19 August 2021

# Rowan McRae, Executive Director Civil Justice Access and Equity

Thank you. My name is Rowan McRