunal, only to be told that you can't do that until you've finished this reconsideration process. That's also contrary to the law about review rights. Although I don't mention it in my submission, the National Legal Aid submission does mention that at pages 28 and 29, and it sets out chapter and verse what I also know is problematic on that score. Thank you very much. I'm sorry that that is such a long opening statement.

**Dr O'Donovan:** I just want to say that I stand 100 per cent with Professor Carney and Peter Hanks QC. My comment and my role would be to talk a lot more about governance. That's my particular focus. Ombudsman, oversight, integrity institutions are my wicket. From my perspective too many of these debts are shaped by the resources, the lack of knowledge of ordinary people, rather than the best possible objective evidence. Every Australian, whatever their political beliefs, has a stake in stopping this policy. In this era of onus and upload, life-changing government decisions are being distorted by our status, our resources, our fear and our vulnerability. The work of Paul Farrell and 7.30 is a monument to that.

My working life is one of footnotes and obscure reports, but I have met so many people who feel so alone in their distress and confusion. I can dish out complexities, but I might use Professor Carney. I can talk section 1223, practical onus, *Comcare v Martin*—I have it all. But the choice before us is smaller and deeper. I'm convinced that if Australians of whatever persuasion could see the people I've seen, they would sit down next to them, maybe give them a consent form, but they would say, 'We know this is life-changing. We'll help you get these records. We'll make sure this is right.' Before I launch into what's going to be some bracing criticism, I think we can come together. I believe we can. But it's coming. With due respect to the motivations, the hard work, the qualifications, including my former students working for the departments, I need to be direct about the approaches of the department as an institution.

Firstly, a vague misting of human over the process cannot deodorise the miscalculations that Professor Carney and Peter Hanks are identifying. Does the department deny the existence of tribunal decisions ordering it to obtain employer records? There is even one in the *Hansard* from the last day of the last Senate inquiry. And we're back here. Does it reject the detailed, fundamental restraints? We're not being general. We're being precise. Given the unanswered questions, the wild semantics, which have persisted for three long years, I'm really proud to call this robo-debt on this day or any day. I'm tabling a document to underline my academic justification for using that

term. It's really important. I'm happy to discuss anything with anyone, but I just hope that we can model civilly disagreeing.

The second point is that we need an ethical confrontation with the push tactics used to secure what the department itself is calling its secondary cost shift. As you can see from page 3 of my submission, the data published—we got an update at the Canberra hearing—on the true practical assistance—going and getting the records, what was always done previously—the data on that is so bad that I thought it was a typo. We need to recognise the raw power of Centrelink English. What is missing from the CUPI letter? The information-gathering policy. The fact that you can argue them down and you can get them to compel that employer. My students that I have met have employers scattered all around Australia. We need to hit them in the eyes with our offer of help, and if they need to consent, let them consent.

We need to talk about lots of things. We need to recognise the raw power of Centrelink English and particular defaults. There is so much research on what happens in public policy when you set a default. We know that it is just replicating social disadvantage. We need to make sure that we remove the continuing overtone in these letters that it's going to happen, it's coming. These letters, I'm sorry to say, I know they're clear calls to action, but it's my experience that they come and sit on top of people's chests. What I would say is, think not of me and all of my privilege and knowledge, but think of the working parent on the phone with two kids and their fees. We have to tell them where the help is.

The department is averaging way more than I expected. That is a key part of their submission. We have 30 per cent who just freeze and don't engage, and 30 per cent who don't complete the review—they're probably clicking through to look for more information. We need to talk about the pursuit of debts over seven years from date of initiation, because that puts an awful ticking evidence clock on everything, if it's gone past the date of retention for employer records.

Thirdly—this is the last point—the department is failing the transparency test. The table of appeals at page 25 of its submission is another monument to its selective framing. The department has admitted in the past that it does not track the precise number of averaged debts. Risk management is important. It cannot actually tell us how long its iterative reassessment process takes. I have seen really concerning delays. Frankly, as well, I would challenge this government to release the cost modelling that we now know it has of a more nuanced approach to compliance work. The public has a fundamental right to know the ethical judgments struck in their names, to know the numbers behind those 7.30 reports. There is a fairer, more accurate way of doing this. I'll admit that that's tough. We live in an age dominated by the loud outtakes of over-caFFEinated political staffers on all sides. My fundamental point is that rewinding robo-debt is about standing up for the quiet dignity that should always accompany even tough government decisions.

**Senator ASKEW:** Thank you very much for your time today. I would like to clarify something, Professor Carney. In regard to the letter, I only read the first section of it, so I'm going to read you the rest of it, just so that you do understand that there was a bit more about that. It also relates to the fact about reaching out for help, as well. I got down to:

We need your help to check and update your information.

So the department is asking them to contact the department and provide extra information. It tells them what they need to do:

You have 28 days from when you receive this letter to update your information. Over the page, you'll find the information we have received from the ATO—

So they've declared it straight up—

Please check this carefully, then go to [humanservices.gov.au](http://humanservices.gov.au)—

And it tells them how to provide the information:

Documents like payslips or bank statements will help you to do this. We understand you may not be able to get these quickly. That's ok – you can ask for more time if you need it.

If you don't check and update your information, we will use the details we already have, including the information from the ATO. This might mean you have to pay money back. If you need help, go to [humanservices.gov.au/checkpastincome](http://humanservices.gov.au/checkpastincome) or call us—

So we've actually given them a phone number to call to seek help. Anyone who does reach out is supported by the department. I just needed to clarify that for you in regard to that. That's probably my key message in that one.

**Prof. Carney:** Is there a question that relates to that?

**Senator ASKEW:** The question is really, in regard to your comments earlier regarding the access to payslips, a lot of people don't have it, but there are actually ways that people can find it through bank statements and so on, as you mentioned earlier. This is probably not so much a question, but just to clarify that there are other options available.

**Prof. Carney:** Thank you. I had read the letter in full. I stand by my point that it does not convey to the ordinary person the substance of the basis on which the person was paid in the past. Most people don't understand how the fortnightly income test works and they don't understand how you get credit for fortnights where you don't actually earn any income or as much income as in another fortnight. And it does not explain that the ATO is a 26-week average, rather than the 13 weeks of your actual fluctuating income. I stand by my view that the letter is a total failure of communication. It's quite easy for a representative group to draft a letter that would have the kind of effect that you believe this one currently has and I disagree with. Good public policy is about ensuring that you get bottom-up design, as it's called, and that's not just a select group of users; the whole community gets involved. This online compliance initiative is part of automation. The whole process of design of automation, which is not mentioned in this submission, is all about how new, different and better, when done properly, the outcomes of that design process would be. The rushed design precluded Centrelink from engaging in that process at the outset. Since then, it's operated mainly internally without sufficient time, and breadth of engagement with people, to fix it. That was your first question. Your second question was?

**Senator ASKEW:** Would you accept then that, if the individual has provided their correct fortnightly figures, averaging wouldn't be required? So obviously, if the need for the individual to provide correct figures throughout the year was met, averaging would not be an issue.

**Prof. Carney:** This is the point, and the Ombudsman's calculation demonstrated that at the outset, of those seven, I think it is, worked examples three or so of them reduced from several thousand dollars to zero, and the others reduced to a few hundred dollars. There is often no debt at all because a person has actually reported correctly, and it's the difference between fortnight by fortnight and the calculation of an average that makes it look as if there is a huge debt.

The other part of your second question was about if it is reasonable to explain that some assistance can be provided to access your bank records. That's the point where I think it's unreasonable to expect the ordinary person—particularly somebody who probably doesn't have a debt at all or of any magnitude and is frightened stiff because it's now up to seven years since these events so you're trying to recollect how many jobs you had at how many restaurants and what days you worked et cetera. No, I don't think it's reasonable for Centrelink not to have a fuller statement in that letter about how easy it is just to go online and press a button or send a letter saying that you consent to Centrelink using its powers to send the letters that it always used to do in the seven per cent that were pursued. The other 93 per cent weren't pursued, as the Ombudsman makes clear from the evidence before the Ombudsman's first report, because it wasn't cost-effective to do so. The information though is there—the name of the supposed employer and their address and so on—so it's actually quite a comparatively cheap administrative process for Centrelink to reinstate, from a much earlier point in this current process, a modified version of the pre-robo-debt process.

**Senator URQUHART:** Thank you both for your submission and for your evidence. Professor Carney, can I go to the area in your opening statement where you talked about how Centrelink referred to section 66A in the admin act. You said it was laughable and that it was not relevant at all. I don't know what section 66A is. Can you explain that, and can you tell me why it's laughable and not relevant?

**Prof. Carney:** I had to remind myself although, of course, it is applied in another context on a routine basis. It's a provision that is the basis for determining if there is an overpayment from when there's an overpayment when somebody is currently on a payment. It's a 14-day period to advise of any change in your circumstances, your circumstances of course include any income that you may have. I noticed it after I put my submission in, so it's not covered in my submission for that reason. This is not the time to take up the valuable time of the committee elaborating why it's risible and not relevant.

**CHAIR:** Could you take that on notice, then? Could you take it on notice—if you're willing—to provide a bit more detailed information on that.

**Prof. Carney:** Yes, I'd be happy to do that. The point about it fundamentally is that if there is no change, there's nothing to report, so there's nothing for the section to have any purchase on.

**Senator URQUHART:** No change in their income.

**Prof. Carney:** Yes. It's putting it backwards. If it turns out, when the calculation is correctly made on the correct information, that there's a zero debt, then the engagement of that section has totally evaporated. The other

thing is that it's part and parcel of date-of-effect provisions. The question was asked earlier about what legislation means; this legislation is not part of and not even connected to the debt-raising configuration of provisions. That's why it's not relevant. If Centrelink had thought that that was an adequate foundation for its actions, it would have said so 2½ years ago. I think it's been embarrassed, frankly, by many occasions when people like myself and other commentators have said: 'There is no legal foundation. I've shown you my cards; what are your cards?' All that we ever get is, 'Oh, it's lawful.' But no legal advice or any reasoning has ever been put on the table to defend it. Centrelink, on about 300 occasions, has been overruled in AAT 1 on precisely this basis. Member Treble from Melbourne was on the record at the last Senate committee decision. It never once has said: 'No, this is wrong. Section 66A is our salvation.' If that's the case, there's no cost or trauma to go straight to AAT 2 and get the legal validation put on the record. That hasn't been done, and the reason it hasn't been done, in my view, is very clear: it's because Centrelink knows it doesn't have a legal leg to stand on, and unless parliament provides it with one, it doesn't want to face that embarrassment.

**Senator URQUHART:** The 93 per cent that you indicated are not pursued—

**Prof. Carney:** They were not pursued under the previous arrangement. They're Ombudsman figures.

**Senator URQUHART:** This is a question for both of you, so I'm happy for you both to jump in and answer. I think, Professor Carney, you said the program should be stopped and fixed, and there should be a wide reference group in relation to the wording of the letter so that people feel more comfortable about getting a letter and so that they don't immediately think about it being a debt letter. I think, Dr O'Donovan, you said that it failed the transparency test and there should be a rewinding of robo-debt. I guess what I'm seeking from you both is your suggestion. If people have a debt, obviously that needs to be repaid, but it needs to be a debt that's demonstrated and very credibly mathematically worked out. What's the process that you would suggest Centrelink should undertake to ensure that the debt is recoverable and recovered if it's owed, and that the accuracy of that and the trauma—I'm using the word 'trauma', which is quite a strong word, but if I were to base it on some of the people I've talked to and who have come into my office, they are traumatised by the whole process because they are in fear of having a debt that they owe but that they don't understand, and they have to repay it but they have no real way of repaying it. So I'm really interested to know what process you would suggest could be put in place to make that process better.

**Prof. Carney:** I'll be super quick. Immediately, a better letter; immediately, a resort to bringing a long way forward the reinstatement of using Centrelink's powers to compel production of information; and the immediate setting up of a broad reference group, and terms of reference for that reference group to include what's to be done about all the people who've paid up false debts already.

That's an issue I haven't touched on, but it's an important issue as far as public policy.

**Senator URQUHART:** On that: do we know how many people have paid up wrong debts?

**Prof. Carney:** The Centrelink data is not telling. We know that there is \$1.3 billion worth of debts 'raised'. In terms of moneys collected from tax returns and so on, it's a vastly smaller figure. I know, including from former colleagues—supposedly highly intelligent university professors—that, from what they've told me because I've been in the media, it's clear that it's a false debt that they've paid or have paid on behalf of one of their children. So, no, we don't know the magnitude, but it is clearly a significant number. For a lawyer, whether or not you have a Centrelink debt is an issue around their ongoing professional admission. So there's not only the money involved; there's the important issue around the black mark stigma.

**Dr O'Donovan:** I have also tabled the relevant extract—the actual text of the information-gathering policy. If I were being very realistic about the last inquiry, I thought we'd get a better policy just from pure politics. I thought that surely some stories are so powerful that we are practical before we are ideological. I know that it was a very fiery exchange between Senator O'Neill and the department representatives. If you're looking on the *Hansard* transcript, it's the bit that's really direct. I study policies like this every day. I'm more of a policy person than an actual statutory person sometimes. This is a flawed policy. The department on the *Hansard*—it's not about particular individuals making particular statements. The department's position on this is that people are going to know the guide to social security law 6.3.9. It's like something from *Star Trek*. They are going to call up and be able to ask for an exception and prove that they are exceptions and unusual in a social security system. The heading on the policy is that this is only going to be used in exceptional or unusual circumstances. It's reactive only.

Whenever Paul O'Farrell starts reporting, I need to take a walk because I see a direct link between the wording of this policy and what's on the TV screen. It's that simple. All we say in that policy—and you have it in front of you—is trauma, inability is a relevant factor. A 'relevant factor'—we need to turn that into an absolute

commitment that, if those listed things are there, we go and get the records, which are legally required anyway, and we can stop banking legal risk. If the average figure is 60 per cent not having completed the review, what that means is that it's an averaged cohort of debt. I would make the comment that, from May 2018, the department staged it so they dealt with the people who were 'cooperating' first. That's the processing. Then, from May 2018, they released the due date processing pool, which I regard as the most legally risky pool of debts. I'm just sitting there, looking at Luke Henriques-Gomez and Emily McPherson reporting and looking at the dates, going, 'Everything is from that pool.' When we have this narrative that it's getting better, it is under the department's terms and how the department determines error. If Peter Hanks QC and Professor Carney are right, it's a pretty landmark thing. There are legal arguments, but I think they shouldn't stall action now.

Just to be clear: for Services Australia, the actual figure for the number of times a section 192 notice has been issued—and it's not clear that it's under this policy—is 1,000. That's what they updated. How many employers are on a standard robo-debt file? How many? If you hold one in your hands, you see six, seven, eight.

**Prof. Carney:** I count nine on this one.

**Dr O'Donovan:** That is a tiny number of people. That's where the risk is coming from. That's where all the trauma is coming from. Again, I underline that there are a lot of media talking about how this is a 'coercive information-gathering process', and it sounds wildly formal. They have employer phone number on file. I'm sure you can ask the tribunal. I don't know why we don't ask them about tribunal cases, because under their statute they have a direct obligation special to them to pay due regard to the tribunal. This is in my submission. All the detail you need is in the submission. To me, ask them things like, 'Has the tribunal told you to call the number on file?' It's that simple. 'Have they told you to Google the ABN to stop these silly double-counting cases?' I know we hit you with lots of formalities, but what we need to do is scarily small.

**Senator URQUHART:** Thank you.

**CHAIR:** Senator Hughes.

**Senator HUGHES:** I'm very aware of time, so I'll try to be brief for you. I know you've addressed this in both your opening statements and your submissions, but could I get a yes or no, because I really want to clarify this position. The committee has heard previously from the Council of Social Service that the department should be making a lot more of its coercive powers when it comes to employers and banks and its ability to obtain information with regard to an individual's information without necessarily involving the individual in that process. The establishment of the debt is done without the individual becoming involved in that process. I wanted to get a yes or a no about whether or not you agree that the department should be taking this action rather than engaging directly with the individual.

**Prof. Carney:** Yes, I do, though not necessarily at the very start. But after the first letter and a short time after that? Yes.

**Senator HUGHES:** What engagement from the individual would be required then? The individual gets the first letter—

**Prof. Carney:** If it's recent.

**Senator HUGHES:** If there's no response to the letter—what's the engagement period?

**Prof. Carney:** If there's no response, I'd trigger the use of the powers, because they're more likely to be the vulnerable people who actually don't understand the letter. Maybe you follow it up with a phone call. But the reason that the letter front ends on it is that, if somebody has been employed not long ago, they will have their payslips, and the online system is quick and easy to upload to and does then do the calculation and determines if there is a debt and what its correct size is.

**Dr O'Donovan:** Yes, it's all about the right mix. I listened to your exchange with the Australian Privacy Foundation the other day. I want to underline for you the government policy in relation to consent. The data sharing is not a priority. In my submission I've talked beyond robo-debt. I addressed all the terms of reference. Government policy is the live reporting of live payroll data put on by the employer. It's going to deliver, according to government—I'd love to explore this further; I do in the submission. They claim—or you claim—that it's going to deliver \$2.1 billion, and that will be compulsory. So I don't think it's government policy. I heard the language of individual rights. I can pass you the details of Electronic Frontiers Australia if you're standing for consent, but everywhere across government we're always striking the balance between consent and just taking data matching. And we're not Luddites; we're not looking to smash looms, you know? So it's not absolute. But it is a yes.

**Senator HUGHES:** It is a yes.

**Prof. Carney:** If I may say, I don't see that it will be a privacy issue. Those powers were enacted 15 or 20 years ago. Firstly, they've been around for a very long time and they override any privacy objection, so there's no legal privacy issue there, in my view. Secondly, the public was unaware of the triggering and exercising of the power. The first thing that used to happen, for the seven per cent, was that you would get a letter and it told you, fortnight by fortnight, what the employer was saying was your income. There is the future system. I didn't add this to Senator Urquhart's question, so, with liberty, I'd like to add it. The Single Touch Payroll system, which is being rolled out and is being integrated, is about 12 or 18 months down the track. Some have described robo-debt as the interim solution. So, in fixing robo-debt in the way that I elaborated, one should be mindful that it's going to be a shorter term fix and that the best solution is Single Touch. Basically that gives the Centrelink person, when they're on their payment, about a fortnight, for any discrepancy that the employer entered into Single Touch. That system should work. It won't be flawless, but it should work quite well.

**Senator HUGHES:** I have a final point. As, very clearly, esteemed lawyers, is it usual for you to write legal submissions using media's jargon and slogans rather than the correct names for programs, particularly with respect to making a submission to a committee?

**Dr O'Donovan:** I'm the person you've been looking to speak to. I will cop to it. I've given the full documents—

**Senator HUGHES:** As legal professionals—

**Dr O'Donovan:** I would say—

**Senator HUGHES:** As a courtesy to the committee, using the appropriate name of the program as opposed to media jargon, would be appreciated.

**Dr O'Donovan:** What is the fundamental reason that we're here, three years on, having a second inquiry? It's because far too much focus has been spent on asking questions like: Is it okay to ask people stuff? Do you oppose a website? If I'm asked, 'Am I against the Online Compliance Initiative?' I would say I'm not. I'm against robo-debt—the specific cohort of debt that is occurring without the required meaningful human intervention under statute.

**Senator HUGHES:** There is now human intervention with regard to the CUPI system—

**Dr O'Donovan:** There is, but it's not—

**Senator HUGHES:** and I think that we're still using a term that has moved beyond that system. And I think it's disrespectful and discourteous to this committee to consistently use that term when the system no longer operates in that way.

**Dr O'Donovan:** Robo-debt started in 2015 as an interim manual system. No-one, anywhere in any academic scholarship—

**Senator HUGHES:** It was actually OCI that started in 2015. We never started a program—

**Dr O'Donovan:** No—

**Senator HUGHES:** There may have been a journalist who started a name called 'robo-debt'; there was never a program called 'robo-debt'.

**Dr O'Donovan:** Chair, can I—

**CHAIR:** Very quickly.

**Dr O'Donovan:** In 2015: interim; manual. Humans everywhere were humans acting like robots—almost like *Blade Runner*. In 2016: the Online Compliance Initiative; portal; automation. I don't have their operational blueprint. They blocked it all under FOI. That's in the submission. The point is that there are humans. No-one is saying there aren't humans. What I'm saying is that it's not meaningful enough. It doesn't have the correct variables. They're right in front of them. And, if you cover the variables, you can have your automation. If you comply with what we've presented, you can absolutely have your automation. I'll stop.

**Senator HUGHES:** The flipside of that is: those receiving the Centrelink payments, if they comply with their requirements, avoid the automation as well.

**Dr O'Donovan:** I'm going to stop out of courtesy to Senator Siewert!

**Senator HUGHES:** Thank you, Dr O'Donovan.

**CHAIR:** Because we're running a bit over time, I'll very quickly go to this issue: the powers to acquire information. Professor Carney, you made a comment about putting it in the letter. How do you see that happening? We heard comments about the letter—people still regarding the discrepancy letter, despite what it's

intended to do, as a debt letter. Are you not still exposing people to the very nature of the issues that I thought you were concerned about, in terms of the averaging process? Dr O'Donovan, in your submission, you make the point: The Department should amend its exception only information gathering policy into a direct front up commitment to secure accurate, up to date information before raising debts.

I'm still a bit confused about where you should be using those powers. As you said, Professor Carney, there was the Ombudsman's report, and we know how we used to do the debt-gathering. It didn't start in 2015; it's been going on for a long time. How would you work that process so a more limited number of people get those discrepancy letters, because you solved the issues around averaging up-front? I still don't have in my head how you would see that happening.

**Prof. Carney:** I spoke already about setting up a reference committee that had broad terms of reference. Given that Single Touch is 18 months down the track, one serious policy option would be to reinstate the old system for the intervening period because it avoids that problem. Yes, you could construct that letter so it doesn't still read as a debt letter. I'm confident it could be done, but I don't suggest that it's an easy thing to do in 10 minutes—a short period of work. Also, in my submission I did emphasise that the threshold for triggering the powers is mere suspicion or any discrepancy. It's a very low threshold. The debt has the serious onus of proof. There's a really big difference between the thresholds of the two powers.

**Dr O'Donovan:** I just note that I go wild on page 9 and start spitting out every fundamental restraint on the department when it's issuing lawful debts, and those have to be obeyed, no matter what happens up-front, no matter what the department chooses to do in terms of taking information from the individual or however many it releases. The list starts with:

... DHS should make the commitment that no debt will ever be issued:

- Based on blank, first resort to averaged data.

I just keep going and I could have kept going. There is so much in the tribunal caseloads. We know how tough it is, and maybe that's the difference. Everyone's a professional; everyone's qualified. The department thinks in terms of systems. The one thing we know is what the final decisions need to have—the fundamental elements—and that's what we spoke to.

**CHAIR:** Professor Carney, you took at least one question on notice—the secretariat will be in contact about that—to explain further section 66A.

**Prof. Carney:** Sure. I'll reiterate what I added in my evidence.

**CHAIR:** Thank you very much. Thank you for your time today. It's much appreciated.

**BERRILL, Mr John, Acting Principal Lawyer, Social Security Rights Victoria Inc**

**HORBURY, Mr Peter, Manager—Information and Operations, Social Security Rights Victoria Inc**

**McRAE, Ms Rowan, Executive Director, Civil Justice Access and Equity, Victoria Legal Aid**

**TOWNSEND, Mr Joel, Program Manager, Economic and Social Rights, Victoria Legal Aid**

[10:08]

**CHAIR:** Welcome. Thank you for coming in today; it's very much appreciated. Can I double-check with you all that you're okay to be filmed?

**Mr Berrill:** Yes, it's fine.

**CHAIR:** I invite both of your organisations to make an opening statement, and then we'll ask you questions.

**Ms McRae:** Over the last three years, Victoria Legal Aid has received thousands of phone calls from confused and distressed people who've been contacted by Centrelink or debt collectors about a robo-debt. We've provided over 650 services in the last financial year alone. Victoria Legal Aid sees the significant stress and hardship caused by robo-debt. Our lawyers see firsthand its impact on clients. One client told us, 'I was an emotional and physical wreck and I didn't want to get up and face the day.'

Tens of thousands of Australians have been put through the stress and confusion of the broken robo-debt system, but it's the most disadvantaged and marginalised people who struggle to overcome the barriers that are embedded in how robo-debt operates. This complex and inaccessible system stops people from achieving a fair outcome, and we know that people are paying money that they don't owe. This inquiry is an opportunity to develop a way forward to ensure that no-one has to go through the stress of an unfair and confusing system, of scrambling to obtain documents from years ago to disprove a faulty robo-debt or of unfairly paying off a robo-debt that they don't owe.

The National Legal Aid submission combines the practice experience of all state and territory legal aid commissions across Australia. It includes stories from people affected by robo-debt and makes 10 recommendations for a fair and accurate system people can trust. Informed by our work, our legal expertise and the experiences of our clients, we recommend that the Australian government stop the elements of robo-debt which are inaccurate, unfair, inaccessible and arguably unlawful. These include the averaging method, the reverse onus of proof, the unfair raising of debts where there has been no engagement with clients and the barriers to clients obtaining more information or seeking reviews.

This committee has the power to recommend that the Australian government invest in a system redesign. System redesign should be done in consultation with service users and stakeholders to ensure that the system for calculating and recovering Centrelink overpayments is fair, accurate and accessible. Investment in a better model will lead to long-term benefits for any Australian who accesses social security support in their lifetime and will help rebuild public confidence in how Centrelink engages with and treats its customers. I'll hand over now to my colleague and social security law expert, Joel Townsend, to briefly outline the pillars of robo-debt test cases that we're running and our clients' experiences of engaging with Centrelink.

**Mr Townsend:** I'm a Law Institute of Victoria accredited specialist in administrative law. In addition to being unfair and inaccurate, the robo-debt process is, in our view, unlawful. We have four key concerns about robo-debt's lawfulness currently before the Federal Court of Australia. At a high level, the first of these is averaging. Robo-debt's averaging method of comparing fortnightly Centrelink data with yearly Australian tax office data is not a lawful way to conclude that a debt exists or to calculate an accurate amount. Second is the reverse onus. Shifting the onus onto individuals to show that they do not owe a debt is not a lawful way for Centrelink to proceed to raise a debt. If the calculation is inaccurate to start with, somebody's failure to engage does not provide a basis for raising a debt. Third is penalty fees. Additional penalty fees are being imposed on people who are disputing an alleged debt or don't know that a debt exists. Under the act, a penalty fee should only be imposed where Centrelink is satisfied a person knowingly provided misleading information. The final concern is tax garnishing. Centrelink took our client Deanna Amato's full tax refund of \$1,700. This is how she learned she had a robo-debt of over \$2,700. After we launched a Federal Court test case, Centrelink recalculated her debt and said she only ever owed \$1.48. Garnishing a tax return should only occur after an accurate debt has been established and in compliance with the conditions in social security legislation.

We surveyed a sample of our clients and more than 80 per cent reported difficulty in engaging with Centrelink. For our clients this system is intimidating, confusing and hard to navigate. Calling Centrelink has not helped our clients to resolve their robo-debt issues. According to Services Australia data 30 per cent of people who receive

robo-debt correspondence do not engage with Centrelink and another 30 per cent of people start but do not complete the process. From our practice, we know many people have not received letters sent to old addresses or to unchecked myGov accounts, or start the process of responding but can't resolve it.

To wrap up, I would like to share one of our client's experiences in dealing with robo-debt, who needed legal help to reduce his debt by almost \$5,000. He said, 'The whole thing was such a bad experience for me. I had a debt collector calling me. It took so much time and was very stressful. It was a big mountain on my head and so it felt like that was gone once the debt was reduced.' We urge the committee to seriously consider our recommendations to improve the system. Thank you.

**CHAIR:** Mr Berrill?

**Mr Berrill:** Social Security Rights Victoria, or SSRV, is a community legal centre which deals specifically with Centrelink issues both in relation to policy advice and representation. We've been operating for 30 years as a community legal centre. Our sister organisations are welfare rights New South Wales, Basic Rights Queensland et cetera. We're part of the National Social Security Rights Network.

The work we perform is we have a telephone advice service, which deals with incoming calls from people who've got Centrelink issues. We have a worker helpline that deals with community organisations who call into us and ask for advice about Centrelink issues and how they deal with Centrelink issues in relation to their clients to help them. We also represent people at AAT tier 1 and tier 2, and sometimes at ARO reviews. We also conduct community legal education—for example, we developed a Disability Support Pension Toolkit.

We endorse the written submissions of the National Social Security Rights Network and National Legal Aid to this inquiry and support the recommendations they've made. We believe that the organisations have fairly described the impact of Centrelink online compliance initiatives on very vulnerable and disadvantaged Australians.

We acknowledge that there have been changes made last year in particular but there are still issues in the system. Specifically, in relation to the recommendations made, we agree that the use of averaging should be ended. Centrelink should have the onus of establishing an overpayment that is correct before raising a debt. There should be clear and open communication—that's sort of the focus of our work and what I think we can contribute here today. With customers who have been subject to overpayments there is the need to get the debt notices corrected. Customers need to be informed of their rights of review, and there's a gap in that. They also need to be informed about the availability of services such as legal aid and such as ourselves to assist them to navigate through this. This applies to people in vulnerable circumstances, but also to people who previously were on Centrelink payments. A lot of our cohort of clients who've dealt with the issues here were people who were in disadvantage and who were in receipt of Newstart allowance, youth allowance or whatever, but are now in the workforce and they get these debts from years ago. They're not necessarily now in financial disadvantage, but they encounter incredible issues in trying to deal with the system and get things corrected, that's and what we've observed.

We want to make some observations based on our experience about the difficulties in obtaining information from employers—you've heard this before. There are so many examples we see of employers no longer being in business, employers not keeping adequate records and, in particular, hostile or belligerent employers who just won't cooperate with consumers who are trying to go back because they don't have the information now themselves for debts going back years. They've got to go back to these old employers if they can find them. A lot of these people work in the casualised workforce with employers that come and go and so many of them have gone and they're not around at the moment. So, in a lot of cases, it is virtually impossible for them to access this information, even from employers who are still in existence. As I say, particularly with the casualised workforce, they don't have sophisticated HR departments to deal with all these sorts of issues, and they come up with blanks if they try to contact these employers to get this information. So there's a gap there. We say that Centrelink should be taking steps themselves to obtain this information. They've got the power to do it. They've got more pull with former employers than our clients do. Our clients, every day of the week, are having to go back to these employers to get this information because they don't have it themselves.

We are aware that bank statements can now be used to confirm employment income. But the problem with that, of course, is that it's net; it's not gross. It's a net amount, not a gross amount, so it still creates issues in relation to what the correct payment a person received at any particular point in time was. Also, for old cases, you're dealing with old bank statements. The online stuff that you do now for online banking you didn't do then, so you have to go back to the bank to get this information. It costs money, and for people who are financially disadvantaged that's an issue too. We also see that clients have difficulty in navigating the review process. In particular, they're not advised of their rights to go straight to an ARO, an internal review officer, rather than some

other internal review process, and they get lost in the maze. They're also not told what options they have—that recoveries can temporarily be put on hold and that the rate of recovery can be negotiated to a manageable level—and we think that work needs to be done on that. We've had examples of clients who've received threats, for want of a better word, that bank accounts can be seized and that they can be blocked from leaving the country. This is what clients have told us from their dealings and interactions with Centrelink or the debt recovery people in relation to this. It creates all sorts of stress and problems for them.

But perhaps the big one that we can contribute to is the day-to-day dealing—trying to navigate your way and identify what the actual debt is and dealing with Centrelink to try and get these notices corrected. We see problems. The problem, in particular, is that when they get on to Centrelink they have verbal conversations. They are given advice or information about, for example, the suspension of a debt or waiver of debts or general advice about how they deal with Centrelink bank issues, or, for people in remote communities who get remote community allowance, about when they're paid and the interaction of that with the income they've received. We've had examples of people who get verbal advice, but then it's never put in writing, and that creates all sorts of problems. People think: 'I've been told that it's okay. Now the debt will be waived, so that's the end of it.' Then, a couple of months later, here comes another notice for them. The dealing with Centrelink and the fact that so much oral information or advice that has been given is not then followed up and put in writing creates all sorts of issues. And, because the process can take a number of months, people think this is behind them, but it's not. We've seen that on numerous occasions, and we think that's a gap that needs filling.

We say that addressing a data-matching discrepancy or debt is difficult, it's confusing and it's a time-intensive process. That's the message we get time and time again from consumers who contact us through the advice service, even from people with relatively little vulnerability now. As I say, quite a lot of the people we see who get these robo-debts are ex-uni students or kids who did casual work and are now getting them years later when they're in the employed workforce. They tell us: 'I'm relatively sophisticated. I know this stuff.' The message we get from them is: 'I can't imagine how people who are in vulnerable circumstances and don't understand this stuff ever get by in dealing with it.' So we think there are issues there, particularly in relation to communication, in relation to the time it takes and in relation to putting oral communications in writing to people. These are the things that we think need addressing, in addition to the more broader policy settings.

**CHAIR:** Thank you. Senator Urquhart, do you want to start?

**Senator URQUHART:** Yes, I'm happy to kick off. Thank you for the information you've provided this morning. I know that you both put in submissions to the 2017 inquiry and that you've updated them with some information today, recognising that some changes have been made but that there are still some problems. Mr Berrill, could I start with you. You talked about casualisation and employers that have moved on, or businesses that have closed or whatever. What actually happens in relation to your clients then trying to get that information? Is it just a black hole, or is there any way for the person to get hold of that information?

**Mr Berrill:** As I said before, there are two main issues. One is where the employer has gone. In the casual workforce, in hospitality for instance, employers come and go, or they change their name.

**Senator URQUHART:** So do you mean businesses come and go?

**Mr Berrill:** Correct.

**Senator URQUHART:** So a business might stay there, but the employer moves on or the business closes?

**Mr Berrill:** Correct. Well both, but more particularly the latter. To then track down that employer that you had five years ago to get that information—it's a Bermuda Triangle. It's very, very difficult for people to do. As I said before, you're not dealing with big employers with sophisticated HR departments who are used to dealing with requests for information. When you've got small operations, it's difficult to get them to cooperate with that. It's not a knock on the employer necessarily. They'll say: 'Sorry, we don't have time for you. Who are you? Where are you from? You're five years ago.' So getting the cooperation is very difficult, and the consumer can't force them to give that information. The organisation with the authority to do that and the power to do that is Centrelink.

What you see is this really imperfect system where there's so much wasted time, particularly for employers, where consumers are going back and forwards with them. They often don't know exactly what information they're asking for, and so the interactions with these former employers are multifaceted. They're to-ing and fro-ing all the time, and that's a waste of an employer's time. These employers are dealing with people who are walking in saying, 'Have you got a job?' because of their obligations when they're on Newstart. That's a problem for employers that we hear about out there in the community all the time. Then to have people coming to them and saying: 'Look, I've got this robo-debt. I worked with you five years ago. Can you please dig up your records for

that?' These were often from the days when a lot of this stuff was not automated and not online, so they've had to—

**Senator URQUHART:** A manual system.

**Mr Berrill:** It was a manual system. They've had to dig up old records, and that's an impost on employers, particularly small employers. Generally speaking, a lot of these people that come to us are people who work in the small, casualised workforce, where disproportionately you are dealing with that sort of issue and that sort of problem.

**Senator URQUHART:** Have you got an average age or demographic of the people you deal with in terms of robo-debt?

**Mr Berrill:** No, we don't.

**Senator URQUHART:** Is it across the board? Is it just generally from young people to older people?

**Mr Berrill:** It is across the board, but a lot of the people who contact us, more proportionately than other organisations perhaps—

**Senator URQUHART:** I'm happy for Ms McRae or Mr Townsend to jump in.

**Mr Berrill:** It seems to be that a significant proportion—probably a greater proportion than we would've expected—are younger people who worked in this casualised workforce when they were in their teens or twenties and have now, later down the track, moved on and are in paid employment or whatever. That tends to be the demographic we're identifying.

**Mr Townsend:** We did a small exercise in sampling some of our clients who were subject to this system, and one of the findings out of that sampling exercise was that something like 37 per cent of those clients reported a disability or mental illness. In terms of anecdotal data, yes, it's certainly the case that our clients tend to be people who have worked casually, sometimes while studying. They were clearly expressing markers of profound disadvantage, and certainly, as I indicated in my opening, they were reporting real difficulty in engaging with Centrelink.

**Senator URQUHART:** Mr Berrill, you talked about the advice never being put in writing. My office has experienced that with Centrelink.

**Mr Berrill:** Not never.

**Senator URQUHART:** Okay. Not never, but often.

**Mr Berrill:** More often than not.

**Senator URQUHART:** Is that something that you've been able to achieve for your clients? If you insist on getting something in writing, do you get the best accurate information in writing, or is that a struggle even for you?

**Mr Berrill:** Perhaps I'll defer to Mr Horbury.

**Mr Horbury:** None of our clients have reported getting anything in writing pre our authorised review officer.

**Senator URQUHART:** Other than the initial letter?

**Mr Horbury:** That's correct, yes. Certainly, as Mr Berrill said, they have had long conversations, they have been told things and sometimes the payment does appear to have disappeared, but they have never actually received a letter that says, 'You now don't owe us anything.'

**Senator URQUHART:** Is that the same for you, Mr Townsend?

**Mr Townsend:** Certainly we see some files where action has been taken and there is not a correspondence trail associated with that. We certainly also see this situation where there is an informal reassessment of a debt before the matter reaches the ARO stage, which is an interesting phenomenon.

**Senator URQUHART:** How does that happen? Do you get on the phone and then, all of a sudden, there is an informal review and then it disappears? Is that what happens?

**Mr Townsend:** We have certainly seen instances of assessments occurring following some engagement. It's also the case that we have had clients that have sought review by an authorised review officer and, instead of it proceeding to an ARO, reassessment not going through the formal ARO process has taken place.

**Senator URQUHART:** One would have assumed that that's because there is insufficient information to have it go through that next process.

**Mr Townsend:** Not necessarily.

**Senator URQUHART:** What would the reasons be?

**Mr Townsend:** We don't know.

**Senator URQUHART:** Oh, really?

**Mr Townsend:** We don't know why in some instances there is an election to undertake this reassessment process. In at least one of our client's cases she specifically requested that an authorised review officer look at her matter and it didn't proceed through the statutorily mandated ARO process. So it is an oddity. Professor Carney referred to this, and we addressed that in the NLA's submission.

**Senator URQUHART:** Okay. Thank you.

**Senator HUGHES:** Mr Townsend, thank you for your opening statement. Perhaps I can start with you. Are you aware of the new CUPI system now with regard to the letter being sent in the first instance by registered mail or there is a read receipt through the myGov portal but if there is no connection with the individual then nothing further occurs and so the letter isn't just going to sit out in the ether and a debt somehow generated if there is no engagement?

**Mr Townsend:** Yes, we are aware.

**Senator HUGHES:** You are aware of that. Okay. That has been an improvement, would you acknowledge?

**Mr Townsend:** It has. But, again, I'd pointed to the Services Australia submission, which acknowledges that even with the registered post letter and the read receipt 30 per cent of people simply are not engaging with Centrelink following the read receipt and 30 per cent of people are beginning engagement but not completing the process. That is as a practical matter in reality not bringing people into a process of meaningful engagement with Centrelink.

**Senator HUGHES:** But the statement about the letter just sitting out in the ether and a debt being generated is no longer applicable.

**Mr Horbury:** We—

**Senator HUGHES:** The first letter—

**CHAIR:** Senator Hughes, I think Mr Townsend wanted to respond.

**Mr Townsend:** One further thing I wanted to say is that of course we continue to deal with clients with debts which have been raised under previous processes. They remain our clients. We continue to have people come to us seeking advice under those systems—under the OCI, for example—where there isn't that additional feature built in.

**Senator HUGHES:** Of course with this inquiry we are trying to look at where we have made improvements and where systems have been improved. I think those improvements have to be acknowledged. We are here today to see where else we can improve further. Given that the first letter indicates that there is a discrepancy and not a debt do you accept that the department of contacting these people as a first port of call and then those people getting back in touch with the department is probably the best course of action to start with?

**Mr Townsend:** We have no objection to a process of contacting people. We would say that these letters themselves do cause some anxiety, but we don't have a problem if it's a case in which there is a real prospect that a person has a debt. We don't have a problem with the person being contacted to explain that. Our concern is what then happens after that point.

**Senator HUGHES:** There are procedures in place where people can ask for further assistance, they can ask for further time and they can ask the department to assist them with gathering of that information if they require it.

**Mr Townsend:** They can. It's certainly the case, as I indicated, that our clients report a great deal of difficulty with those processes. It's also the case, to come back again to that Services Australia data, that many people—the majority of people who receive these registered post letters or these letters through myGov—don't engage. So it's simply not an answer, with respect, to say that there is assistance available at Centrelink. People are not engaging. The result, we say, is that there are significant numbers of inaccurate debts being raised.

**Senator HUGHES:** We've heard from previous organisations that they've actually advised their clients to not engage with Centrelink. Have you ever taken that course of action and suggested to or advised clients to not engage with the Centrelink process?

**Mr Townsend:** It's difficult for me to disclose what I've advised specific clients given privilege issues.

**Senator HUGHES:** We've heard lots of anecdotal advice and lots of anecdotal evidence has been given, though. Perhaps, keeping in line with that previous anecdotal evidence, you might be able to update us

anecdotally as to whether there have been times you've provided advice to clients where you've suggested they do not engage in the Centrelink process.

**Mr Townsend:** We give clients advice about their full range of options, including engaging in the process through an ARO at the AAT. We give people advice about all of those options. The other thing that I would say is that I don't think that, even if there are organisations giving that advice out there, that could ever come close to explaining why six in 10 people are not engaging with Centrelink.

**Senator HUGHES:** Don't you accept that engaging with Centrelink is actually the best way to help clarify if there is any issue, if there is no debt owed or if there is an ability to clarify the situation through early engagement and clear engagement and that that mutual obligation between the recipient of the welfare payment and the department is the easiest and quickest way to ensure that the situation is resolved?

**Mr Townsend:** Absolutely. If people are willing to engage and have the wherewithal to engage then that's absolutely a good course for them to take. The problem is that, as we outlined in the National Legal Aid submission, we know from the social science data that the most profoundly disadvantaged people in our society are going to be least able to have that engagement. So if you have a system which then automates, effectively, the imposition of a debt then you are creating a system which tends to impose that on the most marginalised in our society.

**Senator HUGHES:** The system is not automatically generating debt. The system is saying: 'We've discovered a discrepancy. Please get in touch so we can clarify this.' At this stage, has your organisation ever represented individuals that have deliberately not engaged with the department?

**Mr Townsend:** Have we ever represented individuals who have deliberately not engaged? I am not trying to be cagey, but I don't think I can answer that because I can't know what has happened before a person has come to us.

**Senator HUGHES:** If they've come to you, wouldn't one of the questions be, 'What's your engagement been with the department on this matter?' I would have thought, anecdotally, you could provide that information to us. Particularly when you're saying that there's no paper trail or you're telling us stories where there have been phone conversations but not written follow-up advice, I would assume in the first conversation that you asked them, 'What has your engagement been with the department?'

**Mr Townsend:** We will ask that question. What I'm saying to you is that some of those clients report that they have sought to engage and that they've had a great deal of difficulty. Some report that they haven't. Whether they have, in all cases, done that as a matter of deliberate avoidance is a matter that is very difficult to answer in respect to each of those individual clients.

**Senator HUGHES:** We've established, though, that if individuals do engage with the department and provide information as quickly as they can that's the easiest way to get clarification. Is your advice to individuals to engage with the department and you encourage them to engage with the department in order to clarify this as opposed to advising them to deliberately not engage with the department?

**Mr Townsend:** We have no stake in advising people to avoid a process which might resolve their debt. It's absolutely the case that we provide people with advice about how they can gather material to provide to an authorised review officer or the AAT to resolve this question of whether or not they owe a debt. The issue is that, for many of our clients, they find those processes nigh impossible to navigate. So it is our view that that's not an answer to our objections to the system.

**Senator HUGHES:** So you have advised them to not engage, because they find it difficult.

**CHAIR:** That is not what the witness said, Senator Hughes.

**Senator HUGHES:** Okay. I'll put it in very simple terms: have you ever advised clients to not engage with the department?

**Mr Townsend:** Not to my knowledge. That's what I mean when I say we have provided advice about the full range of options, including the use of the Authorised Review Officer process and the AAT process.

**Senator HUGHES:** Is one of the options to deliberately not engage with the department?

**Mr Townsend:** No, we don't provide advice about that.

**Ms McRae:** Perhaps I could just add that it's worth reporting that some of our clients tell us that their efforts to communicate with Centrelink are very challenging. Our clients have experienced great frustration and despair due to the waiting times and inadequate explanations and pressure exerted on them to repay alleged debts. So certainly the letter encourages people to engage, and in many situations there will be a benefit to people in doing

that, but I should just add to Mr Townsend's comments that our clients do find it challenging when they engage with Centrelink.

**Senator HUGHES:** I do find it disturbing that you think it is in only some instances that it's worth engaging with the department. You just said that in some instances it's worth engaging with the department. I'd like you to consider rephrasing that—that, potentially, in all cases it's best to engage with the department in an attempt for these people to further clarify the information that's sought, so that, if they can provide the correct information with Centrelink's and the department's help and if they can provide the correct bank account details, they can use the department's assistance to get the right information. Then the averaging doesn't need to exist or occur—if they provide the correct information.

**CHAIR:** It occurs from the very beginning, Senator Hughes!

**Senator HUGHES:** No, it doesn't. It occurs—

**CHAIR:** Yes, it does!

**Senator HUGHES:** I'm addressing my questions, Chair, to the witnesses. Professor Carney acknowledged that the data-matching occurs at the very beginning, from agencies like Centrelink and the ATO, when separate amounts are declared by the individual. This is information that is provided by the individual to two government departments. That then raises the discrepancy. The discrepancy is then raised with the individual and Centrelink seeks that information. At all stages of the process it is best that the individual engages then with the department, and that is what, Ms McRae, I'm trying to raise with you—

**Ms McRae:** May I just clarify that?

**Senator HUGHES:** that 'some instances' is not sufficient.

**Ms McRae:** I should clarify that clients come to us at various stages along the process of receiving these letters, so they may have already engaged with the department when they come to us or they may have just received the letter. The advice that we will give to clients will be based on what they have already done and what their options are at that point in time.

**CHAIR:** Mr Berrill, have you ever advised clients not to engage with Centrelink?

**Mr Berrill:** No.

**CHAIR:** I would like to put on the record that I dispute the fact that we have had a lot of evidence that agencies or organisations have told their clients not to engage.

**Mr Berrill:** We haven't done so.

**CHAIR:** That's a matter of dispute between us on the committee, I've got to say. Senator Askew, do you have any questions?

**Senator ASKEW:** I want to touch on the error rates that we keep hearing about. Could you characterise a situation where a person receives a discrepancy notice, and, once they've provided their evidence or further information to Centrelink and no debt's been raised—could you describe a case where that would actually be classed as an error, because it seems to be the way the interpretation has come through.

**Mr Townsend:** Could you repeat that?

**Senator ASKEW:** Somebody receives a discrepancy letter asking them to provide further information, and then there's actually no debt raised. It's referred to as an error. The letter was a robo-debt error. Is there a situation where that would be specified?

**Mr Townsend:** I should say that we typically don't see people who have had that occur. We see people who have had a debt raised. Whether or not that's properly characterised as an error, I suppose that's a matter for debate. What's clear is that, for many of the clients who come to us who have had a debt raised against them, once they seek review, they find that the debt which has been raised against them was raised in error.

**Senator ASKEW:** Is that with the provision of further information?

**Mr Townsend:** Sometimes with the provision of further information, but, for example, as I indicated in my opening, in the matter of Deanna Amato, it turned out that, on close examination of the material on her file, she had properly disclosed all of her income and, accordingly, the debt was found to be incorrect. So there are clearly many instances where it is a matter of looking back at the original declarations. She is a good illustration of a case where somebody has wholly complied with their obligations to report to Centrelink in the first place and nonetheless has found herself subject to a debt down the track.

**Senator ASKEW:** We've heard from the Privacy Foundation that they strongly object to the department proactively contacting banks and so on to get information about a person without their having prior knowledge. Do you agree with that comment from the Privacy Foundation?

**Mr Townsend:** I would agree first of all with Professor Carney that there's no legal barrier, in terms of privacy law, to Centrelink exercising these powers, and I would say from the point of view of other concerns that the clients we've spoken to have never raised a concern about Centrelink undertaking those inquiries to determine the correct amount of a debt. What they have raised concerns about is the calculation of a debt based on averaging.

**Ms McRae:** Perhaps just to add to that, ultimately it is the employer who is required to provide that information, whether it's requested by the former employee or whether it's requested by Centrelink, and arguably there is some efficiency in Centrelink making that request in a way that is effective rather than the former employee going back and forth a number of times to try and get the information.

**Mr Berrill:** Perhaps I'd add to that. In relation to Centrelink contacting former employers, there is a privacy issue there, but you've got to weigh that up against what flows from that—that is, on one hand you've got a potential privacy issue, but on the other hand you've got a potential financial burden that's been inappropriately applied to someone, and I think every day of the week consumers would much rather have the privacy issue out there rather than having to deal with the unjust financial burden. That's certainly our experience.

**Senator ASKEW:** So you're relating the unjust financial burden to them having to go and get their information or just to the actual debt?

**Mr Berrill:** The debt that is raised, ultimately, if they can't get that information and the averaging stands.

**Senator ASKEW:** If they engaged with Centrelink earlier and asked them to do some of the follow-up, that would be a better solution for you?

**Mr Berrill:** This goes back to a question Senator Hughes was asking about engagement. It's a bit of a no-brainer to suggest that people should engage with Centrelink at an early stage if they can, and they do. A lot of people do, but some people don't. All of us have had the experience of getting a letter in the mail and looking at the heading on the letter and going, 'Oh, God, I don't want to deal with that.' It's human behaviour. The advice we give to people is, yes, engage with Centrelink to try and deal with these issues, and deal with them at an early stage if you can. In our view, the problem we see is more about the quality of the engagement, the advice and assistance that's given, and the time delays and the frustrations—being on hold for hours at a time to get onto Centrelink people. This notion of getting assistance from Centrelink is, for a lot of people, a bit of a misnomer, because that assistance is seen as more of a combative stance rather than an inclusive stance taken by Centrelink, and that's the experience people have.

**Senator ASKEW:** I was wondering if that was the case. Thank you very much.

**CHAIR:** Can I go to the issue around the process since CUPI. I totally understand the issues with OIC and EIC. With CUPI and the 60 per cent, if you take in those not even engaging and those not going any further once they've opened the letter, how many clients have you had subsequent to the change to the CUPI and has there been a noticeable difference in the issues that have been coming up since the process changed in October last year?

**Mr Townsend:** There are a few things on that. First of all, it's not always immediately apparent when a client comes to us which system the debt has been raised under, so we don't necessarily have a comprehensive statistical record of who's come to us under what system. The second thing I would say is that, obviously, the read receipt on myGov and the registered post are positive developments. Our fundamental objection is that the averaging remains and the shifted onus remains. We know from all of the social science data that we've cited in NLA's submission and from that Services Australia data that the reality is that people, particularly people at the margins, still find it enormously difficult to shift that onus.

**Mr Horbury:** With most of the people we speak to, the overpayments are older. That would seem to indicate that there may have been progress with the new system. Particularly as most of the people we talk to are quite computer literate, it does appear that there may have been an improvement in that.

**CHAIR:** With the improvement, have you noticed an improvement because, when the CUPI letter comes, there is now a little 'contact us' sign? Mr Berrill, you talked about the long time to engage with Centrelink. We heard from Centrelink on Thursday last week that you can now get through to that line more quickly. Have either of your organisations experienced that process—that it is quicker—or are they still having frustrations with Centrelink and the time it takes to get through to them?

**Mr Townsend:** We had a hard think about the CUPI changes in advance of coming here today. We have not had reports which indicate that things have dramatically improved. That doesn't mean that there is no improvement, but we have certainly not seen a shift. Looking at Services Australia's submission, I note that they say that about 13 per cent of people can choose to use the online portal without assistance, which might indicate that it's not as easy and straightforward as it's made out to be.

**CHAIR:** I take your point on the issue of the online portal. But, when they ring Centrelink, are they able to get through, and has the assistance been better over the last 12 months?

**Mr Townsend:** I don't think we have data about that.

**Mr Berrill:** Nor do we. But, anecdotally, things don't appear to be dramatically different, particularly in relation to the issues we talked about on the quality of engagement, about oral advice being provided and followed up in written form, and the discrepancies there.

**CHAIR:** This will be my final question; I may have a few more on notice. Mr Townsend, it was you who mentioned garnishing. Is that around debts prior to CUPI? I'm trying to work out some of the time lines, which I'm still struggling with, between when a debt is first raised for those who do and don't know about it and when garnishing is occurring.

**Mr Townsend:** When you talk about knowing or not knowing about debt, the change in the CUPI, as I understand it, is that a registered post letter is sent out about the discrepancy. We have not, to my knowledge, had any clients who have, under CUPI, had a debt raised and their tax return garnished. But I don't understand the system to require a debt notification letter to be sent by registered post or to be read-receipted on myGov before a garnishing takes place.

**Mr Horbury:** No, we are not aware of people who have had the new process.

**CHAIR:** They are all related to the old process? Okay.

**Mr Townsend:** We don't understand there to be any reason why you wouldn't, in circumstances where you have not responded to the discrepancy letter, ultimately have your tax return garnished without notice of the debt.

**CHAIR:** Sorry—why it wouldn't happen?

**Mr Townsend:** Yes. We don't understand there to be a fundamental difference between the systems such that a person's tax return could not be garnished in the same way that it has been.

**CHAIR:** If you don't engage?

**Mr Townsend:** Yes.

**CHAIR:** Okay. That's a question we will follow up further. Thank you very much for your time today; it's very much appreciated.

**Proceedings suspended from 10:54 to 11:05**

**LUTY, Leticia, Private capacity**

**O'SHEA, Mr Kenneth, Private capacity**

[11:06]

*The following evidence was taken in camera but was subsequently made public at the request of the committee—*

**CHAIR (Senator Siewert):** Welcome. I must advise you that it's not the intention of the committee to publish or present to the Senate all or part of the evidence you're about to give. However, you need to know that it is within the power of the committee to do so and that the Senate has the authority to order the production and publication of undisclosed evidence. Do you have any comments to make on the capacity in which you appear?

**Mr O'Shea:** I'm a taxpayer and currently a patron of Centrelink on the Newstart allowance.

**CHAIR:** I'm going to invite both of you to give us a statement and then, time permitting, we'll ask you a few questions. Ms Luty, you look like you're ready to go.

**Leticia Luty:** My experience with robo-debt has been confusing and unfair, despite spending so much time trying to understand the system. I don't have any trust in the way Centrelink comes up with these robo-debts. Last year Centrelink asked me to give them information about my income from 2011 when I was on youth allowance. I asked my old employer for my pay slips but when they didn't send anything I left it, thinking they would get back to me soon.

At the time I was feeling overwhelmed as I was new to working full-time and helping care for a family member who had a serious mental illness. When you have a lot going on in your life, the impersonal letters and the fact that it is so hard to get onto someone to talk to at Centrelink makes putting it off a lot easier. I have experienced being on hold to Centrelink for an hour. When I'd finally get through on the line to someone, the line would suddenly cut out and I wouldn't be able to go through another whole hour of waiting.

In February this year a Centrelink officer called me and said I had a robo-debt of more than \$2,300. They asked me to accept the debt. They did not explain what the robo-debt was based on, and it felt quite pushy—like I had no choice but to accept the debt. I remember being advised that I could always ask for a review even after accepting the debt. I had to contact my old employer several times, because they originally said that they didn't keep pay slips going back that long. Eventually, a kind person in the payroll or human resources department manually went back into their systems and found my old pay slips. Luckily, they were still trading and they managed to find files older than seven years.

I asked Centrelink for an authorised review officer to look at my case. My lawyer told me that it's supposed to be a proper review process. But, instead of an ARO review, Centrelink just sent me a letter in April saying that I had a debt of \$400 instead of \$2,300. They didn't explain how they reached that number, so I wasn't sure if I could trust the new amount. Thinking about the time and energy I would need to spend to check the amount made me feel stressed and anxious.

It seems wrong that Centrelink can refuse to do an ARO review after I was told I could ask for one. They have now told me I have to go through someone called a "subject matter expert" before I can get an ARO review. It was a bit frustrating, because the person I spoke to didn't seem to know what an ARO review was. It feels like they keep putting obstacles in my path. I'm grateful I got legal advice, because if I hadn't I wouldn't know about my rights and I could have paid off a debt that I did not owe. I'm certain a lot of people have done this, because following up with Centrelink and gathering a lot of old documents is really hard.

Robo-debt feels like a bullying system that affects people who are the most vulnerable. A lot of people don't know their rights or have the capacity to defend themselves when given an incorrect debt. I don't think it's right that Centrelink comes after people for debts without being sure that they owe money, especially when it's people who are in need of support who go to Centrelink in the first place.

**CHAIR:** Thank you.

**Mr O'Shea:** The robo-debt system is truly Orwellian. I've heard politicians say that you just need to call up Centrelink to fix your debt. I've been asking for proof of the alleged debt for over two years and I haven't been able to get to the bottom of it. My work is as a licensed rigger. This is often on big, potentially dangerous jobs that many people are unwilling to do. It involves construction or maintenance on bridges, towers, steelworks or other large industrial plants. The nature of the work means short bursts of intense activity of up to 100 hours a week followed by nothing. That is what the economics of the labour market demands, but it's the only way I can get paid work.

I've always endeavoured to declare my income to Centrelink. When I haven't had the pay slips, I've tried to overestimate the amount. So, you can imagine my surprise when I was told I owed over \$7,000 due to an alleged robo-debt. I thought this was a mistake. Surely, a quick chat with Centrelink would clear this up. But it became clear to me that they were using a flawed methodology of income averaging because of an ignorance of the way the labour market works.

When I informed Centrelink of this, they were seemingly wilfully ignorant. I asked them to prove the debt in a court of law. They were unwilling. They told me to provide bank statements. Historical bank statements are expensive—\$4 per page over 12 months. This was money I didn't have. I asked Centrelink for a billing address so they could pay, but they refused to do so.

Almost two years ago they said that they would contact my employer for pay slips. They have not done this. It seems very unfair that they expect me to incur costs and do their work for free because they have an idea in their head about my income.

Trying to go about disproving the alleged debt to Centrelink has been like talking to a brick wall. I have asked for records of my reporting and an explanation of the alleged debt, and I've been told to make an FOI request. With every freedom of information request that I've put in, they send me a load of gobbledegook that purports to be what I asked for but isn't. If you want to talk to someone in person, the compliance branch tells you to go to your local Centrelink office. Staff there are overworked and under the pump. They didn't know anything about my circumstances, and directed me to a telephone in the corner to talk to the compliance branch again.

At this point, Centrelink say they've done a reassessment and then a review of my alleged debt, but they've never attempted to prove to me how I owe any money to them. Their system is so opaque. They put me on a payment plan against my will. They sent a letter saying, 'We don't expect you to pay more than you can afford'. On \$275 a week, how much could you afford to pay? They take a minimum of \$15 per fortnight. Every three months, I have to contact Centrelink to beg for it not to be raised to \$85 a fortnight. One day a week, I have my grandchildren so that my daughter-in-law can go to work. The eldest is at kinder, and I feel it deeply in the pit of my stomach when I have to say to her, 'Sorry, darling, we can't get an ice cream,' when we're on the way home from kinder, 'Let's go and pick some herbs instead.'

Since I've been in this situation, any time I've gotten work I've physically gone to a Centrelink office to confirm my income, because I'm so worried I'll get another robo-debt. The people attending this morning's hearing would probably have used infrastructure to get to this venue that I played a big part in building. I think I've contributed as a taxpayer and a citizen, and I think it's fair to ask for help from the government from time to time. I did not deserve to be treated the way robo-debt has treated me. I'm not doing this because I want Centrelink to wipe just my debt; I want them to stop using averaging, which would never work for someone in my employment situation. I want them to cease and desist, because this is hurting a lot of people. Thank you.

**CHAIR:** Mr O'Shea, are you both okay if we ask you some questions?

**Letecia Luty:** Yes.

**Mr O'Shea:** Yes.

**CHAIR:** Mr O'Shea, have you had a review of the debt that Centrelink says you owe?

**Mr O'Shea:** They have different types of these things, and I believe that there have been two types of reviews. One's called a review and the other's called a reassessment, I believe.

**CHAIR:** Yes.

**Mr O'Shea:** If I may say, with the last one I asked for the review and I think about three or four days later a letter arrived in the post. It basically said, 'We've conducted the review. Sorry, same same.' I thought, 'Hang on. You've already conducted the review. This is snail mail. Did somebody just put it in an envelope, stamp it and send it to me? With 'denied'? Also, what's a proper review if I'm not asked to appear before the review and give evidence before the review myself?

**CHAIR:** Have you provided any of your employment details or pay slips? Had you been able to get hold of them? Had they asked for those for the review or the reassessment?

**Mr O'Shea:** They've asked me to get them. I found it difficult to do so. They've asked for bank statements as well. I've given them my employment details. I was working for a company that trades under a couple of different names, and I think they were actually double counting some of that as well.

**CHAIR:** Have you sought legal advice?

**Mr O'Shea:** I have.

**CHAIR:** And what was the legal advice?

**Mr O'Shea:** I believe that's client-lawyer privilege—sorry.

**CHAIR:** That's fine. Should I then ask: did it help?

**Mr O'Shea:** I think it's helping. I mean, I'm here today. That's a start.

**CHAIR:** Right, okay.

**Mr O'Shea:** This is the first time I've actually got to talk to anybody face-to-face about this.

**Senator ASKEW:** Thanks, Mr O'Shea. I just want to clarify this: what period are we talking about? You said it started two years ago; can you give me an indication of which salary year or period?

**Mr O'Shea:** It was 2010-2011.

**Senator ASKEW:** And you are still proceeding through the review stages, I understand? If you have legal advice, or is it—

**Mr O'Shea:** The last freedom-of-information request I put in was Friday of last week, and I think received acknowledgement of receipt of it yesterday.

**Senator ASKEW:** Okay.

**CHAIR:** Can I just double check on that? Have you asked for an admin—what's the process called?

**Senator ASKEW:** AAT?

**CHAIR:** No. What Centrelink told us last week was that a lot of people were FOIing documents, but now they've said you can get access to your documents through an admin data process—

**Senator ASKEW:** That's true.

**CHAIR:** Have you applied for it without having to go through the trouble of FOI?

**Mr O'Shea:** I didn't know anything about that at all, sorry.

**CHAIR:** There is a process where Centrelink are now saying you can ask them for your personal information under this process. It's supposed to happen quickly and you don't have to go through FOI.

**Mr O'Shea:** Right. That's the first I've heard of it. Thank you.

**Senator ASKEW:** Just on your FOIs: what were you actually asking for and what were they giving you—saying they weren't providing what you were doing, which is what you specifically asked for?

**Mr O'Shea:** Back in 2010-2011, declarations were made on paper and delivered by hand to a Centrelink office. They detailed the employer, the dates that you worked, the number of hours that you worked each day and the income—if you could provide it accurately. If you had your pay slip you were able to do that, but if you hadn't got the pay slip yet, because they arrived in the mail, you would basically have to do a sum in your head: 'Let's see, it's been a big week, or a big couple of weeks. I probably worked over 100 hours each week. It might be 2½ grand or more. What the hell—let's write down four grand, because they're not going to give me any money this fortnight anyway so I might as well overdeclare it.'

**Senator ASKEW:** That makes sense. So when you've done it, you were asking for a copy of that? What were you actually asking for in your FOI request?

**Mr O'Shea:** I was asking for the original declarations that bear my signature thereupon.

**Senator ASKEW:** Okay, so that would be—

**Mr O'Shea:** That is proof.

**Senator ASKEW:** what was declared at that point. So what have they actually provided when you've asked for it? Was it just the amounts for that period that you declared, or—

**Mr O'Shea:** No, it bears no relationship to it at all. If you like I'll submit this to the senators—

**Senator ASKEW:** Are you happy to table that?

**CHAIR:** Is that okay?

**Mr O'Shea:** Absolutely. Is that all right?

**Senator ASKEW:** It's up to you.

**CHAIR:** We will keep it in confidence.

**Senator ASKEW:** We won't share it. It's just so that we can see what's actually been provided, compared with what you requested.

**Mr O'Shea:** Sure. I have another copy of it here.

**CHAIR:** Mr O'Shea, I think someone is trying to get your attention behind you.

**Mr O'Shea:** Yes, there are other documents here as well.

**Senator ASKEW:** Are you happy to provide those as well?

**Mr O'Shea:** Yes, I am. Without legal advice, I still can't make head or tail of these. I've had to rely on the very good legal advice that I've got to try to make head or tail of these, and I still don't understand them. There are just those two there, yes.

**Senator ASKEW:** I'll have a look at that and see, but I think Senator Siewert's suggestion about the administration data process is probably something worth looking into because we were briefed by the department last week and it was certainly mentioned—

**Mr O'Shea:** I'm sorry. My hearing is not what it used to be.

**Senator ASKEW:** That's okay. The administration data process is a request process that we were briefed on last week by the department, so it might be something worth looking into.

**Mr O'Shea:** Thank you.

**Senator ASKEW:** Ms Luty, we just wanted to acknowledge your evidence today and thank you for coming along and letting us know of your circumstances. So, at the moment, you still have a debt of \$400? I just wanted to clarify that.

**Letecia Luty:** Currently, yes.

**Senator ASKEW:** Is that in a repayment arrangement?

**Letecia Luty:** I've been advised to put it on hold, which I've done. When I asked the reviewer originally, I was under the impression they had put it on hold. I rang to clarify that, and I don't think it was. So then I asked for it to be on hold, but I also asked for them to explain if it was under an authorised officer review, and the lady on the phone didn't seem to know what that meant at all and—

**Senator ASKEW:** So you mentioned a subject matter expert. So is somebody—

**Letecia Luty:** And then they said, yes, it's now going through a subject matter expert. Until then, you ask for the ARO review after that—

**Senator ASKEW:** So how long ago was that request put in?

**Letecia Luty:** The request for the review was when I was asking for an FOI earlier this year, somewhere between February and April. Then they confirmed with the subject matter expert, I think around April or May. Since then, I think she said—and I asked because apparently, with the subject matter expert, they'll attempt to call me twice and it will be on a private number. So I kept a note—so I know that I haven't received any missed phone calls that are under a private number yet, but they said it will be for the next six months or so—

**Senator ASKEW:** So since April?

**Letecia Luty:** So up until the end of January.

**Senator ASKEW:** Okay.

**Letecia Luty:** And they say I should maybe expect to hear from their subject matter expert at the end of January—around the 26th I think that date was—and then I asked: 'What if I miss those calls? What happens then? How do I get in touch or how do I hear from them?' And I think they will send something in the mail, but I had to ask all these questions to confirm this; otherwise, who knows if that would happen. Then I think they—

**Senator ASKEW:** So you've had nothing in writing to confirm any of those things? It's all been verbal?

**Letecia Luty:** No, I've had nothing in writing though to confirm anything about it going under a subject matter expert and nothing about the review and they were aware that I had requested a review.

**Senator ASKEW:** Thank you. That just clarifies a little bit more where it's at. So, at the moment, you're not making a payment but you've got an outstanding debt of about \$400?

**Letecia Luty:** Yes.

**Senator ASKEW:** Okay. Thank you. Thanks, Chair.

**Senator URQUHART:** Mr O'Shea, your debt was purportedly occurred in 2010-11?

**Mr O'Shea:** Correct.

**Senator URQUHART:** You've been trying to solve that for a couple of years?

**Mr O'Shea:** Yes.

**Senator URQUHART:** About two years. You're now paying \$15 a fortnight. Is that by consent from you?

**Mr O'Shea:** No.

**Senator URQUHART:** Or is that being garnisheed or what's the process?

**Mr O'Shea:** I have repeatedly—every time I have to call up to beg them to not put it up to \$85. I referred to the letter I sent which said, 'We don't expect you to pay more than you can afford'. But these poor people who work for Centrelink have no option. The system won't let them go below 15.

**Senator URQUHART:** Okay. So that's a cap.

**Mr O'Shea:** I really feel for them. I said to a guy I was talking to once, 'Mate, I really wouldn't want to do your job'. I've only got to talk to him. But he's got people ringing the whole time with these tales of woe. I can't imagine the poor guy having to try to sleep at night. So it's not just affecting people who are on Newstart or whatever. It's affecting the public servants that have to administer a system that they know is flawed. You can just hear it in their voices.

**Senator URQUHART:** This is a question that I don't know if you can answer or not. We're talking about \$15 a fortnight. By my maths, that works out to be around 466 fortnightly payments, which is a very long time to reduce that purported debt of \$7,000.

**Mr O'Shea:** Yes.

**Senator URQUHART:** You still aren't convinced that you have a debt at all; in fact you say that you actually volunteered that you earned more and therefore you question that you have a debt at all. What process is there—have you inquired about this as to how you get that \$15 back at some stage, if that debt is deemed to be not a debt at all?

**Mr O'Shea:** No. I think that would be getting ahead of oneself. Let's get the matter settled first and then maybe we'll talk about that.

**Senator URQUHART:** Do you have any time frame, or have you been given any time frame, as to when the matter might be settled?

**Mr O'Shea:** No.

**Senator URQUHART:** So you have no idea now long it's going to take Centrelink to tell you, yes, you have a debt or, no, you don't have a debt.

**Mr O'Shea:** They seem to be satisfied at the moment that there is a debt.

**Senator URQUHART:** But you're not.

**Mr O'Shea:** I am not, and I see it as a process that's ongoing.

**Senator URQUHART:** So, in most areas, if you had a debt, there would be a proof of that debt. If you owed a company money, there would have to be proof of that debt and you would then pay it off, obviously. But you have no proof that there's a debt. Therefore you're still paying off a debt that you're not sure that you've actually got.

**Mr O'Shea:** Exactly, because the way they calculate it is they're not comparing apples with apples. A fortnight is a lot shorter than a year. For example—and you may not be aware of this—let's say I go and do one day's work for some labour hire agency. At the end of the year they will send me a group certificate. On the group certificate it will say: period of employment from 1 July to 30 June the following year. That's one day, and they'll have the amount earned, tax deducted. You can average that over the whole year, but it doesn't work because you're supposed to declare your income to Centrelink fortnightly. That's what the problem is: it doesn't work for people who are in—the term I heard is 'lumpy' employment.

**Senator URQUHART:** Not regular. So you talked about the experience of not being able to buy your granddaughter an ice cream—and I'm happy if you don't want to answer this. I'm just wondering what other effects that \$15 a fortnight coming out of your benefit is having on you.

**Mr O'Shea:** These days they expect you to have a mobile telephone—it's just expected. I pay \$30 a month to keep the phone running so people like Centrelink can ring me.

**Senator URQUHART:** And no doubt employers?

**Mr O'Shea:** That \$15 a fortnight would pay for my \$30 a month for the phone.

**Senator URQUHART:** Do you need your mobile phone for employment purposes as well as for employers to obviously get in touch with you?

**Mr O'Shea:** Absolutely.

**Senator URQUHART:** Can I just ask one very quick question to Ms Luty. I just wanted to know roughly—and you may have said this in your statement and I missed it, I'm sorry—how far back did the alleged debt of yours come into play?

**Letecia Luty:** When I received the actual debt notice with the \$2,353, or whatever it was, that was in February this year, 2019. But I received the original confirmation letter a year before that in 2018 and then received no other notifications or letters in the meantime, or they didn't follow up with me about anything. I remember I was just too late in trying to attempt to get in with the 28 days they give you.

**CHAIR:** Senator Hughes, did you have any questions?

**Senator HUGHES:** No.

**CHAIR:** You may be doing the same thing I want to do.

**Senator HUGHES:** I'm not sure I really understand this, but I think in the interest of time—

**Senator ASKEW:** Can I just seek a clarification. On the sheet with the yellow colouring, each of the fortnights is a \$620.72 payment which with zero hours has a fortnight beside it. I'm just trying to clarify what that is.

**Mr O'Shea:** Yes, I would like to as well. I have no idea.

**Senator ASKEW:** So the \$4,000s are the ones where you've rounded it up and things like that. I can see what you're talking about there.

**Senator HUGHES:** What is the yellow one? I'm sorry; I don't understand.

**Senator ASKEW:** That's his income.

**CHAIR:** Is that the ADEX?

**Mr O'Shea:** No. The ADEX is that one, I believe.

**Senator ASKEW:** This is the ADEX.

**Mr O'Shea:** I really don't know what that it is, but when I look down the column and I see \$620.72 repeated on and on and on over all these periods, it's completely impossible that somebody—

**Senator HUGHES:** Were Skill Groups Limited your employer?

**Mr O'Shea:** Yes, but not at those times. Also, for anyone in interstitial unsecure employment, like me, it's impossible that anyone would be earning \$620.72 for all of those fortnights.

**CHAIR:** Mr O'Shea, to me this looks like averaging. That's what it looks like to me. Having heard so many people talk about insecure and part-time work, you never get paid the same, so I think it's impossible, frankly, that you would get paid the same.

**Mr O'Shea:** Yes.

**CHAIR:** They're probably going to know if we ask anyway, but Centrelink have this information on you. Would you mind if we asked them to explain how this happened?

**Mr O'Shea:** I'm quite happy for you to. I need all the help I can get, Senator.

**CHAIR:** It would help you and it would help us.

**Senator HUGHES:** But Centrelink will now get bank statements.

**Senator ASKEW:** This is back in 2011. The other question is: is the total value of all of that the equivalent to what you declared in your tax return for the year? That would be the question, I suppose.

**Senator HUGHES:** That total amount.

**Mr O'Shea:** I haven't got the abacus out.

**Senator HUGHES:** I was going to add it up.

**CHAIR:** I think we should ask Centrelink to explain it to us, with your permission.

**Senator HUGHES:** There are then two amounts of \$4,000.

**CHAIR:** Ms Luty, you said that you were asked to accept your debt and then you could go for an ARO, which is now the subject matter expert, but did you accept it at the time?

**Letecia Luty:** I felt like I needed to accept it. The way I was asked on the phone, I didn't have a choice; I couldn't not. I didn't understand that I could ask for a review then and there. I felt like I needed proof or

something or that I had done something wrong, and I wasn't sure. I had no evidence at that time. So I really felt like I needed to accept it, even though I felt like it was wrong.

**CHAIR:** How did it make you feel accepting it?

**Letecia Luty:** Overwhelmed and very anxious, I guess, because I wasn't sure what the debt was. There was no explanation of how it came up or why, as well.

**CHAIR:** When was that? Was that the beginning of this year?

**Letecia Luty:** I can't remember exactly when I received that call, but it could have been around the beginning of this year, I think.

**CHAIR:** It was subsequent to the new process coming in?

**Letecia Luty:** I'd say so, yes.

**CHAIR:** If you have any further recollection, could you let us know? I am keen to follow up with the department about how that process operates and why someone is asked to accept a debt when they don't understand it and don't think they've got it. It's not the first time I've heard this. I find it very difficult to understand why somebody should be required to accept a debt when they don't believe they have it, and then you can go back and say, 'Oh yeah but'—

**Letecia Luty:** And there has been no information in advance in front of us.

**CHAIR:** Thank you for your time, Mr O'Shea. If we find anything, we'll let you know. It may take some time. Ms Luty, thank you for your time. I know it can be very stressful appearing before such committees. I hope we haven't been too bad.

**Letecia Luty:** No, you haven't.

**CHAIR:** Mr O'Shea, you've given us permission to follow up your data. Thank you very much for you time today.

**Proceedings suspended from 10:54 to 11:45**

**CRAIK, Ms Christine, President, Australian Association of Social Workers****SCARFE, Ms Angela, Senior Policy Advisor, Australian Association of Social Workers**

**CHAIR:** I welcome representatives from the Australian Association of Social Workers. Thank you for coming today. I invite you to make an opening statement, and then we'll ask you some questions.

**Ms Craik:** Thank you for the opportunity to come here and talk to our submission. We really appreciate it. As you know, social work is a tertiary-qualified profession that is recognised internationally, and we pursue social justice and human rights as part of our everyday work. The Australian Association of Social Workers represents 12,000 social workers across Australia. We are the professional body for social workers. We set the benchmark for professional education and practising social work and we advocate strongly on matters of human rights and social inclusion and against discrimination.

In our work, we aim to enhance the quality of life of every member of society and empower them to develop their full potential. We recognise in our work the inherent dignity of all persons and maintain that everyone has the right to a social, economic and natural environment in which it's possible to flourish and thrive. In this context, of course, the role of government is to create the economic and social conditions under which people can pursue healthy, meaningful, connected and rewarding lives. It is especially that connection and that lack of isolation for people that really brings about healthy, meaningful and rewarding lives. We know what disconnection and isolation can do to people.

Since Federation, Australia's income support system has created a central role in creating these conditions so that people can pursue healthy, meaningful lives. Its role was to guarantee that no-one slipped into homelessness or destitution through misfortune. To many people, our social security system represents a belief in the equal and fair treatment of every member of society. Social cohesion and healthy democracy depend on a society in which institutions treat everyone fairly and trust the people they work with and that people, in turn, trust these institutions. It's very important in society that we have that reciprocal trust.

From the work that we do, social workers all know that most Centrelink recipients who end up on Centrelink are there because of a trauma in their life, a crisis in their life or a major life event, whether it be leaving school, unemployment, casual employment with the increasing casualisation of our workforce, homelessness, physical or mental ill-health—those will often send you off to Centrelink—an accident, retirement, relationship breakdowns or family violence. The population that we work with is already a very vulnerable population, and they're already traumatised and often highly anxious about their life and what's going to happen to them.

For many of them, it's their first foray into our social security system, and they're often very confused by the bureaucratic threshold that they need to adhere to in order to claim benefits, to get on benefits and to stay on benefits. It's extremely difficult to get any assistance at the time of application, and our clients will talk about the added stress of having to try to contact anyone in Centrelink for any queries whatsoever during their time on Centrelink. When vulnerable people like this then receive a debt letter—one that assumes their guilt and where the onus is on them to prove that they've not incurred that debt within a system where it's hard to communicate with anybody—their anxiety and stress and inability to destress goes through the roof. I've had older ladies come into my office with their Centrelink letters intact, because they're too afraid to open them when they find them in the letterbox. They start shaking the minute they see that Centrelink letter in their letterbox. I've had other older ladies who, I suppose, have such a respect for authority that, even though they think they don't have a debt, they pay it straight away. They don't even question what's going on. I've of course had clients sobbing in my office after receiving a debt letter like this. With the way this is handled through Centrelink, we feel at times that this is a bit of a war on the poor.

The AASW does acknowledge that changes have been made in the operations of the rollout of the debt recovery scheme since 2017. Nevertheless, we think there are two main problems that remain. The first is that the program reverses the onus of proof. The language is friendlier, but the underlying principle is still the same in terms of the onus of proof being on the client. It requires people to prove that they haven't lied and it requires them to produce documents from further in the past than we expect your average citizen who's not on Centrelink to keep documents for. It requires six years worth of documentation rather than five. The tax office is the same office that produces those claims in the first place. It says that it will assume you have a debt if you don't supply more information. When you enter that information into the website, you go to a section called 'money you owe', so it's already bringing up for people that feeling that they are guilty in some way. It appears that the scheme both assumes people are guilty and is designed to conclude that they're guilty. Our clients tell us that they immediately feel anxious; they immediately feel guilty and threatened. It's quite obvious that they're made highly anxious by the presumption, some of them to the point where they're unable to function. So they have real trauma responses

to these letters, and we really do need people in the system who work through a trauma-informed-care lens. Trauma informed care is not just a noun; it's actually a verb. You have to know how to do trauma informed care.

The difficulty of 'proving otherwise' for people is magnified for vulnerable people, and this is the second problem: we feel the scheme does take a punitive approach to vulnerable people. Social workers know that people who are relying on Centrelink payments are there because of the stressful and challenging life situations that they often find themselves in. We have experience of supporting people through these hardships, and we know how stressful it is for them to merely survive. We know that there's confusion and unpredictability in their daily life, and this makes it even more difficult for them to provide financial records from six years previously. In the case of someone who may have become homeless, suggesting that they should have kept their financial records for six years demonstrates a clear lack of understanding around the reality of homelessness and trying to get your stuff from one place to another. In the case of women who flee perhaps a violent perpetrator, it's often a situation where she won't get everything she needs before she has to leave. At that time of crisis, she may have left significant documentation behind. Sometimes Centrelink requires a woman in this position to re-establish contact and ask a favour from someone in her past who can seriously threaten the safety of herself and her children. AASW believes that this program is, therefore, a denial of natural justice—natural justice principles being there to enshrine a rule against bias, and for people not to be considered guilty before they've had the right to put their case. That doesn't seem to be what's happening.

Any system that works with vulnerable people and is aware of this has a responsibility to treat their customers with care, respect and trust, and we feel that this debt recovery process is not a process that treats people with care, respect or trust. We're not arguing here that governments shouldn't recover debt; of course the government needs to recover debt, but it needs to be done in a way that doesn't increase the stress and anxiety amongst a whole population of very vulnerable and traumatised people—and, really, for no good reason other than that is the way it's done.

That brings us back to trust, which we were talking about at the start. For the people caught up in the scheme, the experience is that any trust they've placed in the institutions is not reciprocated. They can't assume that they will be treated fairly, and, as social workers, we know how corrosive and debilitating this experience is to their individual mental health. We submit that programs like this also weaken our faith in that shared sense of community trust. So we call on the government to work with the community sector and with people who've really been in this situation to design a debt recovery process that is fair, accurate and responsive to those difficult life circumstances that people find themselves in.

**CHAIR:** Ms Scarfe, is there anything that you wanted to add?

**Ms Scarfe:** Not at this stage.

**Senator ASKEW:** Thank you very much for coming along today and providing your evidence. I want to comment on the letters that you're talking about. You're implying that the letters that are received are a straight-up debt request. It's actually a request for additional information. Do people come to you seeking support with that initially, or is it once it has progressed beyond that and they've been issued with a debt recovery letter?

**Ms Craik:** I would say at all levels. Sometimes the letter's not opened.

**Ms Scarfe:** The letter does say that if you don't check and update your information 'we will use the details we have to proceed, and this might mean that you have to pay money back'. And then the information is that you go onto a website titled 'money you owe'. So our submission is that, from the word go, people believe that they have a debt.

**Senator ASKEW:** What the letter is actually asking them to do is to contact Centrelink.

**Ms Scarfe:** And if you don't, then they will proceed using information that they already have. I think submissions have already made it clear that this information is not always accurate.

**Senator ASKEW:** The actual website to go to is humanservices.gov.au 'check past income'. It's not anything to do with paying money back. It's saying this might mean that you have to pay money back. That's part of the letter—that, if they don't proceed with it, that could be the end result. So it's more about just saying, 'Please contact us so that we can discuss it and check that the records that we've been given by you, compared to what the ATO has reported, are actually correct.'

**Ms Craik:** It says here:

... ability for customers to upload documents for staff to action, and updated help text and links to Money You Owe Service.

**Ms Scarfe:** This is page 12 of submission 20 to this current inquiry, which I believe was put in by Australian Government Services, and it says here that there's improved functionality on the system and that they can update information to the 'money you owe' service.

**Ms Craik:** You're right: the language is friendlier. But the underlying principles are still the same, and the people we're dealing with are still the most vulnerable people in our society. So what would seem a simple thing for you or me—to go onto a website, perhaps, and to upload stuff—is not so simple for someone who's living in that trauma lens.

**Senator ASKEW:** That's right. So it's not the actual website where you go to initially start the process, contact Centrelink and sort out anything that you haven't provided or that has been recorded incorrectly along the way. I just wanted to clarify that. Beyond that, I haven't really got any further questions.

**Senator URQUHART:** I take the point about the changes that make the language friendlier, but you talked about the reversal of onus of proof, the six years documentation on the website and the trauma that that creates. You acknowledge that there have been changes since 2017. Have the number and the nature of the online compliance related inquiries that have been dealt with by your members changed in any way?

**Ms Craik:** No.

**Senator URQUHART:** They haven't?

**Ms Craik:** It's still the same level of anxiety and stress.

**Senator URQUHART:** So, irrespective of the changes in the language, people still are burdened with a stress level because they are basically told, 'You owe money; check up on it.' We've heard evidence before—just today—of people trying for two years to get to the bottom of their debt, and they haven't been able to get to the bottom of it. So the language may be one thing to change, but it's also the process, isn't it?

**Ms Craik:** That's exactly right.

**Senator URQUHART:** What would be your suggestion as to the process and how that's going to actually help people?

**Ms Craik:** We had a talk about this at AASW, and we think there's clearly something wrong with an automated system that throws up a letter like this and sends it out to people without there being a few steps in the middle. If there were people who could check what needs to be done by Centrelink between the identification of possible debt and sending out those letters, we feel that—

**Senator URQUHART:** Is the justification for the debt the sort of thing you're talking about?

**Ms Craik:** Yes, the justification for the debt.

**Senator URQUHART:** Somebody in a letter says, 'You've definitely got this debt, and this is why,' rather than just saying, 'You're got a debt of X dollars.'

**Ms Craik:** Yes, and that's it. So exactly what's going on and why—more of the principles of natural justice. I think that, if there were people in Centrelink who knew the legislation and knew what was going on for people and had a trauma informed care lens about the work that they did, we probably wouldn't get half the debt letters that are sent out in the first place. I think it would cut down considerably on what's sent out, because so many of them are found to be not substantiated if you go to the trouble of doing the work there. I think that's what needs to happen.

**Senator URQUHART:** I'm interested because one of the concerns that I think you raised in your 2017 submission—and I assume that you've raised what you were talking about, the trauma informed care—was the hostility towards Centrelink employees. After all, these people are just doing the job that they're paid to do. They have provisions around how they do that job. They are obviously very understaffed and short staffed. So I'm concerned about the level of impact that has on those. Do you see that from your organisation's point of view as well?

**Ms Craik:** Absolutely. You've got a system that is very understaffed. There's so much less face-to-face now. When clients who are very stressed go to Centrelink and are told by someone at the desk, 'Yes, there's a phone over there,' and there are three phones and one's working, and there's a queue of 50 people waiting for that one working phone—and that's not unusual—I can understand why the frustration boils over onto the workers there, who are the face of Centrelink. It's not fair on those workers and they shouldn't be having to work under those conditions, but that's the system. The system needs to change, for both the clients and the workers. It's not rocket science that face-to-face conversation and being able to have that backwards-and-forwards is how you clear up confusion. It's how you show people empathy. It's how you show people that you're listening to them. It's so

important to do that for people who are in vulnerable situations. It's important for the staff, too, and it would give the staff a lot more in terms of feelings of quality and whatever around their own jobs.

**Senator URQUHART:** Say there was that level of checking before the letter even went out—if there was that level of human intervention rather than a robot or whatever. Do you have any insight into how much the issues would be reduced?

**Ms Craik:** I couldn't tell you that; honestly, I don't have those figures, obviously, to hand. But I do know that, in the cases that I and other social workers that I've talked to have been involved with, it would be around half our cases, whether there hasn't been a debt in the first place or the debt is a lot less than what has been thrown out to the client. For a lot of the clients, it's because they're asked in March to put in what they think is going to happen for the next financial year, and, when your life is in upheaval and things have changed, you're putting it in from where you think you are. One of the things we hope, when people are on Centrelink benefits, is that their life does come together and they do get the services they need so that they can start having more of a meaningful life. But we ask them to have a crystal ball and then punish them when that crystal ball hasn't been accurate.

**Senator URQUHART:** So your organisation and your members are seeing people who, if the system was changed, would not necessarily need to see your members about those particular issues, which would then free up your members for people who have other issues that they need help with?

**Ms Craik:** Yes, I'm sure.

**Senator URQUHART:** So we're creating backlogs?

**Ms Craik:** Yes, I'm sure. It would help everybody. It would help the social workers they go to, but, most importantly, it would help the people who are on Centrelink benefits and are most vulnerable.

**Senator HUGHES:** I just want to bring you back to the new system with the letter, just so we make sure that everyone is really clear. With the new CUPI system and the letter, when it does go out, it actually does not raise a debt to start with. It is a process now that asks people to get in touch, as there is a little bit of a discrepancy between the information that an individual has provided to two government bodies. So it then asks people to get in touch to provide that information, to provide clarification, and to see if anything can be resolved, and there is direct human intervention at that point before any debt is raised. That's also based on the fact that the letters are sent by either registered post or a read receipt via myGov. So there is human intervention. There is human contact before any debt is raised, and discussions take place and engagement is encouraged at the earliest point. I noticed that you did acknowledge that the systems had improved, and I appreciate that, but you said that it was hard to communicate with Centrelink. Are you aware that there are now dedicated phone lines for this issue in particular, allowing—

**Ms Craik:** I'm very much aware of that, but what I've done with my clients in the past is to get them to write down the time that they started trying to call Centrelink on a particular date and when they actually got on to somebody on those phone lines, and sometimes it's three hours or four hours. You can't sit around on a phone for that long waiting for someone on the other end. It's just—

**Senator HUGHES:** Is that recently?

**Ms Craik:** That's recently, yes. The idea of a phone system is a great idea, but I don't think we have it right yet.

**Senator HUGHES:** A lot of people have come in and sat before us and given us a lot of anecdotal information about clients who've come in and talked to them and people who have come in and seen them who are really upset. The department has come and seen us and let us know, from questions on notice that we've asked, that, in regard to average wait times, they are around five minutes, from the department. Then we get anecdotal evidence of three to four hours. But we also seem to get people in here saying that people are very confused and very upset, and we seem to get a lot of people who have people coming in to see them but are not necessarily practically assisting them, whereas they're not going into Centrelink and providing information, or these organisations they're seeking out aren't necessarily providing them with practical information and advice about how to engage with Centrelink.

One of my concerns is this increased apprehension. People seem to be talking about high levels of stress, and I wonder whether or not this isn't being created around heightened political tension around the program. I mean, we had esteemed lawyers here today who, by their own admission, were using media slogans and referring to the programs in terms that had been created by the media to generate a headline. And we've got Bill Shorten, who I believe at the last election had exactly the same policy, however referred to it as extortion by Nigerian princes. So no wonder we've got heightened stress and anxiety around the program. I wonder whether or not some of the organisations that are dealing with people who are Centrelink recipients aren't feeding into this heightened stress,

aren't feeding into these heightened anxiety levels by not just providing simple guidance through the process of wait times—in questions on notice that we've received back they're five minutes on the dedicated line—and of engaging directly with Centrelink as early as possible in the process. The department will provide assistance in gaining bank statements at no cost to the welfare recipient. Do you have a comment on that, because we keep hearing about stress levels but I wonder whether or not they're being heightened by the political tension and the hysteria in the language that seems to be used around it.

**Ms Scarfe:** One thing that we find that we need to make clear in our submissions is that the social workers that we're talking about are people who might be working in a drug and alcohol service, or who might be working in the family support space because a child's been referred to child protection, so they're not actually working in income support. They might be working in a hospital. A lot of our members contact us representing people who've had a workplace injury or a transport injury, are waiting for years before that payment comes through. They then lose their job and need to go on to Newstart, and things like that, while they wait for that money to come through. Lots of people lose their job at 55 and find that they can never get a job.

So with your point about stress, I know what you mean about how it's important for us not to throw up our hands and generally make everyone feel worse. What Christine is getting at is that these are people with multiple, ongoing, underlying distress and stress, and our members are not employed to take somebody through the Centrelink process. Our members are employed to do all sorts of things. For example, for a woman leaving family violence, her safety and her children's safety is the first thing we have to do. Then there's interacting with the family court, then there's the homelessness, then there's changing the medication she must be on. So, while we take your point, the reality of life of working with people is that this is one of a number of things we have to do, and, yes, we may well help the people we work with, our clients, walk through this process. It will be one of multiple processes that we're walking through. And when we're talking about our members, we're not saying that any of our members who work in Centrelink have had any dealings with us on this. We're talking about our members who work in homelessness services, who work in aged care, or who work, say, helping people through a WorkCover accident.

**Ms Craik:** Can I just add to that that I find our members, and certainly myself and other social workers that I know, do the exact opposite when people come in absolutely hysterical about these letters. We sit down with them. We get their heightened emotions, their deregulated emotions, as calm as we possibly can. We talk through the letters. We put them on speakerphone so they can start making those phone calls and get the system off and running. We do everything we possibly can to do the exact opposite, because when they walk through the door to us they're already—

**Ms Scarfe:** Panicking.

**Ms Craik:** panicking—absolutely—anxiety levels that are very unhealthy. So it's the exact opposite, if anything, I would say.

**Ms Scarfe:** And you mean literally deep breaths, calming, all those physical—

**Ms Craik:** Yes. Literally having to do that stuff.

**Ms Scarfe:** neurological things that you do before you even start talking to somebody.

**Ms Craik:** That's exactly right. And letting them know that this is nothing to be afraid of, this is just us having to work through this system and that we'll do it together. It's all that sort of: absolutely, you've got somebody here; please don't worry; you're not on your own with this; we're going to work with this; this is going to be okay. It's all those things that you have to do when somebody comes in who's told you what they feel like doing when they get a letter from Centrelink. You're wondering if you're going to have to call the CATT sometimes. That's where it gets to.

**Ms Scarfe:** Our members would all be working with a person in a way that minimises and diffuses conflict. We're not on about using the media to create more conflict.

**Senator HUGHES:** I wish more organisations would take your attitude, then, because perhaps people would be less anxious when they received a letter from Centrelink—

**Ms Craik:** I don't think it's—

**Senator HUGHES:** and be more up-front and more open with the department when they received a letter saying, 'If you need help ask us.' Perhaps they would then take that advice and actually ask the department for help.

**Ms Scarfe:** I think for a lot of people it's the compounding effects of misfortune. It's the insult to injury factor, literally.

**Ms Craik:** Yes, and not being believed. I don't think it's fair to say the organisations are causing this stress, because that's not what we see when we're referring people, whether it be to Victoria Legal Aid or whoever, to get help with this. It's not those organisations that are increasing their stress. They're there to help them and support them. It's the system that's increased their stress, on top of the situations they already find themselves in. Nobody who's been laid off or who's had to escape family violence wants to get a letter that implies they could somehow have lied to the government. It causes people great angst.

**Senator HUGHES:** This is what I'm trying to establish, though: the first letter is not saying, 'You've lied to the government'—

**Ms Craik:** But as soon as they get that they think—

**Senator HUGHES:** and I think it's important to understand as well, Ms Craik—

**CHAIR:** But that's what's confusing people. That's what people read when they read the letter.

**Ms Craik:** That's exactly right—it's the difference between what the words say and what happens when an already—

**Senator HUGHES:** But the letter has evolved over three systems. It's been updated and developed, with the input of welfare recipients, to ensure that it is as user-friendly as possible. It's also been developed so that it doesn't contain so much information that it's terribly overwhelming, because one thing we're hearing is about the challenges, whether it's financial literacy or whether it is other impairments, that so many people in these situations face. The letter is not overly complex, but there are very simple instructions: if you need more time, call here; if you need more assistance, call here. Those things have improved.

The other thing I want to clarify with you is the website. The Money You Owe website is not the first website they go to. That website doesn't appear until there's been a debt well and truly established and the person has been notified. That's where they go at that point in time. We don't want to add to the fear and confusion by having people think that's the very first thing they see from the department.

The other point I want to touch on, and to see whether or not you agree, is that welfare's there as a safety net, and it's important the government ensures the sustainability of that system. You acknowledge that it's important that the government does secure the repayment of any debts that it's owed, but you did mention reciprocal trust. Ultimately, the money doesn't come from the department. The money comes from taxpayers, and the reciprocal trust needs to be between taxpayers and welfare recipients. The welfare recipients do have obligations when it comes to reporting and ensuring that their obligations are met when it comes to receiving taxpayer funds. I just wonder whether or not you feel they are fair requirements on the welfare recipient, because if those requirements were met then that would obviously ameliorate the need for repayments and debts.

**Ms Craik:** Yes, it's people who pay tax. But the people who pay tax know that the government is there to run the process out for this, so they expect a fair process from the government. I think that when we talk like this we're assuming that people, at some level, want a free ride, want to rip off the government or want to stay on Centrelink longer than they have to. The people that I work with, either through the hospital or through family violence agencies, don't want to be on Centrelink. They want to get off it as soon as they can. They don't like the surveillance and they don't like level of bureaucracy involved in having to put in claims all the time and update information. And they don't like the level of income it is, because it's not enough for people to live on—but that's separate. Of course you want to recover debt, but you can't have a system that assumes everyone involves a debt or people want to rip off the system, because that's not what happens. I think we've gone too far in the way the government views this. We pursue the most vulnerable people with more energy than we pursue corporations. It is crazy.

**Ms Scarfe:** Many of the people who lose their jobs at 55 have exactly paid their taxes all their lives, and they believe that they have a right to be treated as the honest upstanding citizens they were before misfortune came their way.

**Senator ASKEW:** I don't think anyone's saying—

**Senator HUGHES:** No-one's denying them the payment. That's fine. It's just the requirements between reporting income and—

**Ms Scarfe:** It's the point that Senator Siewert made about what people read in their heightened state when they open these.

**Senator ASKEW:** I accept that.

**Senator HUGHES:** Yes.

**CHAIR:** I have a couple of questions about the people whom you specifically work with. As you said, your members would be working with people for other reasons, not their debt. As a result of working with people affected by, for example, family violence and mental health, what is the proportion of people whom you would be working with who would be people with extreme vulnerabilities like homelessness? Do you have any detail on the percentage of people in those groups whom you work with who have then received a discrepancy letter or, before last year, one of the other letters?

**Ms Craik:** We probably do not have the percentages. It would be easier to say: how many don't we work with who fall into that category? I think all social workers work with people in those vulnerable categories. That's what we sign up for; that's what we do. It would probably be fair to say that in many of the areas where we work most of the people we work with would be on Centrelink, and a high proportion of those come in with letters from Centrelink or with queries maybe not even about the debt recovery process but about how on earth to fill out the paperwork—what's expected here, worries about them not putting in too much income or not putting in enough income or overestimating their income and not getting what they should be getting. There are just so many queries that come up through Centrelink, but, yes, there are a lot that come in with the debt recovery program.

**CHAIR:** The other evidence we've received is that people start paying their debts because they believe the government. They think the government—

**Ms Craik:** Yes. We especially find that with the older population, don't we. There's this sense that, if it has come from a government or an authority, it has to be true; it has to be right. They don't question letters from the tax office. They don't question letters from Centrelink. They don't question what their doctor tells them. You're dealing with that sort of population that has always just done the right thing.

**Ms Scarfe:** Or people who don't speak English.

**Ms Craik:** Yes—some of the refugees.

**Ms Scarfe:** The unaffordability of housing means that everyone our rural and remote members and our members working in regional centres would be seeing would be using Centrelink.

**CHAIR:** In your experience or in your members' experience, how many in rural and remote communities would have had a letter around debt recovery?

**Ms Scarfe:** I don't have a figure on that.

**CHAIR:** Would you take that on notice—

**Ms Scarfe:** Yes, absolutely.

**CHAIR:** because there's not a lot of information about rural and remote communities. I've had mentioned to me that part of the reason for that is that it's harder to find work out there, so they may not have that issue of reporting their income et cetera, so they may not have come through the system that way. So I'm trying to get an understanding of how widespread the issue is in rural and remote communities.

**Ms Craik:** We'll see if we can find that.

**CHAIR:** That'd be very helpful. That has run us over time a little bit. Thank you very much for your time today. The committee will be in contact about that question.

**Ms Craik:** Thank you very much for your time. We really appreciate it.

**CHAIR:** Thank you.

**AZIZE, Ms Maiy, Director of Media and Communications, Anglicare Australia**

**CHAMBERS, Ms Kasy, Executive Director, Anglicare Australia**

**LEECE, Ms Joanna, Acting General Manager, Western Victoria and Tasmania, Uniting Vic. Tas**

**MATINA, Ms Anna, Acting Executive Officer, Kildonan and Lentara, Uniting Vic. Tas**

*Evidence from Ms Azize and Ms Chambers was taken via teleconference—*

[12:20]

**CHAIR:** Welcome. I invite both organisations to make opening statements, then we'll ask a lot of questions.

**Ms Leece:** I thank the committee for the opportunity to appear at the hearing to discuss this critical topic. We commence by acknowledging our first peoples as the traditional owners of the land on which we speak today and pay our respects to elders past and present. Uniting is a community services organisation of the Uniting Church in Victoria and Tasmania and part of our national network. Our purpose is to inspire people, enliven communities and confront injustice. We're a team of over 8,000 people delivering services across over 300 locations accessed by consumers on more than 200,000 occasions per year. We work across the full spectrum of community services, intervening early to help people avoid crisis as well as supporting those who live life at the margins. Our programs include mental health, disability support, family violence and other child youth and family programs.

In preparation for today, Uniting conducted a couple of focus groups with consumers as well as speaking with staff from our energy and financial counselling programs. We've heard directly that Centrelink's compliance system is putting Australians into financial hardship and negatively impacting quality of life of those who are most vulnerable, including contributing to mental health issues and potential suicide. One of the consumers we spoke to in a focus group said: 'The worst experience of my life was going into Centrelink, as it's a degrading experience to give your details in a cubicle and be judged.'

Uniting has specific expertise in relation to financial hardship, which is relevant to this hearing. Firstly, over the last two decades we've seen a shift in the profile of people accessing our services for financial support. For example, women aged 30 to 59 years are an emerging group in need. We've also found that people who present with a financial issue are usually experiencing a range of other interrelated vulnerabilities such as unemployment, family violence and mental health issues. Uniting has developed an integrated approach to service delivery because of this, so that consumers are linked with services they need across a number of programs and don't need to retell their story.

Secondly, our organisation works at a structural level, challenging businesses to change their practices and develop hardship policies and programs based on a strength based model and enabling people to make decisions about their own lives. In the last 20 years Uniting has been engaged by more than 140 corporations nationally who have reported issues with escalating debt. We've seen positive benefits for consumers by building a shared understanding of vulnerability and hardship, from training executives to frontline staff in those businesses. In addition to better outcomes for consumers, the organisations report a number of changes, including an increase in successful payments, fewer escalations and ombudsman complaints, and a reduction in turnover of staff and increased employee engagement. Uniting undertakes this work to achieve positive change and outcomes for consumers. We've worked with a number of industries nationally, including banking, finance, debt collection, utilities and insurance.

In terms of the matter before us today we've identified a number of factors that we think are contributing to the issues in Centrelink's compliance program, including the approach to and the understanding of impacts of vulnerability within the Centrelink system, the inconsistent advice being provided by Centrelink to consumers, the uncertainty and fear consumers are raising with us about raising complaints or appeals, issues with automated processes where consumers hear about debt via technology, and inflexibility of the current system respond to the consumer's frequently changing circumstances or the contextual factors of work in Australia such as increased casualisation of work.

Uniting believes that every Australian should have access to government services that are fair, transparent, accountable, coordinated, consistent, accurate and respectful. A bold review and transformation of debt collection approaches, practices and systems in Centrelink is recommended, as well as increasing whole-of-system accountability. Given the negative impacts we've heard from consumers, particularly those who are vulnerable, it's imperative that we consider first principles decisions about the purpose and impact of the current system. Foundational to improving consumer outcomes is transforming the approach to vulnerability and changing and embedding a practice of consumer centred approach and flexible systems for all Centrelink customers. In practical terms this means that information is provided to consumers in a way that is easy to understand; consumers discuss

appointment information, including debt, with the person in a timely manner; and there is a clear process for raising queries, complaints and appeals.

This is informed by the work of Uniting, where we have supported many corporations to move towards social impact and public value through radical change. We start from the premise that people want to pay their bills and debts but find themselves unable to do so, because of a number of intersecting vulnerabilities and complexities of life. We've seen better outcomes from applying a strength based model where people participate in decision making about the programs that impact their lives. In closing, Uniting has four priority recommendations, the first one being to reform the debt collection approach so that it is underpinned by an approach around vulnerability and a consumer centred approach and that all staff are trained in this approach; improving the accountability through establishing timely complaints and governance processes and monitoring the outcomes and resolution of issues; developing clear and consistent information and advice and avenues for communication to and from Centrelink, including a single point of contact on debt issues for consumers and/or advocates; and developing referral processes for mental health, suicide risk and financial vulnerability.

**Ms Chambers:** We too acknowledge that we meet of on the lands here of the Ngunawal people and the elders of the country that you meet on as we hold this teleconference. Thank you for the opportunity to appear before this committee and to have our input on Centrelink's compliance program, more often and more accurately called the robo-debt program. We have some short remarks to make. I begin those with reference to where we find ourselves at the moment in this program by actually reviewing what the government and the department itself has already conceded about this scheme. The government has conceded that over 20,000 letters it originally issued to people, the ones that created so much panic and anxiety in the community, were later shown to be wrong. Since then it has conceded that almost one in five debts it has raised were inflated or non-existent. Of course, many more are under review currently, and countless other false debts are never challenged at all, so we don't know how high the real figure actually is.

When challenged in court, the government typically concedes that the debts it has raised are wrong, denying us of the opportunity to set precedent in case law. It has conceded that some of the debts it raises are so old that records contradicting the debt notice might not exist anymore, it has conceded that an average of over 100 complaints about this system get escalated to the Commonwealth Ombudsman's office each month and it has conceded that many of its own staff oppose the scheme. In fact that was the official response to a Centrelink whistleblower who revealed that staff were not allowed to use the information Centrelink already had to correct false debt notices. Finally, it has conceded that it spent over \$600 million to recover \$725 million in debt. At Anglicare we've done research which adds community sector time and cost of this, not to mention the human cost for the actual citizens caught up in it.

Based on all of this, Anglicare Australia believes that the issues facing this system can no longer be called errors. The countless public cases of false debts, the millions of dollars in wrongly issued notices, the missed opportunity of human contact and the fact that the Services Australia no longer defends the legality of these debts when challenged in court all show us the failures of the system are well known to those who administer it. So we urge this inquiry to join us in calling for the automated debt recovery system to be suspended. Thank you.

**Senator ASKEW:** I'll start with Ms Kasy. You just made some claims there about the value of following up and recovering any debts that are outstanding. Initially the letters that are going out aren't about debts; they're actually about seeking further clarification. Do you want to explain a bit further your thoughts on the initial debts?

**Ms Azize:** I think it's been widely reported in the media, and it's certainly been interpreted by the people who we work with, as a debt notice. I think that issue has been well ventilated in the media. We appreciate that the government's response has been that they weren't a debt notice, but, to the people who were receiving them, they looked like a debt notice and they felt like a debt notice and that was the way people interpreted them.

**Senator ASKEW:** In the past couple of years things have changed, and we're onto our third iteration with regard to the letters and so on that are going out—they're known as the CUPI letters. In that, it's just a softer language, I presume, but obviously that language is very much about asking the consumer to actually contact Centrelink to clarify any differences that have been noticed between the amount of information they've declared on income that they've received as opposed to what the tax office has received notification of from their employers. Is that, therefore, a debt in your mind or is that a request for clarification?

**Ms Chambers:** I think, when people get one of those letters, what they see is that there's an issue between them and Centrelink. Most people who've dealt with Centrelink have experienced difficulty contacting them in the first place. A few of our people do find some of the good in Centrelink, but for the majority of people there's a dread of needing to contact a large bureaucracy. There's a dread because the stories they've heard, the experiences they've had and the firsthand experience their family and friends have had is that, when a letter like this is issued,

there may be payments removed or payments changed. The other fact is that we've got to remember that this isn't one of those situations of trying to check on a lost airline ticket or follow through on something with a large bureaucracy. There's a difference between people paying rent and putting food on the table, and that sounds dramatic, but that's actually the reality with the type of payments that we're talking about.

**Senator ASKEW:** If they've been asked to clarify information, they will have either earned some money or not earned some money along the way—it's just a case of actually seeking clarification at that point. There's no debt raised at that point, and obviously there are now direct lines available for people. So it may still be part of a bureaucracy, but we've got a response from the department on a question on notice that they can be answered within an average time of about five minutes to get through to it. So do you think it is the fear factor that's come from the media coverage that's been given to this program that's actually causing the stress that people are feeling?

**Ms Chambers:** I think the media has been somewhat subdued in its reporting in some ways. What may change now, notwithstanding that previously there's always a like factor on what people perceive in the media and what the media actually reports upon, is the fact that citizens are having to have the onus of proof on themselves. The fact is many people who are on benefits are experiencing what you call a peripheral workforce, where they're in and out a bit. They might get some casual work for a time; they might get different hours each week. It's often not a situation where they simply move from a benefit into full-time employment and then get the same payment. So I'm not sure that it's a media concern. I think that, in this case, it has come from real things and people are very worried because it is a huge vulnerability if you're about to lose what is in effect a payment coming into your household.

**Ms Azize:** The information that we've used on wait times has been tabled to this committee by us in *Paying the price of welfare reform*. That all comes from official government sources. We haven't seen the government response that you're referring to, but we'd be interested in how that's been broken down and what kind of phone calls people are making to get that average wait time of five minutes.

**Senator ASKEW:** That was specifically for the online compliance one. That was a request that we put in previously, and we've just had that returned to us.

**CHAIR:** Just to be clear, it's the little phone number that appears on the discrepancy letters that are now sent out—the CUPI letters.

**Ms Chambers:** I understand that phone number's also on the screen if they choose to address it online.

**CHAIR:** Yes, both of them.

**Senator ASKEW:** That's number's available there, and also the website.

**CHAIR:** And there are different numbers for each of the different systems. There's a different number for CUPI, a different number for OCI and a different number for EIC.

**Senator URQUHART:** I might start with the people at the table first. You talked about needing radical change, and you mentioned four different topics there: reform approach for debt collection, improve accountability, develop clear information and advice, and develop referral processes. I'm just wondering if you can elaborate a little bit more on exactly what your picture of those four areas looks like.

**Ms Matina:** My colleague Joanna has spoken about the experience that we have in this area. We've worked with many organisations to reform their practices in how they go about the collection of debt. Some of the things that we've heard raised here today aren't unique to this circumstance, but they also can be quite consistent with other organisations that are working through the process of trying to recover debt. It really is around understanding the process from end to end and looking at everything from how the initial amount is derived to how that is communicated, the process that's available for people to be able to provide information, the approaches in the conversation with individuals in that process, ensuring an understanding of vulnerability, respectful practice and understanding how to refer people on to other services where there are other compounding factors available as well. It's really about a strength based approach that allows people to feel empowered and to be able to maintain their dignity through that process as well. The idea, really, is to try and ensure that we have a process that works and has great outcomes for consumers and for the industry as well—in this case, speaking about Centrelink staff and how they feel through that process and the difficulty. It's about looking at it throughout the entire process and what that looks like.

**Senator URQUHART:** You mentioned electricity companies or utilities, but surely their system is different in that if you get an account from an electricity or a utility company they have a very clear process in terms of what the debt is or was, what you've paid in the process, and that is then forwarded to the person at that period of time. Whereas I think what we're talking about here, from the evidence we've heard throughout this inquiry and

certainly today as well, is that there have been a lot of challenges in terms of people actually getting accurate information about the debt—when it was incurred, how it was incurred and how much it actually is. There's a definite difference, isn't there, in terms of this process as opposed to the people that you've worked with.

**Ms Matina:** Absolutely, I would agree with that. In this instance, I understand we're speaking about the letters and that they are not actually debt notification letters. Even the process of trying to understand how this came about, what they're referring to here, what evidence is required and how to provide or access the evidence can be actually quite challenging and difficult. As my colleague Joanna mentioned, we brought together quite a number of consumers to hear directly from them. We also obviously have the experience of our case work, but we really wanted to get the user experience. From their perspective, it was also indicating that they often get conflicting information. They've said, 'If I provide this, is that okay?' and they've done that, but it hasn't been the case. Or they've identified where this has come from by going back and recognising that they had a conversation with someone at Centrelink at the time about the changes and were advised to follow a particular course of action, which has now actually resulted in a debt, but there are no notes in the system and no accurate keeping of records around some of those conversations that might actually provide the evidence. So it is a very different scenario, because ordinarily you wouldn't expect the individual to have to prove that they don't owe the debt. The onus is always—in fact, it's part of our national debt collection guidelines—on the organisation that is alleging there is a debt to prove that the debt is there. So that is actually very different.

**Senator URQUHART:** Yes. Earlier today we heard from legal people who said that is something that normally happens—that it's not a reverse onus of proof; the onus of proof is on the person who claims there is a debt, not on the individual they claim has the debt.

**Ms Matina:** Yes, and having that clarity of understanding of how it was calculated also then helps with that conversation around understanding what recourse there is or what the options are. In banking, for example, if there are elements of irresponsible lending, there is recourse available for that. It can be tricky if you don't have that information to understand how it was actually calculated.

**Senator URQUHART:** Yes. Obviously, we heard also that the letter has been changed, and the language around that letter has changed. Do you see that that is relieving any of the concerns people have? It doesn't seem to have done so, from our point of view and from what we are hearing. Is there a suggestion for how that should be developed? We heard earlier today from Professor Carney that there should be a good collaborative approach, a working group or whatever, to look at how that should be structured. Do you have any thoughts on that?

**Ms Matina:** Definitely, any communication that's going to anyone in the community should be looked at and continually improved as you get different information from individuals, recognising that, although it may not be intended in a certain way, it is about how things are read and understood. Interestingly, the people that we spoke to didn't talk about the letter at all. In fact, they didn't mention anything about the notification of the potential debt. All of their concerns and grievances had to do with the process they entered into after being notified.

**Senator URQUHART:** After the letter, okay.

**Ms Matina:** I think that's quite interesting. That's not to say that the letter is perfect or anything like that—and it goes to what we were saying earlier about looking at the process end-to-end of which that would be part. For us, it is also coming through very clearly from our consumers that trying to navigate the process after that point is actually quite difficult for them, and that's causing a lot of stress. So, even when they do have the capacity to try and self-advocate, they're finding that increasingly difficult to do.

**Senator URQUHART:** So the letter has been changed and that seems to have maybe fixed some of the issues, but it's the process following that that is still the same.

**Ms Matina:** Yes. And I can't talk to that, because they didn't mention it. That doesn't mean that they find the letters okay.

**Senator URQUHART:** No.

**Ms Matina:** I just don't have the evidence from them to state that it's an issue.

**Ms Leece:** Some of the other issues related to delays in being made aware of the debt. Also, one of the consumers told us that they'd accumulated a \$32,000 debt and they found out by letter and through an automated voice message. So I think it's also about the methods of communication, and I'm hearing today that there are other methods being trialled and used. But that is one of the other areas that people focused on—how Centrelink communicates with them.

**CHAIR:** Do you know the timing of that automated voice message?

**Ms Leece:** We could take that on notice and try and give you a bit more information about that example if you'd like.

**CHAIR:** Particularly if it was in the last 12 months—because there have been changes made to the system. Did you mention the automated voice messages earlier? It was mentioned earlier.

**Ms Leece:** Not specifically.

**CHAIR:** No, I didn't think you did. Somebody else mentioned it this morning, so you're the second person today that has mentioned learning about the debt through an automated process. So it would be very helpful to us if you could find out when that occurred. Anything you can find out about that particular example would be very helpful.

**Ms Leece:** Yes.

**Ms Matina:** Following on from that, some of the direct quotes are things like 'a lot of times you go to Centrelink and they don't even know the answers', 'the way you are dealing with my case is really damaging to me', 'I feel like a criminal', 'Left feeling so anxious and mistrustful of the process; it does destabilise you quite a lot.' They are the sorts of sentiments that were coming through around trying to navigate that process.

**Senator URQUHART:** Thank you. Ms Chambers, you summed up in your opening statement to say that the process should be suspended. In terms of that, what's your answer to the process? Okay, we suspend it; what then happens? What are the next steps that you are suggesting should be taken?

**Ms Chambers:** For two reasons, we would like to see the human oversight placed back into the system. One is that, of course, that does identify obvious mistakes and gives somebody someone to talk to, so it's better for the person who is experiencing this. The other side of that is that, each time we take away an opportunity for somebody from Centrelink to talk to a business, as the CPSU identified in their evidence, or to talk to a person who is accessing Centrelink benefits, it takes away an opportunity for us basically to have some conversations which build a better system and which actually go toward some degree of co-design. So we lose two ways by not having the human touch and human listening there.

The other thing we would say is that it is actually, to say the least, quite an unusual system where we have this reverse onus of proof. It's actually quite unusual in our democracy and in other systems. I think it was Professor Carney who said that this is a system where a citizen must prove that he or she doesn't owe the government money. So there are two things. The human oversight would be very welcome to go back into that. It allows people to have a conversation to explain their circumstances and it allows the officer basically to talk to people and understand that. And there is the reverse of the onus of proof.

I will go a little bit further on co-design. One of the issues that we see and I hit on earlier is that this is a system, in particular when we're looking at averaging. I know there's been a lot of conversation about the averaging of wages, but a system where we use an average of wages really is unfit for purpose given the changes to the workforce: the casualisation, the gig economy and that kind of thing. That might not have been so missed if people were talking to people every day and understood that their payment dates are different from their reporting dates, that they're in and out of work, that sometimes their promised hours don't materialise and all those kinds of things. So put the human back in as quality control and reverse the onus of proof back to where it would normally be.

**Ms Matina:** That certainly came through with us strongly as well in terms of having a system that didn't feel flexible enough to be able to respond to the constantly changing experiences of individuals where they're coming in and out of work, changing hours et cetera. There are also the internal dispute resolution processes and lack of clarity on how that works and how intimidating that process can be.

**CHAIR:** Can you speak to that last bit—so it's not so intimidating?

**Ms Matina:** One of the things that came through was about raising a complaint and going through the appeals process. They found it difficult to understand what that process was and to navigate it, and there wasn't an external dispute resolution option—an independent service that you would have outside of others—available.

**CHAIR:** So, if you're not happy, you'd go to the AAT, but you are talking about having an independent process before you get to the AAT step.

**Ms Matina:** Or even understanding that that's actually what the process is. One of the individuals that we spoke with said that they had organised what they thought was a meeting to come in and talk about what had been raised as potential debt, and when she arrived it was a panel of five people. She was there on her own and found that extremely intimidating and not at all what she was expecting. It was a very different process then; the shift of power was quite striking for her, and it was difficult for her to navigate that process. She wasn't expecting that.

**CHAIR:** I want to clarify that. Was that a Centrelink process?

**Ms Matina:** From our understanding and the way she described it, it was a Centrelink process. Whether there's confusion in that can also be important to understand if people aren't understanding—

**CHAIR:** That's an issue in and of itself.

**Senator HUGHES:** That's kind of vague. There is an external dispute process, so that sort of anecdotal process is probably not in line with the systems and processes. We probably need more specific information around that.

**CHAIR:** Yes. That's why I was chasing it—to see what that process was.

**Senator HUGHES:** Thanks, Chair.

**CHAIR:** Ms Matina, the issue in and of itself that you're raising is that, if the person was confused, it shows there's confusion around the system.

**Ms Matina:** Yes. And we're speaking very strongly from the consumer's perspective. I oversee the large part of our financial counselling services at Uniting Vic. Tas. That's made up of 23 financial counsellors. If you have people who do that for a living who don't understand the process, I think that is a flag and something that needs to be looked into as well.

**CHAIR:** If you could take that on notice, that would be appreciated.

**Ms Matina:** Yes.

**Senator URQUHART:** I have a final question, and it's in relation to a recommendation contained in Anglicare's submission. It talks about factoring in the cost to the social service sector. I'm happy for the table to answer this as well. If you need to take it on notice, I understand that. Can you provide an estimate of the cost to your services of the impact of the Centrelink debt recovery program. Has this had an impact on your capacity to do other work? Has it taken people away from other work that they would do in your sector? I'm happy for you to briefly answer it but provide some more detail on notice if you are able to.

**Ms Chambers:** Anglicare tabled a research report that we did after hearing from frontline workers. This is actually about the automation of Centrelink services, so it includes robo-debt, but there are some other issues in there as well. We surveyed three of our large agencies that worked across a number of different service types in three different jurisdictions and we found that they were spending the equivalent of 6.6 full-time positions just dealing with Centrelink issues. We also found that they were giving out emergency relief extra to what they had given in the past. That totalled \$408,000 worth. That is a considerable cost shift. We worked out that the proportion of our network that that includes is actually just on 19 per cent, so you could roughly multiply those figures by five, and that's only the Anglicare network.

The cost-shifting that's happening is shifting into financial counselling, housing and all sorts of services where people quite understandably find it difficult to engage in relationship counselling or to talk about housing or parenting skills if they're worried about whether they're going to get payments from Centrelink or have large debts chased from them. We find that it diverts staff who are paid a reasonable wage from Commonwealth or state funding. We find that it disables us from doing what we should be doing, and we would contend that that puts on quite a considerable financial cost in addition to what the government has already calculated to return these debts.

**Senator URQUHART:** Thank you.

**Ms Leece:** There is a lot of overlap as well in terms of the client group—the consumers that Uniting Vic. Tas has seen and people who are on Centrelink. I would add that I think it's not just welfare recipients. I touched on it briefly early on, but our organisation is seeing some changes in the profile of people coming to us because they're unable to pay their utility bill, mortgage or other debts. For me, it's actually inclusive of a broader group of people who could end up involved with Centrelink because of changes in life circumstances such as accident or illness. I agree with our colleagues that it's our financial counsellors but it's also other parts of the organisation that are supporting people. In one of our programs we find that 40 per cent of the people have more than one issue or vulnerability that they're seeing us about, so someone coming in with financial matters probably has other matters that they're dealing with as well.

**Senator URQUHART:** Thank you.

**CHAIR:** Senator Hughes.

**Senator HUGHES:** Some of these you might want to take on notice, but I want to ask in particular Ms Leece and Ms Matina from Uniting to clarify what letters the people that you're seeing are getting. Obviously, given the time it takes for some people to make it through to the legal or social work system, there's a high likelihood that

they're receiving letters under the previous two systems. It would be of interest to know under what system the debt was raised and whether or not people under the CUIPI system have made their way to you with the changes in the processes and the more simplistic letter. Apologies to my colleagues who've heard me say this quite a few times, but the new letter that they receive is not a debt letter; it's that there is a discrepancy and they are asked to engage with Centrelink to clarify it. At that point in time—and this might be relevant for Ms Chambers—that is where the human engagement definitely comes into place. There's an acknowledgement of receipt of a registered mail letter or a read receipt of a myGov email, and, at that point of contact, that is when the discussion will take place and any debt will be raised if there is not an ability to work through issues. Those letters also provide options to ask for more time and to ask for assistance, if they need assistance to gain old bank statements, at no cost to the welfare recipients. So there are additional assistances and processes now in place on the back of a number of inquiries which, I think, have properly improve the system, so I think it's something we need to have a look at.

Of course, every final decision about a debt—every number that is come up with—is made by humans; it's not ever made by a computer using an algorithm. I think we need to move away from the terminology and to stop reinforcing the idea that somehow someone presses a button and a computer spits out a figure. It's actually generated by a human. We do have human intervention. There's plenty of intervention by humans through the process, and that's how the figures are all put together. You can have a look and maybe go back to some of your clients and see what process they were involved in.

I do want to raise the onus of proof. This has been brought up a number of times to us and, you mentioned in your evidence today that a lot of people get overwhelmed dealing with the 'large bureaucracy', to use your terms. You talked about the start of the process and the end to the end process. I've been listening to all of this and to everyone talking about the onus of proof and how Centrelink and the department shouldn't be going to individuals and asking them to provide this information. But the reality is, when people go to Centrelink to look for a welfare payment or to try and apply for a welfare payment, the onus of proof is on them to prove they're not working and to provide information on assets and income and all of those sorts of things. That's the basis that the welfare system is predicated on. The people who have been involved in this have gone through that process at that end, so I'm trying to understand why the process to gain the payment is not creating the same great stresses and problems when discrepancies need to be claimed from individuals. This is coming about because individuals have made declarations to two different government departments, such as the tax office and Centrelink, and have potentially provided two different figures. It's the individual's own declarations. When they're asking for clarification on those discrepancies and asking, 'Why the large bureaucracy?' why is the onus of proof so burdensome, stressful and overwhelming when they've already had to go through the same process when they applied for the payment? I wonder if you could offer any insights into that.

**Ms Azize:** I'd like to respond to that. We identified in our submission three key areas where the system is flawed. To be clear, it's not related to the notifications and the voicemail messages. That's not the core issue; although, that obviously did cause a bit of panic and distress in the beginning. The issue is that the process that they are asked to report under is different to the process that the data checking is done under. The way Centrelink clients report is fortnightly. They declare their fortnightly income, the hours worked and all of that and the robo-debt system takes an annual average. The debt is calculated in a different way to how people report. That's a key part of the problem. Then, when you're doing that, you're going to get inaccurate figures, because people don't earn a consistent income fortnight to fortnight. That's increasingly true of a lot of people, but it's especially true of people who are on Centrelink. They don't earn the same income fortnight on fortnight. So, with an automated system that uses annual figures—and this isn't just something that we've heard anecdotally; this is something that we've seen in these figures, where people have appealed in these cases that we have seen—I think that in the beginning, when people first claim these payments, they report one way, and then they're issued debts on a completely different basis. Some of these debts are so old—we have some of the case studies that we appended to our submission and sent to you—that they are beyond the period for which the government advises people to keep their documents. They've no longer got their documents.

**Senator HUGHES:** Sorry to interrupt, Ms Chambers, but this was under the previous systems, and what we're looking at now is what the new systems are, because we obviously can't go back in time and change what they were, but we have evolved, moved forward and looked at how we've improved the system. Those systems have changed, because now we're not bringing out a letter that's got a debt; there's a letter now that asks people for clarification. There is assistance to go back and check bank details. The banks are able to provide those, and we've clearly established today that the department has the powers to go and get those and can get them at no cost. The department, though, does prefer to engage with individuals and not trample over their rights, first and foremost. It

engages with them first. Those options are there now, and we're talking about the current system and the way that it's progressed. Those opportunities are there now.

**CHAIR:** As has been said by the previous witnesses, the premise is still the same. That discrepancy letter is still generated the way—

**Senator HUGHES:** Professor Carney acknowledged that that's the right way to do it, because the two different departments have two different lots of information put in by the individual.

**CHAIR:** I don't think it's fair to characterise it—

**Senator HUGHES:** But you can then clarify the information.

**CHAIR:** The point is that the information that you are providing to the ATO, if you've been working and not receiving Centrelink, is inherently going to be different. So the point Ms Azize was making is that they are using two different datasets, and that's still the same under this system, the CUPI system, as it was for the OCI and EIC systems. That is still the same, and that's the point that I understood that Anglicare was making. Is that a correct interpretation of what you said?

**Ms Azize:** Yes, that's right. I'll just quickly clarify my comments, and I know Kasy is busting to say something. The issue with the system is three pronged, and the outline is in our submission. The first prong is that it uses averages from annual tax records, which is at odds with how Centrelink payments themselves are calculated, so that's a recipe for inaccuracy. The second factor is the removal of the requirement that Centrelink staff manually check that information with employers before they write to people; it shifts that cost and time burden onto them. Then the last step in that process is the onus on individuals, once those two steps have been taken, to instigate a challenge and prove that they don't owe that debt. So those are the three issues that we've taken up in our submission.

**Ms Chambers:** If I can just add to that, the human cost of that is that we see an absolute powerlessness and despair sometimes, and that does not assist active citizens in getting work, in caring for loved ones or in participating. I'm going to be really cheeky, stick my neck out and say that we know how this should work. We had the Prime Minister and Senator McKenzie recently talking about how assistance would be got to farmers, and they talked then about case centred assistance. They talked about the fact that, if you accidentally underestimated your income, that wouldn't drive an automated debt. So we know that there are better ways to do this. We acknowledge that there's been fear and despair driven by the system, and we can see that from the fact that we have members of parliament, thank goodness, going out there and saying that it will be done differently. It's just a shame that it's only for one subset at this stage.

**CHAIR:** Ms Matina, you wanted to make a comment.

**Ms Matina:** I did, yes. Going back to your original question, there are a couple of things that I wanted to talk about. The first is that this submission is obviously around the Centrelink compliance framework, so we're not talking about the process people first go through to get the welfare payment to begin with, but we certainly wouldn't say that that doesn't have any issues. We do hear from people about the difficulty, the long wait times and trying to provide the information that's required, and we have heard from people who said, 'When we ask, "Did you know that you're entitled to X?"—because sometimes they don't know—they've replied, "Yes, I just don't want to bother with the process because it is really difficult. I don't want to go there."' It's really only after a lot of time that they realise that things aren't going to change very quickly, they're entitled and they should go through that process, and they will do that. I don't know that the two things are mutually exclusive. That's not to say there are no issues here. That's not what we gathered specific evidence of here today.

The other thing is that it does assume that people understand the differences in the processes and the policies and, if they are reporting on things differently, they understand how those differences will impact on the outcome, in terms of the perceived debt. There's a difference between going through a process to try and gain something and going through a process and potentially having something taken away. If you don't follow the process properly or understand what the implications are, you might say, 'Oh, my goodness, does that mean I'm going to owe money? What am I going to do? I don't have the \$10,000 I need to pay back.' The stress of getting that bit wrong would be very different to the type of stress someone would experience in trying to get the payments to begin with. I think that's important to acknowledge as well.

**CHAIR:** I go to the issue of debt collectors. It has come up a bit, but we haven't really talked about it much during the inquiry to date. These questions are for both organisations: In your experience, has the situation improved with the way people are contacted by debt collectors? What is their most recent experience?

**Ms Matina:** Based on the consumers that we spoke to in preparation for this, it doesn't appear that there have been improvements. Some of the feedback around the debt collection process in general was quite negative.

Interestingly for us, it's also about understanding how Centrelink go through the process of selecting their debt collection partners. We see lots of organisations and we've certainly provided guidance through these processes and on how to go about selecting debt collection agencies. It can be on a values base. That's quite important. It doesn't have to be a negative experience. It's about ensuring that it's actually part of the framework of bringing someone in and providing the support. We've also consulted directly with debt collection agencies, so the process itself can be improved in terms of how they go about their practice. Often what we find when we speak to consumers is that, even though they understand it's a debt collection agency, they still see it as the original organisation. If it's a bank, it's the bank. Even though they know it's a debt collection agency, they still think of it as the bank treating them that way. In this case, it would be seen that Centrelink is doing this.

**CHAIR:** Just to be clear: you don't think the situation has improved?

**Ms Matina:** We haven't seen evidence that it has improved. That's not to say that it hasn't.

**CHAIR:** But the people you've spoken to have had negative experiences?

**Ms Matina:** That is correct.

**CHAIR:** Do they articulate that experience in more detail? Obviously, when a debt collector contacts you, ipso facto it's going to be a pretty negative experience. That's the reality of where the system has taken them. I appreciate that. But do they articulate in more detail why it's been a negative experience, beyond the initial contact, which is probably going to be quite distressing anyway?

**Ms Matina:** It might be that they received other notifications, but, from their perspective, it was the first that they'd heard of the debt. It's also around not understanding or appreciating that there are options for them: putting in place a different payment arrangement; feeling pressured to agree on a particular payment arrangement that they can't afford and not knowing that they can do something about that. Some of the other things that were raised were about treatment options around the recovery of the debt—things like having their income support payments reduced or having money taken out of their family tax benefit at the end of the financial year or out of their tax refund. They haven't really had a say in what they see to be automated processes.

Our experience definitely shows that, as our colleagues mentioned earlier as well, people want to pay their debt. That's always been our experience when we've worked with people. It works much better if they have a say in how that happens. Often having that taken away from them can be quite distressing when they might have been expecting that payment to use for other purposes or other debts they might have. So it's actually about that empowerment that, I think, comes through working through the process of the collection of debt.

**CHAIR:** Ms Chambers or Ms Azize, have you got anything to add?

**Ms Chambers:** No, we haven't. We could ask our network that specifically. We certainly haven't heard any evidence that things have improved. As our colleagues said, that doesn't mean it hasn't, but it certainly hasn't been coming through to us. There certainly hasn't been a diminution in the amount of concern and distress that we're hearing.

**CHAIR:** In terms of the actual people who are interacting with debt collectors?

**Ms Chambers:** Yes. But I would prefer to go out to our network if that's a particular issue for the committee.

**CHAIR:** It would be useful, because we came to see that the situation had improved since we held the previous inquiry given the distress that people were articulating then about the process and the changes that have been made to the system since then.

**Ms Chambers:** Yes.

**CHAIR:** Also, if you are going back out, looking at the relationship with what Ms Matina was saying about the garnishing of tax returns and family tax benefits would be useful information as well.

**Ms Chambers:** We're certainly still hearing that—that people are having very inadequate levels of benefit or being garnished of family tax benefit. That's coming through in the case studies that we've put forward to the committee. We will also ask more widely.

**CHAIR:** The issue there is also that we had evidence in, I think, Mandurah—all the evidence merges together and sometimes I forget which day I heard it!—on the issue where someone started off repaying debt and then were garnished anyway. They had a debt repayment process in place and then their tax return, for example, was garnished despite them having a plan in place. That may have been a one-off, and I accept that sometimes one-offs happen. Mistakes are made. It'd be useful to know if that is happening regularly or if it was, in fact, an unfortunate one-off.

**Ms Azize:** We can go back and ask our network about that and see if we can send through some additional cases about that. We have heard of people's tax returns being garnished while an appeal is in motion—before it's actually been established that the debt exists.

**Ms Matina:** Yes, we've heard that.

**Ms Azize:** But, yes, we can go back and investigate that.

**CHAIR:** Ms Matina, did I just hear you say that you've heard that to?

**Ms Matina:** Yes.

**CHAIR:** Ms Matina has just said that they've heard that too. So any further information you could get on that would be much appreciated.

**Ms Matina:** I have a case here of someone who, when they were getting calls from the debt collection agency, had them coming up on his phone as fraud. That obviously created stress and anxiety. Then he had the experience of the debt collector wanting to increase his repayments but him not being able to afford it. He said, 'They bully you and don't understand if you can't afford very much money to pay back.'

It goes back to the premise of the training that we spoke about earlier. A lot of the work that we do with the industry is on training the frontline staff on how to have those conversations and how to actually understand and arrive at a payment plan that is appropriate for that individual, recognising other things that are happening in their lives and understanding some of those auditory cues. We had an example of someone who, when they were working through this process, was speaking on the phone with Centrelink and got to a point where they said: 'You know what? Honestly, I might as well just drive off a cliff.' The response from the individual at Centrelink didn't really acknowledge this at all. Eventually they said, 'We might get someone from our social work department to contact you,' but there was no detail of when that would happen. There was no name of a person, contact number, referral to other services like Lifeline or checking that the person was safe. Again, it might be an isolated incident, but if it is something that is a case across the board—ensuring that people understand how to respond in these sorts of scenarios, or if someone talks about family violence or other issues that might be arising—then knowing what to do in those scenarios is really important.

**CHAIR:** Ms Chambers, did you have anything further to add on that particular issue around training?

**Ms Chambers:** I think we said earlier that not interacting robs the Commonwealth of the opportunity to co-design better programs and get people into work, back into work, into caring or into whatever it is that they're participating in faster and better. Other than that, I have nothing to add.

**CHAIR:** Thank you very much for your time today. We've come to the end of this session. Thank you for your time today, and thank you in advance for the answers to the questions that you've taken on notice. The secretariat will be in contact around timing for those answers to questions on notice.

**Proceedings suspended from 13:16 to 14:00**

**HOLLYWOOD, Ms Romola, Director, Policy and Advocacy, People with Disability Australia**

**SAYERS, Ms Mary, Chief Executive Officer, Children and Young People with Disability Australia**

**CHAIR:** Welcome. I invite each of you to make an opening statement, and then we'll ask you some questions.

**Ms Hollywood:** I'd like to begin by acknowledging that we meet on the land of the Wurundjeri people of the Kulin nation. I pay my respects to elders past, present and emerging, and extend that respect to any Aboriginal and Torres Strait Islander people who are here today. I thank the chair and the members of the Senate standing committee for the invitation to give evidence today.

People with Disability Australia is a leading disability rights advocacy and representative organisation of and for all people with disability. We are the only national cross-disability organisation, and we represent the interests of one in five Australians with disability. We are a not-for-profit and non-government organisation. PWDA's membership is made up of people with disability and organisations primarily constituted of people with disability. People with Disability also has a large associate membership of other individuals and organisations committed to the disability rights movement. We are what's known as a disabled people's organisation that is led by and constituted of people with disability. The key purpose of a disabled people's organisation is to promote, protect and advance the rights and freedoms of people with disability.

In making my opening statement, I'd like to highlight the recent Australian civil society shadow report to the United Nations Committee on the Rights of Persons with Disabilities, which is known as the UN CRPD Review 2019. This report highlighted in relation to article 27, the right to work, that the unemployment rate of people with disability is double that of the general population. Further, the number of people with disability in the labour force has dropped by three per cent in the last 10 years. The vast majority of people with disability report that they don't have the same employment opportunities as other people. We know that this needs to change, but, in the meantime, what we find is that many people with disability rely on income support through the disability support pension or Newstart. In fact, the shadow report highlighted that government pensions are the main source of income for 42 per cent of people with disability of working age. By comparison, wages or salary is the main source of income for 68 per cent of people of working age without disability. What we have found is, due to the tightened eligibility for the disability support pension, around 25 to 30 per cent of people with disability are relying on Newstart for their basic income. Therefore, when we are talking about approaches to Centrelink compliance or debt recovery, we are talking about the impacts that it has on people with disability. I note that the United Nations Committee on the Rights of Persons with Disabilities was highly critical of Australia's progress in meeting its obligations and responsibilities under the Convention on the Rights of Persons with Disabilities.

In the lead-up to this inquiry into Centrelink compliance, and also the inquiry into the adequacy of Newstart payments, we asked people with disability about their experiences in relation to Centrelink debt. The stories that they told us were shocking. People told us that they were incurring debts that ranged between \$2,000 and \$4,000. For two people, the debts were a staggering \$20,000 and \$45,000 respectively. Their stories showed that these debts have had an enormous impact on people with disability and are causing real harm. We asked people how these debts make them feel, and I ask leave of the committee to share some of these words. One person said, when asked how it made them feel, an expletive starting with 's'. Others said that it made them feel badly depressed. They said that they had had a rare chance at regular work that year, and the debt took all the additional money they'd earned and it was hard to even keep up the very entry-level job that they'd achieved. Other people said it made them feel worthless, angry, devastated, depressed, embarrassed, stupid and taken advantage of. Another person said, 'I felt like a thief—horrible, degraded and like a criminal.' Another person said that they felt suicidal. Another said that they felt upset, worried and disappointed in our system that they had managed to incur the debt.

We also asked whether people had tried to get help, and it was clear that some people had found it very difficult to get help. We also asked whether people found it difficult to get information about challenging their debt. One person said to us, 'I needed a lawyer or some person-with-disability agency which would recognise my particular conditions.' Another person said, 'No-one would answer my questions.' Another person said, 'Every Centrelink employee gave us contradictory information as to how the debt had occurred and how to resolve the situation.' Another person said, 'I challenged it and was told it went through, but the person did not put it through.' So there were a lot of contradictory experiences and information provided. When we asked people whether they had challenged the debt and what the outcome was, they said they'd found that it had been investigated and that it was a computer error. Another said, 'It's still in progress with the AAT and Centrelink is denying the claim, stating that my disability and the memory loss along with other adverse effects is not enough to dispute the debt.' Clearly we have a number of stories direct from people with disability that are saying that these problems are real, are having an impact and are causing harm to people with disability.

In making our recommendations around what we think needs to change, we submit to the committee that the Centrelink compliance arrangements must be overhauled so that the system doesn't cause harm to people with disability. We think that a more effective system would include an end to the automated debt collection process for people with disability and a new process that provides the time and support needed to understand the information provided about debts and compliance measures. We note from the shadow report that 67 per cent of people told us, in a survey that we did in creating the shadow report, that government information is hard to understand.

**CHAIR:** Did you say 67 per cent?

**Ms Hollywood:** Yes, 67 per cent. We also think that the system needs to ensure that there is advocacy available to support people with disability engage with the Centrelink system and that information is available in different and accessible formats. I understand that my colleague is going to make some recommendations about the broader system, as we also think that we need to develop a national jobs plan for people with disabilities so that we can look at this issue of the high numbers of people with disability who are finding themselves on Newstart.

**Ms Sayers:** I also would like to acknowledge the traditional owners of the land on which we meet, the Wurundjeri people of the Kulin nation, and pay my respects to elders past, present and emerging.

Children and Young People with Disability Australia is the national representative organisation for children and young people with disability aged zero to 25. We are also an organisation where the majority of our staff and board are people with disabilities or from families of people with disability. CYDA's purpose is to advocate systemically at the national level for the rights and interests of all children and young people with disability living in Australia. Thank you for the invitation to address the Senate committee today.

I'd like to acknowledge the extreme disadvantage that young people with disability face, not because of their disability but because of the attitudinal, systemic barriers and discriminatory issues they face in their lives, particularly in their education as they transition from school and seek employment. This means that they are far more likely to be vulnerable to the reporting and compliance regimes implemented by Centrelink. In summary our key issue is that young people with disability face discrimination in their education, in their employment and in their school transition and that they will be disproportionately impacted by Centrelink's compliance program.

Young people with disability are being denied access to the DSP when they need it and have no choice but to go onto Newstart. We know that Newstart is woefully inadequate, which the government is refusing to address despite many calls from all sides of politics as well as business and advocacy organisations. Also, the lives of young people with disability are being scrutinised by government in unprecedented ways. When you look at the compliance required by Centrelink, along with the new initiatives like NDIS, the transition to adulthood for young people with disability is becoming harder than ever. The key is how we set up young people with disability to succeed and not penalise them when they are trying to find work.

In terms of some specific data, we know nearly half of young people with disability aged 15 to 24 rely on income support payments compared to 14 per cent of people aged 15 to 24 without disability. This is because their schooling systems have failed them and they have not been able to find work. The changes by the Australian government since 2012 to reduce access to the DSP have forced young people with disability to apply for and live with Newstart or youth allowance income support, which is significantly less than the fortnightly DSP income. We know that in December 2018 there were 46,792 young people with disability aged under 24 on the DSP, which has dropped since 2013 when there were 55,416 young people on the DSP.

There is no comparable data available prior to 2013, as age groups were aggregated in different ways. Approximately 27 per cent of all Newstart recipients are people with partial capacity to work due to illness or disability; however, again, this is not broken down by age, so we cannot look at this for young people. Twelve per cent of recipients on youth allowance other have partial capacity to work because of their disability. The lack of data comparability over time means that the decreasing rates of DSP and the increasing rates of Newstart allowance for young people with disability cannot be made from the data that's publicly available.

**CHAIR:** Sorry, could you say that again. You can't work out how many are actually on Newstart with the partial—

**Ms Sayers:** No. And we can't compare data over time in relation to the impact of the decreasing numbers on the DSP and the increasing numbers on Newstart. We know from the Services Australia submission to this committee that 26 per cent of people aged 16 to 25 have had a review resulting in a debt, but again we do not know how many young people with disability are impacted by this.

To summarise our recommendations, we need to start with looking at not punishing young people with disability. We need a whole-of-government workforce participation strategy for people with disability, including young people and other priority cohorts such as Aboriginal and Torres Strait Islander and culturally and linguistically diverse young people. We need the Newstart allowance to be increased. Even though I know that it's not a subject of this inquiry, it needs to be increased. This would allow young people with disability to be able to cover their basic costs while they are searching for work.

We know the costs for young people with disability and for families of children with disability are higher because of the disability. We need to review access to the disability support pension and the adequacy of payment and income support for young people with disability, and we need to improve reporting to enable age and disability trends over time to be measured. Finally, we need to immediately cease the automated debt collection process for young people with disability and we need to make sure that young people with disability are supported into work and not punished for trying to work.

**CHAIR:** Thank you. Senator Askew, do you want to kick off?

**Senator ASKEW:** I might start with Ms Sayers. You were talking about the different percentages of young people with disabilities. I just want an indication of actual numbers. Would you have any awareness of how many have actually received letters regarding potential discrepancies in their reporting?

**Ms Sayers:** No, and that's because Services Australia broke it up by young people but not by disability.

**Senator ASKEW:** So, in your experience, have you had many people coming to your organisation seeking assistance with it?

**Ms Sayers:** We are not an organisation that provides individual advocacy. We only provide systemic advocacy, which is different to PWDA, which provides individual advocacy. We can only look at the broad trends.

**Senator ASKEW:** I might ask Ms Hollywood to answer that question.

**Ms Hollywood:** We do deliver individual advocacy services as well as systemic advocacy. I know that our individual advocates do provide support around navigating the Centrelink system and provide financial help and advice in the role of individual advocate.

**Senator ASKEW:** Would you have any indication of actual numbers of people who have received letters that have come in and looked for some support?

**Ms Hollywood:** No, I don't. I would have to take that on notice, if that's okay.

**Ms Sayers:** I think part of the problem is that there is no transparency in the data that's available publicly, so it makes it very hard. So I think a request back to Services Australia for that data, particularly for people with disability across all age cohorts, would really benefit—

**CHAIR:** I've made a note of it.

**Senator ASKEW:** We have had the discussion previously. When they do come in, is the assistance that's offered just to direct them, if it's the initial letter, to talk to Centrelink? What would the approach be? Would somebody actually support them through the process, especially those with more severe disabilities?

**Ms Hollywood:** What I would say is that in the first instance sometimes people who receive a debt notice may not reach out to get help through an individual advocacy organisation. I appreciate you're trying to map it from the people that are coming through our doors or the doors of another individual advocacy organisation, but I think the broader issue is—we did a survey in the lead up to these inquiries, and we specifically asked the question, 'Did you reach out for help?' and not everybody said yes. So what that indicates to me is that people may well be sitting with these letters and not really knowing what to do or where to go for help, and they may be seeking, in the first instance, to go back to Centrelink to try and understand what is in the letter in the first place, let alone what they need to do about it. Also, I think the other really critical question is: what if they want to challenge that debt? We recommend that there should be more individual advocacy supports available to people, but I think people are probably going in through the door of the Centrelink agency as well.

**Senator ASKEW:** Obviously the first thing that they would receive isn't actually a debt letter; it's actually an advice just asking them to clarify two different pieces of information that the department's received. I wanted to touch on something that you mentioned to Ms Hollywood in your introductory statement regarding verbal advice and that a lot of the things hadn't been followed up. Have you got some further clarification around that? So they've been talking to Centrelink—obviously it's not the time first time we've heard it, so I just wanted to explore that a little bit further.

**Ms Hollywood:** The survey that we did was an online survey, so what I was reading out was just the verbatim comments. It wasn't like full interviews with people. It was really just to get a snapshot of how live this issue was in the here and now for our members. We did have quite a few people who filled in the survey within a very short time frame, so I think that was an indication—

**Senator ASKEW:** Of how many.

**Ms Hollywood:** Yes, that's right.

**Senator URQUHART:** Thanks very much, both of you. Can I first go to Ms Hollywood because I think, Ms Sayers, you said you don't provide the one-on-one services, as opposed to Ms Hollywood's organisation. I'm interested in whether or not you can provide an estimate of the costs to services of the impact of the Centrelink debt recovery program. I mean the impact on other work and other services that you do. How much has that cost your organisation? Have you noticed a reduction in other services that you're able to provide to the people who use your services because you're focused on trying to help people with this? It might be something that you need to take on notice for a little bit more detail, and I'm interested in detail, if you have it.

**Ms Hollywood:** I think I would need to take it on notice. Because we provide a generalist, individual advocacy service that's funded through the NDAP, we would actually have to look at our data and then make some analysis and estimate of cost. It's not something that I would have at hand here.

**Senator URQUHART:** No, that's fine. But are you able to take it on notice and maybe give us a bit more information around where that cost-shifting is, if it has occurred, because you're dealing with these issues?

**Ms Hollywood:** I'm happy to have a look at it and see what we can come up with.

**Senator URQUHART:** Great.

**Ms Sayers:** I can make a comment on that in terms of advocacy generally.

**Senator URQUHART:** Great. Thank you.

**Ms Sayers:** The NDAP, National Disability Advocacy Program, funds disability advocacy across the country, plus, states and territories previously funded advocacy but many are now withdrawing state based funding, including Tasmania and New South Wales. We do know—and this comes to a point that I made about the level of government bureaucracy for people with disability in their lives—that advocacy agencies have been swamped by the NDIS and the challenges that they're having with the NDIS. We know that advocacy services are completely at capacity and at breaking point, and that's hence why Romola, which I back up, says there needs to be urgent attention to funding for advocacy services because they're turning people away across the country.

**Senator URQUHART:** So people aren't getting the advocacy services that they need to deal with this—

**Ms Sayers:** Absolutely not.

**Senator URQUHART:** through the NDIS, let alone this as a secondary sort of issue, or a primary issue for the people who've got a letter that says there might be a compliance issue.

**Ms Sayers:** Yes. And the intersection between the NDIS, Centrelink, the health interface and education—they're all major structural systems that are putting a lot of pressure on people with disability to navigate, particularly if they've complex communication, and the accessibility is just not there for the information.

**Senator URQUHART:** I don't know whether you've had a look at the submission from Services Australia. You have? Great. They state that the latest iteration of the online compliance program, CUIP, has provided a 'vastly different experience for customers since its introduction in October 2018.' Is it consistent with what you're members have observed?

**Ms Sayers:** No.

**Ms Hollywood:** No. I guess in terms of the evidence that I provided from a survey that we have literally just put out in the last month or two, those issues are still live and real, and the compliance measures and trying to navigate the Centrelink system are still massive issues for people with disability.

**Senator URQUHART:** I think we heard evidence this morning that the letter is the first step and I think we heard from Senators Hughes and Askew that it's not a debt letter to begin with but a letter saying, 'Can you please check this?' Sometimes people just melt down then. But, if they don't melt down, they then go to the next step, and that's where the fundamental issues begin, because of the process that they have to go through to deal with Centrelink from there. Is that the experience that your members or your clients are observing?

**Ms Hollywood:** Yes, they would be our members. Again, I'd like to take a step back in relation to what we are dealing with. We seem to be thinking that, if we have a system where it seems to be very easy if you have fluctuations in work patterns, you may well end up getting an overpayment or an underpayment and that there's a

system in place to try and average that out. I think this approach ends up adversely impacting on people with disability, because some people with disability may well be starting out in the workforce, and I have raised the figures and the situation and the circumstance around the difficulty in getting into the employment market; there are many barriers that people with disability face within the mainstream employment market. So people are getting a toe in the door and starting, but it may well be casual or short-term work and then they may find that they're back on Newstart again or back on the disability support pension. So you've got that situation. You've also got a situation where sometimes people with disability may find that they need to take a break from work because of their disability or because they have health issues. From that point of view I think what we need is a system that is designed around the person and the situation for the employment experience that people may have and then the need for income support through that process. Rather than getting into what the letter looks like and what that process looks like, we would like to see the system overhauled so that it's much more transparent and so that people are aware upfront of how it's going to work for them as they might move in and out of employment.

**Senator URQUHART:** So an understanding of what it looks like?

**Ms Hollywood:** Yes.

**Senator URQUHART:** Do you know how many of your members are on a supported wage as opposed to a full wage and whether they are affected in a different way with the program?

**Ms Hollywood:** That is a whole other area.

**Senator URQUHART:** I know; that's why asked the question.

**Ms Hollywood:** Again, from a systemic point of view, we have concerns around the supported wage system and the approach of segregated employment. That's why we have been calling for a national jobs plan—so that we actually look at the whole situation for employment for people with disability. As I said, the statistics are showing that things are not improving. In fact, the recent data release from the National Disability Insurance Agency around employment for people who are participants in the NDIS shows that we're not getting much movement or traction in relation to employment outcomes, which is a key goal under the NDIS.

**CHAIR:** The whole economic participation.

**Ms Hollywood:** That's right. The figures are either stagnant or going backwards. Wherever you look—we can also look in the Australian Public Service—the figures for the participation of people with disability have been declining. I know that the government wants to do something about that, and we welcome that, but we do need a plan around that.

**Ms Sayers:** I'd just like to make another point about that. Part of the challenge is that we have an education system that is highly discriminatory. Despite the UN Convention on the Rights of Persons with Disabilities calling for an end to segregated education, we have increasing segregated education with poorer outcomes for students with disability, which is against the UN convention. Plus, we know that post-school transition for students with disability is highlighted by low expectations and a lack of adequate transitions for students with disability into the workforce, so we're looking at some structural barriers. Just thinking about a punitive approach to debt collection is actually not going to improve the lives for young people with disability.

**Senator HUGHES:** Thank you, Ms Sayers, for being here, and it's nice to see you again, Ms Hollywood. I'm trying to think which hearing we saw you at last.

**Ms Hollywood:** It was streamlined governance.

**Senator HUGHES:** That's right! There's a lot to unpack there, but I think, fundamentally I guess, a lot of what you were talking about is systemic and is much, much broader than what we're looking at today. I think we're all in Canberra tomorrow for the Newstart inquiry, so I might like to point you in that direction because there's obviously some stuff that you'd like to talk to us about there. Senator Askew and I were in Brisbane yesterday, and goodness knows where we'll be next—if we look at our diary coming up. But, for NDIS hearings, we're certainly looking at things around there. I have an NDIS plan for my son; I'm very familiar with what you're talking about, but looking at those sorts of situations. Senator Siewert and I also discovered last week that part of the new program is to tag vulnerable people and to ensure that they're not being caught up in this debt recovery, and that we're acknowledging the issues around people with a disability and their challenges in looking at these sorts of issues and compliance factors. One of the things that we're going back to the department to look at is how those people are being tagged and ensuring that it is being done more effectively.

So, rather than questions, I think I'd just like to thank you for your evidence today and let you know that it's being heard and acknowledged, certainly by our whole committee. Senator Askew and I on the Joint Standing Committee on the NDIS and are very well aware that there are issues with regard to disability that need to be

addressed. With regard to education, if the states would stop abrogating their responsibility and stand up and look after our kids in schools a lot better, I'd be cheering you on there as well, so thank you for that. There are lots of other inquiries that I'm sure we're going to see you at, but you're exactly right that there are things across the board that we can do better. The NDIS is really giving us the opportunity to provide those supports, and, when we get it right, there will be those looking for the right plans for the right people to provide that advocacy to provide the support for them—the recognition of informal supports and carers and that backing that they give throughout the navigating of these systems. When it comes to the job network., I hire an autistic person in my office, and it's their first-ever job, so I can assure you this senator is doing their bit to add to the numbers of employed people with a disability. So thank you very much for your testimony today. Really, that's all I can offer.

**Ms Sayers:** Thank you.

**Ms Hollywood:** Thank you.

**CHAIR:** Can I go to the issue of the vulnerability indicators from Ms Hollywood. In terms of the people that you've surveyed, do you have an indication of who was on Newstart and who was on DSP?

**Ms Hollywood:** No, we don't. It was a survey that was really just put out to our members, and it was put together fairly quickly. It probably wasn't a survey that was going to hit all the marks—it was really to get feedback and anecdotal evidence.

**CHAIR:** Is there any other information—the same for you, Ms Sayers—or indication of whether people on DSP have been getting discrepancy notices or, in fact, debt notices? We're going to check this out—it sounds like people on DSP may not necessarily be flagged with vulnerabilities now. We don't know. We've got to check that out, and that's why I'm interested in knowing whether you're aware of—

**Ms Sayers:** Again, that's another tricky thing. It's so hard to get data around this out of the system. If you read the Services Australia submission it says four per cent of people on DSP, but I've got no way of validating or saying whether that's the case or not.

**Ms Hollywood:** I think it highlights that there is a need for more transparency in relation to the data and potentially more research. Again, for our systemic advocacy we have a finite amount of resources stretched across many inquiries at the moment.

**CHAIR:** I certainly take your point.

**Ms Hollywood:** The purpose of the survey was really to try and get a snapshot of the voice of people of disability in relation to whether they were actually receiving Newstart or DSP payments and to bring that before you today.

**CHAIR:** Thank you. We saw the recent example where somebody with an intellectual disability had received a letter and, in fact, a debt notice. It seems to me that there's an issue then with how vulnerabilities are being flagged. Have either of you come across similar sorts of circumstances? Again, same as I said previously, mistakes happen and a person could slip through the processes, but we're interested in seeing if this is more widespread than just one person slipping through the safeguards.

**Ms Sayers:** I don't have the data that could say that. But I would say that the DSP the threshold is so high to actually receive the DSP. Why they would be receiving notices in the first place is beyond me.

**CHAIR:** Can I just unpick that a bit?

**Ms Sayers:** Yes.

**CHAIR:** When you say the threshold you mean in order to get DSP?

**Ms Sayers:** Yes.

**CHAIR:** In other words, there are more people with 'partial' capacity, and certainly first off now if you don't make the 20 points on one table you're then on a program of support. That's the process you're talking about aren't you?

**Ms Sayers:** Yes. I'm talking about how to prove that you are eligible for the DSP it is quite a stringent process and many people are being put on Newstart partial capacity to work as opposed to DSP.

**CHAIR:** They're also having to go on the program of support and prove they can't find work for 18 months?

**Ms Sayers:** Yes.

**CHAIR:** Do you have experience as to whether those people would be flagged as a partial capacity to work? Have you come across that situation? In other words, they may be falling through the cracks because they're partial capacity to work isn't being flagged at that stage.

**Ms Sayers:** I don't have the data.

**Ms Hollywood:** It's a very specific question. I guess for us, from a systemic point of view, what we're concerned about is that there have been increasing restrictions and changes to the eligibility of the disability support pension. It's quoted in the shadow report that 25 to 30 per cent of people with disability are now receiving the Newstart unemployment payment. The rate of successful DSP claims has also fallen from 69 per cent. If you were making a claim in 2011 69 per cent of people got through. In 2018 to 29.8 per cent of people got through. Our concern would be—and we have called for this elsewhere—a full review of the disability support pension, because it's a lot of people to be tagging as vulnerable on Newstart. Potentially, the disability support pension may actually be a better place for people to recognise that people may still be trying to work or are moving in and out of work. Our other concern is that both payments are very low, but people with disability have higher and increased costs of living, and Newstart is a completely inadequate payment for people with disability to be on.

**CHAIR:** When you're referring to that higher cost of payment, you're referring to the work that's recently been done on the cost of living on disability, I presume.

**Ms Hollywood:** Yes, that's right.

**CHAIR:** I think we need to chase this up a lot more with the agencies to work out how people are being flagged in terms of the system. We've seen a number of people that have come through that have a significant vulnerability that have received actual debt notices—not just discrepancy notices but debt notices.

**Ms Sayers:** The philosophical basis the debt recovery system is coming from, where you're guilty until proven innocent, as opposed to innocent until proven guilty, really flips it on the head and makes it really difficult for people with disability to actually navigate that system. I would question the fundamentals of guilty until proven innocent and actually look at how we can improve this for all people, not just people with disability, because no-one chooses to be unemployed, despite what people say. It really is a system which is fundamentally flawed for all people, not just people with disability.

**CHAIR:** I take what you've just said on board. Ms Hollywood, you made an earlier recommendation, if I understand it correctly, that there should be specific help for people with disability to navigate the system. That means the whole of the system, or specifically once someone gets a discrepancy notice, or both?

**Ms Hollywood:** Both. The comment that I made was to inform the shadow report. There was a survey done, and about a thousand people with disability participated in that survey. The findings were that, as I said earlier, 67 per cent of people—I hope I've got the stat right—said that they found that access to government information in general was difficult. So I think we need to be looking at the whole system. Obviously, if there is a discrepancy identified, somebody should be available by phone or through an advocate to support that person through the process, because it can be really confusing to work out how you've accrued that discrepancy and to understand it.

**CHAIR:** What the government says—and there's various evidence on how successful the process is of contacting the compliance officer. You're saying somebody with specific expertise focused on helping somebody with a disability to navigate the debt process.

**Ms Hollywood:** Yes.

**CHAIR:** Thank you very much. I think there were a couple of questions you took on notice today.

**Ms Hollywood:** There was definitely one about cost shifting. The other one I'm hoping the committee can clarify.

**CHAIR:** Yes, the committee will be in touch about that.

**Ms Hollywood:** Thank you very much.

**CHAIR:** Thank you very much for your time today, it's much appreciated.

**YATES, Mr Ian, Chief Executive, COTA Australia**

*Evidence was taken via teleconference—*

[14:45]

**CHAIR:** I now welcome COTA Australia, the Council on the Ageing Australia. Thank you for appearing today. I invite you to make an opening statement, and then we'll ask you some questions.

**Mr Yates:** Thanks for the opportunity. We've given you a very brief, by our standards, submission—just a letter outlining our concerns. Starting from the bottom line, we have raised directly with the government in recent times the issue of whether robo-debt is to be applied to age pensioners and been told that it is not to be. I don't think that that was ever a 'no, never' but that it is not the intention of the government to extend the program to recipients of the age pension, and we accept that assurance. However, as we've said in the letter, should that ever be the case, we would have concerns that are similar to concerns raised by other organisations. Although I've not been listening live as I'm in a meeting in Sydney, we noted the commentary from Anglicare today.

Even though the robo-debt program hasn't been applied to age pensioners, we are aware there are ongoing compliance programs, as they should be, from the government to recipients of pensions, like anyone else. One of the things that we often find in cases brought to us is that the reason for the alleged discrepancy is actually that an error was made within Centrelink itself, not because the pensioner is in any way trying to diddle the government or anything. In many cases, there is a difficulty in them getting the information that they want to convey accurately, and from time to time we get stories of people whose pensions have been wrongly adjusted or even cut off due to the incorrect recording of information. The prospect of someone in their 90s on an age pension receiving a claim for a debt that they know nothing about—which they receive in the mail because they're not connected to the internet—would be deeply concerning to us. We would be of the view that this kind of monitoring program ought to always have a human face to it. I'm not sure I need to say much more than that. As I said, we've put our concerns in our page-and-a-half letter to you.

**Senator URQUHART:** Thanks very much, Mr Yates. I want to go back to the issue that you raised in relation to the assurance that you've received from government. You've put in your letter to the committee that you've 'been assured that it is not'—and you've bolded 'not'—'the intention of the government to extend this program to recipients of the age pension'. You then say, 'We accept that assurance at this time.' So are you quite comfortable that, into the future, that is not going to be applied to age pensioners?

**Mr Yates:** As I think I just said in my opening remarks, we have not received an assurance that that would never be the government's position. There was a period of time, in a past coalition government, after the robo-debt program commenced, when there was a plan to extend it to age pensioners. We raised concerns about that with the then minister and the department—and we were, at the time, being consulted about formats of letters and other things—but that didn't proceed. We have asked specifically about whether it's a current intention, and we were told no. We have not asked—although we are following all this up in writing—whether it is ever the intention to do so. I guess I'd say I've been around long enough to know that any government is subject to changing its own mind in the future.

**Senator URQUHART:** Yes, and I guess that was the rationale for me asking, given that you've very clearly said that you accept the assurance at this time, but you have followed that up in writing?

**Mr Yates:** Yes, we are following it up in writing. There was a question as to which minister would actually write back to us.

**Senator URQUHART:** So you haven't done that at this stage, but you're in the process of doing that?

**Mr Yates:** We're in that process.

**Senator URQUHART:** So you're still awaiting a response, obviously—or, at least, waiting for that letter to go and then to receive a response?

**Mr Yates:** To be very frank, I'm not 100 per cent up-to-date with where we're at with that. My deputy has been handling that, and he and I have not connected for a while.

**Senator URQUHART:** Can you just maybe take it on notice and give the committee some idea of the process and where that is at in terms of a time frame?

**Mr Yates:** Sure.

**Senator URQUHART:** That would be great. I don't think I have any other questions, thanks, Chair.

**Senator ASKEW:** Mr Yates, thanks for joining us this afternoon. Are you aware of anybody within your organisation actually receiving a letter seeking further clarification regarding potential discrepancies?

**Mr Yates:** From time to time, we have had reports come to us to the effect that there was robo-debt checking for pensioners, but, when we've investigated that, we've found that it is part of the department's normal manual checking. We certainly are aware that those things happen, but I don't think there is a great incidence of it. But, when you've got millions of pensioners, it's very hard, if you're not actually the department, to know what the incidence is.

**Senator ASKEW:** That was the main thing I wanted to ask, but I'm pretty sure that, with regard to your assurances from the minister, she has actually made that comment publicly as well, so I'm pretty sure that would be on record somewhere. But we look forward to hearing back from you on your correspondence from her.

**Mr Yates:** Sure.

**CHAIR:** During our last inquiry, although age pensioners weren't targeted in relation to their age pension, it was certainly true that we had people who were now on the age pension who had received notices. Did you have any contact with them, and have you had any contact for support recently?

**Mr Yates:** We certainly haven't had any recently. I do recall that there are several people who were being pursued about debts when they were on a previous payment who are now on the age pension. I honestly don't recall, without checking my records, how much involvement we had with that, but I'm certainly aware that that was happening. We were approached by some. We, of course, don't do direct casework, so we always refer those people on to people who do do that.

**CHAIR:** Who would you have been referring them on to? Do you mean community legal aid mobs?

**Mr Yates:** Community legal aid or welfare rights, depending on where they are.

**CHAIR:** For the age pensioners who are working, is it your understanding that they will also be exempt?

**Mr Yates:** We were told that there was no intention to apply it to the age pension, so there wasn't any qualification to that. I would have thought that the issue of, perhaps, statements of earnings is probably the most likely area of potential discrepancy, in any case, because that's the one that would impact. There is more likely to be change in that than in people's assets.

**CHAIR:** Yes, that's where I'm going. So it's your understanding that it covers both statement of earnings and assets, that they will not be sending out notices to age pensioners.

**Mr Yates:** I'm happy to follow that up when we're seeking, if we haven't already got, the written confirmation of the meeting we had, but in the meeting which we had there was no qualification. It was: it would not be applied to recipients of the age pension. I would be interested if there isn't.

**CHAIR:** In at least one case I can remember from 2017 I'm pretty certain the person was on the age pension and there was a discrepancy with their wages. That may have been an anomaly that slipped through the system, but if you could let us know when you've got that response it would be appreciated.

**Mr Yates:** Yes.

**CHAIR:** For older Australians who are on Newstart, who haven't yet got the pension, and we're all super aware that there's a growing cohort of them—I appreciate what you've said about your not doing individual advocacy—have you had older Australians in that situation reach out to you about the online compliance process?

**Mr Yates:** We may have had a few. I don't know if it was as a result of the robo-debt process or just normal compliance and, I might say, nowhere near to the degree that we have complaints about the conditions of Newstart and the level of Newstart, but that's a matter that my deputy is appearing before you on Friday about.

**CHAIR:** You are getting contacted around the level of payments, so you are covering those issues for older Australians who aren't yet on the age pension.

**Mr Yates:** Absolutely. The level of Newstart and the liquid assets test implications for people in their 50s and 60s are of deep concern to us and will be expressed to the committee on Friday.

**CHAIR:** I'm not intending to go there now, because it's a separate inquiry. My point was that you are still doing advocacy for that group of Australians who aren't yet on the age pension.

**Mr Yates:** Absolutely. Our brief is 'current and future older Australians', and if we're talking about the employment space, which of course we are in Newstart, then really we see discrimination, which is a frequent cause of unemployment and therefore having to go on Newstart, starting from as low as 45.

**CHAIR:** That's consistent with the numbers that are starting to show up in the cohort of longer term people on Newstart.

**Mr Yates:** Absolutely, and growing.

**CHAIR:** Where I'm going with this, though, is that I'm interested to know whether there has been concern expressed to your organisation from your members who are not yet on the age pension about the compliance process. We'll deal with the Newstart issues and all that on Friday. I'm now more-focused on that group of older Australians who may or may not have had a discrepancy letter or had letters under the previous iterations of this program.

**Mr Yates:** I'd have to say that it doesn't come to our attention very often. I might say that one of the difficulties that people in the mature-age group face is getting any kind of employment to even create a discrepancy.

**CHAIR:** I take your point. The point is that they're not earning, so they're not getting caught up in the system.

**Mr Yates:** No. I do know, however, that the issues around the liquid assets are quite complex for some of them, but I think that's normal compliance. The whole process of engaging with Newstart is such that, in fact, people who otherwise should be eligible just don't do it.

**CHAIR:** So you're saying that people aren't bothering to apply for it because it's too complicated with the liquid assets test et cetera?

**Mr Yates:** Yes, that's certainly intelligence that we receive regularly—that it's just too hard.

**CHAIR:** Is it possible to find out what percentage of your members are on the age pension, what percentage are self-funded retirees, what percentage are not yet on the age pension but may be on income support, and what percentage are self-funded retirees but not at the age pension age yet?

**Mr Yates:** We have some information, but not just about members, because we don't restrict what we do in public policy to members of state and territory COTAs. We have people approach us who are not members of ours or not members of anything. So it's a bit hard. What I can say is that the current group of people who maintain regular contact with us basically reflect the older population, so we do have people who are on Newstart, people who are unemployed, a lot of people who are on the age pension and people who are partly self-funding, roughly in proportion to the general population.

**CHAIR:** This is probably a question for Friday, but what you're saying is that, despite the fact that there's a large and growing cohort of people over the age of 45 who are more long-term recipients of income support, it looks like they're not showing up in the debt process.

**Mr Yates:** Not in any significant way to us, no. We usually hear those things. There are other things that are a problem in the income security system that we are certainly hearing about, but that hasn't been raised with us with any regularity.

**CHAIR:** There could be a couple of reasons; it could be because they're not getting the notices or because they're just accepting them and paying them. Some of the evidence we received earlier is that older people accept that the government is right and just pay.

**Mr Yates:** Yes.

**CHAIR:** Or it may be, 'I'm not going to talk to anybody about this,' because there may be a bit of a stigma or shame issue.

**Mr Yates:** Yes. I would expect that, if there were significant numbers, we would hear of it, because we hear quite a lot from people in the income support system about things that are not working for them. So I don't think there are large numbers in that category.

**CHAIR:** So the issue is that they're just not getting the work?

**Mr Yates:** Yes.

**CHAIR:** Thank you for your time, Mr Yates. It's much appreciated.

**Mr Yates:** Thank you. It was good to be able to telephone in, because I have this other commitment. We will follow up with you.

**CHAIR:** That would be very much appreciated. Thank you.

**Mr Yates:** No problem.

**Proceedings suspended from 15:04 to 15:21**

**CERASA, Mrs Debra, Chief Executive Officer, Jobs Australia**

**TAYLOR, Mr David, Policy Analyst and Media Liaison, Jobs Australia**

**CHAIR:** Welcome. Thank you for coming in. I invite you to make an opening statement, and then we'll ask you some questions.

**Mrs Cerasa:** Jobs Australia appreciates the opportunity to provide evidence to you here today. I'd first like to acknowledge the traditional owners of the land, the Wurundjeri people of the Kulin nation, and pay respect to their elders, past, present and future.

Jobs Australia is the national peak body which helps not-for-profit employment and community services all over Australia to provide the best possible assistance to disadvantaged communities and people. With our expertise in employment services and because we are funded solely by our members, we can advocate, with insight from membership and an independent voice, for what's best in helping unemployed people.

While I present on Centrelink's compliance program, otherwise referred to as robo-debt, there is a need to reflect on the broader aspects of disadvantage and the challenges which our member agencies face in supporting vulnerable jobseekers. Jobs Australia would like to premise our comments today on the notion that a debt collection process is necessary in cases where there has been overpayment of benefits. A fair and balanced debt collection system which employs a high level of due diligence to ensure accuracy should be engaged. Multiple reports on the impact of Centrelink's compliance program indicate that significant harm has occurred through the execution of the program, with, as of March 2019, 22.65 per cent of debts having been either waived or reduced. This amounts to approximately 100,000 people being erroneously drawn into what has been, for many, an arduous process. Many of these people will be existing with limited means, welfare support being their main stream of income. Many will not have savings, living from week to week on the poverty line and juggling the balancing act of supporting their family and finding suitable employment.

Additional to this is the high prevalence of disadvantage evident among jobseekers living on benefits. Some of these include those on Newstart and the DSP being more likely to experience multimorbidity, at times necessitating hospitalisation; Newstart recipients being seven times more likely to report their health as poor; cohorts experiencing mental health concerns being twice as likely to be unemployed, when compared to the general community; and the proportion of long-term unemployed people doubling, from 0.6 per cent prior to the financial crisis in 2008 to 1.25 per cent as of July 2019.

The size of these debts often amounts to a significant portion of the total support provided through Newstart over one year. The impact of additional financial strain on those cohorts is more keenly felt, as the sums of money in dispute often surpass their savings. Moreover, the accumulation of a debt can impact upon the viability of a jobseeker successfully procuring suitable employment. Basic costs can fast become unattainable, such as transport costs, costs for suitable attire for interviews and other costs. Further, the stress associated with a significant debt can impact adversely upon vulnerable jobseekers, creating further barriers to employment as their wellbeing is diminished. A number of our member agencies—especially disability employment services, or DES, providers—have expressed concern about the impact this can have on the mental health and wellbeing of jobseekers.

I have indicated that this program can have an unduly deep and enduring harmful impact, impairing employment opportunities. With an error rate of over one in five, the collateral damage incurred through the program to some of the most vulnerable Australians is high. The process of debt collection should cease and there should be a new model which is fair and developed in consultation with a range of community stakeholders. The model should not extrapolate an annual income from a single fortnightly portion period. It needs to be appreciated that many jobseekers do not work consistent hours. There should not be an expectation that people retain documentation beyond the time that would be expected by the ATO, especially when there may be cases of homelessness, family violence and/or mental illness. A new debt collection process should include greater human oversight from workers suitably trained to demonstrate greater understanding and compassion. We are happy to take questions.

**Senator ASKEW:** You were talking about a newer model. I might get you to elaborate a little bit further on that. Bear in mind that there is human oversight, obviously, in the process already. So at what point should that be beginning and what would it look like, in your mind?

**Mrs Cerasa:** If I may, I will defer to David as well. He has a lot more dialogue with our membership. But generally speaking one of the common comments we get from member feedback is that people don't feel that they get heard or understood or get an opportunity to talk to people. I am going to let David extrapolate on some of the feedback we've had.

**Mr Taylor:** A lot of jobseekers through consultation with our members have indicated that they often find the process of combating or appealing a debt quite overwhelming. There are a number of stressors already existing within their lives and, with the weight of dealing with a debt, they sometimes simply opt to pay it. That perhaps suggests that the figure which Debra cited before of one in five is an underestimation.

A newer model should really take upon it a greater weight from the department to investigate the viability of a debt. So it would actually more keenly determine whether that debt is valid and whether the extrapolation of a two-week period is consistent with what the jobseeker did the rest of the year, noting that a lot of jobseekers work casually and may have periods of unemployment and periods of employment at different salaries. In some of the cases we have read about, we see that some of the debts are quite large and then, under the appeal process, they get cut down quite quickly to something which is more reasonable, but not everyone has the agency, capacity and wherewithal to appeal these debts.

**Senator ASKEW:** In combating a debt, initially they would be asked to provide additional information. Are you saying they are stopping at that point or that they provide the information and, beyond that, it has got to a debt scenario? I am just trying to understand which point in the process you are referring to.

**Mr Taylor:** A number of people would simply not have that information for reasons which Debra discussed before with regard to their personal circumstances. Others might find the process of combating or appealing a debt or even sourcing that information on top of life's pre-existing stressors—they may be a single parent, they may be survivors of family violence or whatever—overwhelming and simply opt to pay. That is what we have heard in some of the stories.

**Senator ASKEW:** I am just trying to understand this. They wouldn't actually be advised of a debt at the early stages. Would they be going back to Centrelink and engaging with them and saying, 'I haven't got this information'? I am just trying to understand. You say they are 'combating a debt' which hasn't actually started at the initial stages.

**Mrs Cerasa:** I think one of the common threads, certainly among the members we've spoken with, has been that, when they have gone back to Centrelink, the time to be able to talk to somebody, to understand, to have it explained to them or to seek clarity is often not available, so they feel like they're rushed in or rushed out or they're on the phone on hold for a long time. We have had one story from a member where they just wouldn't approach it, because they felt so overwhelmed by it. They felt that nobody would be there to listen to them anyway. It's hard to individualise and it's hard to generalise as well; different people in different areas in different circumstances react differently. I guess it's one of those things—when we deal with our members, they like to think that they have the human contact and the constant support from another person to be able to help them understand and work through the process.

**Senator ASKEW:** Did they come to you for support at that point? Is that where you would have interaction with them? Could you clarify that point for me.

**Mrs Cerasa:** At our member organisations, certainly. At various stages along the process, the jobseeker would go to the agencies that are our members, and this is the feedback that we collect from our members. They might feed the information through to us in a whole range of ways—either we've contacted them or they've contacted us—but certainly when we put in for the submission we would send out a call to our members to ask for feedback so we're representing the different ways that they get presented. Again, I don't think there's a standard answer for when people would come either. I think it depends on the person and, also, like in any situation, the relationship they have with people at their local agency.

**Senator ASKEW:** Obviously there has been an update in the system, taking on board things that have been raised at previous inquiries and so on. If you're ringing Centrelink, the actual compliance line, we've been advised through a question on notice to the department that it would be a five-minute average call wait. There are obviously improvements in the system. It would be interesting to know if your member organisations have had that reflected in any of their feedback.

**Mrs Cerasa:** To date I haven't heard anything from our member feedback, but we can certainly pursue it.

**Senator ASKEW:** It's worth taking it back to them to at least make them aware and make sure that people have been put in touch with the correct phone line rather than the general phone lines.

**Mrs Cerasa:** If time is given to us, it usually stands out to us, because it's specific. We like to try to gather specific information if we can, but, generally, it will be things like, 'They had to wait a long time,' or 'They didn't get to speak to anybody.' We can certainly take that back and seek further details.

**CHAIR:** How recent was your advice from your members?

**Mrs Cerasa:** We sought feedback from our members over the last two months in preparation for being ready for today and the original submission. It might even be longer than the last two months, actually.

**CHAIR:** In other words it would also include the changes to CUPI, more publicising of the compliance phone numbers and other things.

**Mr Taylor:** It would have to take that into account. There are rolling discussions with our members on a range of issues, including this, and it's through those discussions that we determine the input for this submission.

**CHAIR:** Extra follow-up would be appreciated.

**Senator ASKEW:** Exactly. If you have any further information around that, that would be good. I think I'll leave that there for now, thank you.

**Senator URQUHART:** We've heard a lot of evidence today about the fact that the program should be ceased as it is at the moment. We've heard lots of evidence about how the next step after the compliance letter could actually be improved significantly in terms of people being able to telephone, make contact and have a human approach—the things that you talked about earlier. Is that something that you've heard feedback about from your members as well? Is your position that you would seek to have the program ceased at the moment? You talked about putting in place a better system. Is it your submission that we should wait and just let the program roll until somebody comes up with a better idea, or should we just cease it now and look at all the problems, build a new model and process from there?

**Mrs Cerasa:** Certainly our members would support (b).

**Senator URQUHART:** It's a no-brainer to me.

**Mrs Cerasa:** That's the member feedback. In fairness, though, I have to say that we have 155 provider members and so we can't say that every single member reacts exactly the same way too. When we're presenting with our responses, they are generalised from the greater consensus.

**Senator URQUHART:** Of course.

**Mrs Cerasa:** One of the common threads in my conversations when I meet with members is that they understand that processes need to be followed. You need to be able to measure so you can manage. They're not saying it's all for free. Most commonly the feedback is that it's felt that an inhumane approach is taken or that people are grossly disadvantaged in an inhumane way. That's the human rights element that will be in the forefront when we start talking. Of course, we acknowledge that it can be subjective and it can be emotional, but, where possible, we try to get scenarios and information, and some data in any way to support what we get. Generally, that would be the consensus from members: they would prefer to go for option B, as you described it.

**Senator URQUHART:** Out of 155 provider members, there would be varying levels of response and attitude. I do pick up the point that I think you made in your opening statement: you do agree with debt collection. If somebody owes a debt, they pay the debt back. That's the simplistic line. It's the process. Is the debt a reality? Mr Taylor made the point that, sometimes when people appeal, it comes back with a different amount. We heard evidence this morning that that has happened and it was a much smaller amount, but there was still no substantive information or humane context so that people could be sure that the reduced debt was what they owed. There hasn't been a proper process. Is that the sort of feedback you're getting as well?

**Mrs Cerasa:** That's almost word for word the significant and specific scenario we used as an example. It's an attachment to my opening statement. It says that almost exactly. Initially the debt was \$50,000. Centrelink was approached and there was assistance in the appeal process and the debt was reduced to \$10,000, but they still didn't have the evidence to say how that amount had been reached. The person's carer did the appeal on their behalf because the person had diminished capacity to do the appeal themselves. That was a point of frustration. They went back to the provider to seek further assistance, ongoing.

**Senator URQUHART:** There are people who are really vulnerable and are in a situation where they can't speak for themselves. I guess a number of people would feel that they had a win, in terms of getting a reduction, and would say, 'Let's just pay this to get it done,' but no evidence was provided to them to show that the debt was accurate.

**Mrs Cerasa:** Certainly in many of the examples that we were given.

**Senator URQUHART:** A number of people have come to my office about debts and the debts all seem to be rounded off numbers. There doesn't seem to be 52c or 49c at the end. It always seems to be a rounded off number.

**Mrs Cerasa:** I certainly don't have a sense of that, but, now that you make me think about it, you don't see a lot of 52c amounts.

**Senator URQUHART:** No—or any cents. It's usually a rounded amount, which make me think: is it a truly accurate reflection of a debt?

**Mrs Cerasa:** It's certainly a question we can put to our members. If we do a follow-up questionnaire targeting the specific members—

**Senator URQUHART:** Is it a neat and tidy dollar figure that ends in a zero or a five or a two? A case I cited earlier was about an elderly couple that came to me. He hadn't worked for many, many years and they both had a purported debt, which has been wiped, of \$22,000 each, and yet their circumstances were quite different, in terms of their employment history and a range of things. It just didn't make any sense to me. Not only did they both have exactly the same amount but it was a rounded off figure. I'd be interested in whether you could take that on notice.

**Mrs Cerasa:** Representing our members, I can't really give you a thorough answer, but I'm happy to take it on notice and we can discuss it further.

**Senator URQUHART:** Thank you. I pick up on some of the things that you've talked about. We heard that the letter has been changed. I think Senator Askew has mentioned on a number of occasions that it's not like a demand letter or a debt letter; it's more a compliance type letter. I think the language seems to have softened in that, but that hasn't always made people feel good. Regarding the next step, one of the summaries you put in your submission talks about the limitations on human oversight of the process increasing the likelihood of poor outcomes. Can you give us a little bit more context around what you mean by that?

**Mr Taylor:** By way of general principle, when you are working with cohorts that may be experiencing severe disadvantage, the natural sense of things would be to shift away from an automated system and provide a much more human response, because people experiencing significant disadvantage may not be able to represent themselves adequately and there needs to be that human touch to ensure that one can provide a supportive but accurate approach to dealing with a particular issue. The notion of having a more human approach is really based on that principle. Delivering an automated system, where the human approach is not front and centre, to highly disadvantage cohorts can come up with some of the results that we talked about earlier, where people simply don't choose to appeal it—they're intimidated and they find it entirely too overwhelming. I'd imagine that even working folk and educated folk who may be more advantaged would probably find some of these processes pretty trying at times, so there really does need to be a supportive approach to ensure that we're getting an accurate amount determined and that the person is supported through it and we don't get a level of undue and avoidable trauma.

**Senator URQUHART:** One of the other areas that you pick up in your summary is that the period under review for debt recovery should not surpass five years. Why is that? What's your rationale for that?

**Mrs Cerasa:** We're reflecting that as the time that the ATO requires you to keep records for. We're saying that it should be a standard. For me it would be five years, as an employed person.

**Senator URQUHART:** Great. Thank you.

**CHAIR:** Can I go to the issue of the impact that the process has on jobseekers—your members' clients. Have you had feedback about how that affects their ability to engage with trying to find new employment?

**Mrs Cerasa:** It's the cycle that begins when they feel like they're already under pressure to be presenting to try and find employment and they've got all the requirements that they need to meet. Then they receive a debt letter and the cycle begins to spiral down for them. It becomes quite a detrimental process, and often people lose their ability to continue to support themselves or to focus on what they're doing. It appears to us, through talking to members, that that spiral can begin very quickly. Again, it's because, often, with the costs associated with jobseeking there's a very fine line on what you are living on on welfare and an attempt to find a job, and how that transpires in your everyday living. So there does seem to be this sense that that downward spiral can happen very, very rapidly. And if there are other issues—if there is homelessness, or somebody has compromised wellbeing, or they're in a compromised situation, or they have mental illness, or they have dependencies or any type of health impact—that begins to unravel very, very quickly.

**Mr Taylor:** It's well accepted that financial stress can be a significant contributor to mental health and substance dependence issues and can often trigger episodes of mental illness. It's worth noting that there are large numbers of people not only on the DES program—the Disability Employment Services program, which many of our members provide—but also on jobactive who experience episodic mental health concerns. A real concern for our members, and subsequently for us, is that a debt which is levelled towards an individual who may well experience episodic mental health concerns might well trigger an episode. This would then impair their chance to get a job at that time, beyond the obvious impacts on their wellbeing. That's related to your question on how it impacts directly on employment. Some of those episodes can have quite a long duration, so the harm to the person

and their family, the expense to the community and the reduction in social participation can be quite significant. So we are very aware of what these triggers can be and we seek to support people where we can, through advocacy.

**CHAIR:** Thank you. Have you asked your members about the interaction between people trying to find work and meeting their mutual obligations as opposed to how that has impacted if they get either a discrepancy letter or a debt notice?

**Mrs Cerasa:** I think it's a fine line between staying on course and focusing on what you need to do. Any slight compromise can make people feel vulnerable, more vulnerable and more disadvantaged. As I described before, there is a spiral. I don't know that we've actually got a form of measure for that in any way; it would really be the sense of feedback or the sense that our providers are getting through their case management of the people that they're working with. It's certainly feedback that we get quite often that people will—I don't want to use derogatory sayings, but 'go off the rails' very quickly, because they feel so pressured. That's probably the most common thread we'll get back.

**CHAIR:** Okay. We heard last week that sometimes people have complex lives and there is sometimes something that will trigger it. That is what you're saying? This will trigger people with those complex lives that are trying to hold it together? It could be that trigger?

**Mrs Cerasa:** It could be. It could be the trigger that finally derails them.

**Mr Taylor:** Debra noted in our opening presentation the reference to the long-term unemployment rate. That's increased significantly. I guess we don't have evidence on this, but we could certainly posit that it would be these sorts of concerns which could drive people into a downward spiral, therefore reducing their capacity to seek employment, which could have them move into that region of long-term unemployment.

**CHAIR:** Thank you. When we had the recent inquiry into the jobactive system and the targeted compliance framework, one of the issues that came up was the degree to which clients sometimes will get frustrated with their employment consultant because of the system—either having a demerit point or meeting their mutual obligations. During your process of consultation with your members, do people express frustration with their employment consultants when they get either their initial discrepancy letter or their debt notice? Does that make their jobs more difficult?

**Mrs Cerasa:** Certainly yes. There are times when we've had stories related to us about organisations putting processes into place because there have been challenging behaviours demonstrated by job seekers, frustrations are increasing and staff are becoming anxious. It doesn't matter which program it is; there has definitely been feedback. Since I've been in this role, I've heard feedback of challenging behaviours in different times when people are frustrated or feel pressured.

**CHAIR:** Have you had feedback that's been directly related to debt? I'm aware of some of the concerns around the targeted compliance framework. We had quite strong evidence about that in a previous inquiry, and I'm not trying to go there. I'm trying to find out whether the frustration you're hearing about is still related just to that or whether people, when they get debt notices and you're talking about that potential downward spiral, relate that to debt notices or are just like that generally.

**Mrs Cerasa:** It could be A, it could be B or it could be something else completely different. It can be anything that triggers them to feel frustrated or challenged. The challenging behaviours that we'll often talk about within our member cohort are the behaviours that are demonstrated in a setting, but the actual trigger for that behaviour to occur can be very different for different people with different circumstances.

**CHAIR:** All right. But you don't have any information that is related to a specific issue?

**Mrs Cerasa:** No. Not at the moment, no. I can't give you a scenario or an example—that what happened to Debra at Box Hill was as a result of that letter and 'I lost my cool'.

**CHAIR:** Okay. That's fine.

**Mrs Cerasa:** Sorry, I didn't follow that very well.

**CHAIR:** Yes, sorry. I was trying to find out whether that's impacting on the relationship with their employment consultant.

**Mrs Cerasa:** We've certainly heard it more in relation to the compliance requirements with jobactive than we have for this specific topic.

**CHAIR:** Okay. When you were answering Senator Urquhart's questions, you cited an example of a carer. The carer was the client?

**Mrs Cerasa:** The client was the son of the parent and primary carer.

**CHAIR:** So you were interacting with the carer?

**Mrs Cerasa:** The parent and carer represented their son about the debt that he had received, because he didn't have the capability to represent himself. He was on the disability program. Do you want me to read the actual—

**CHAIR:** Yes, if you could, that would be useful.

**Senator ASKEW:** Could you table it as well?

**CHAIR:** Yes. Is it possible to table that?

**Mrs Cerasa:** Yes.

**CHAIR:** I'm very happy for you to read it, but if you could table it—

**Mrs Cerasa:** Yes.

**CHAIR:** because this is an area that has come up very significantly.

**Mr Taylor:** I'll send an email with that material to you.

**CHAIR:** That would be much appreciated.

**Mrs Cerasa:** There's another example as well that we could join onto it.

**CHAIR:** But could you articulate it now, because there will probably be a few more questions.

**Mrs Cerasa:** Yes. 'A parent and primary carer of an individual who was diagnosed with OCD sought to represent her son, who had been determined to owe a significant debt of over \$50,000. The support payments for the son were garnished. Our member approached Centrelink and assisted with an appeal process. The debt was then reduced to just under \$10,000.' That's all we've got here, but we'll have more information back in the office.

**CHAIR:** That would be appreciated. Did you say they were on a DSP payment, or a Newstart payment?

**Mr Taylor:** I believe it was a DSP.

**Mrs Cerasa:** Yes.

**Mr Taylor:** But I can confirm that.

**CHAIR:** Okay, if you could. You weren't here earlier, but we think there are some issues with vulnerabilities and the flagging system when somebody is on DSP, and we've got to check it. So any information you could give us would be really useful.

**Mrs Cerasa:** Sure.

**CHAIR:** Do you want to articulate your second example?

**Mrs Cerasa:** 'A single mother of four children was informed that she owed approximately \$10,000. Our member organisation offered to support her through an appeal process to the Commonwealth Ombudsman. She rejected the support, being too overwhelmed to fight the system.' Again, that's a snapshot. We can provide you with more detail on that too.

**CHAIR:** Thank you. That would be useful, because it sounds like she didn't engage; she just paid the money.

**Mr Taylor:** Yes. She's probably still paying the money.

**CHAIR:** That takes me to some evidence that we heard last week about single parents being particularly affected by the program. Besides that example, has that come up in any of the accounts you've heard?

**Mrs Cerasa:** Not in seeking feedback for this submission, no. And I certainly can't think of anything off the top of my head.

**CHAIR:** Okay. If you could get us those examples and any others you've got, that would be greatly appreciated. If somebody's on that downward—like you've said, there's a trigger. How long can it take for people to re-engage?

**Mrs Cerasa:** It varies so much.

**CHAIR:** And does that then trigger noncompliance?

**Mrs Cerasa:** It may do.

**Mr Taylor:** Or exemptions.

**CHAIR:** We could find out data on exemptions, couldn't we?

**Mr Taylor:** It would be establishing causation.

**CHAIR:** You could see if there's been a spike.

**Mr Taylor:** Yes.

**CHAIR:** But, in terms of the targeted compliance framework and the interaction with that, it could actually then target noncompliance in terms of their mutual obligations. Is that—

**Senator HUGHES:** Sorry, can I just clarify, Chair. I'm not sure if I understand the question, and I just want to clarify. If you're looking at its causation, are you looking for a clinical definition of a meltdown or a spiral?

**CHAIR:** No. Because these are the employment consultants who are the members, the question I asked earlier was: does it impact on their ability to find work and meet their mutual obligations? So that's what I'm trying to look at. If it's the trigger—and we were told that it can trigger a downward spiral—what I'm looking at is: does that then trigger failure to meet their mutual obligations? Their members would be the people who know, because they're the employment consultants themselves who are the front workers.

**Senator HUGHES:** I'm just wondering whether the triggers would then encompass other environmental factors. Obviously, my experience in this sector is with autism, but you were saying everything could be different and everyone's triggers are going to be different. I don't know whether clinically they'd be able to say whether it was that particular letter or that rejection.

**Mrs Cerasa:** I think there may be times where it could be, but then you get—

**Senator HUGHES:** I know, but we don't know, unless you've got a BCBA running your behavioural program or running a dataset of what your triggers have been. Then you could do a full analysis.

**Mr Taylor:** Yes. I don't think we've received an unambiguous statement that this was solely the cause for a particular circumstance, but we've certainly heard a lot of anecdotal comments indicating that receiving a debt notification has contributed to stresses and to these sorts of issues. But, no, the establishment of causation hasn't been made, and I don't think Jobs Australia is putting that forward to this committee today.

**CHAIR:** It would be interesting to look at the timing of spikes in demerit notices, debt notices et cetera being sent out.

**Mrs Cerasa:** We can certainly go back and see if we can find out that information.

**Mr Taylor:** It would be very interesting. Yes, absolutely.

**CHAIR:** Yes, exactly.

**Senator HUGHES:** You need to give us your full functional assessment and have everything in there.

**CHAIR:** Thank you very much. Any information you can give us would be very useful.

**Mrs Cerasa:** Thank you for inviting us.

**CHAIR:** That's the end of our hearing today. Thank you to all our witnesses, to our secretariat and to Hansard. It is very much appreciated. The next hearing will be on 7 November in Launceston.

**Committee adjourned at 15:58**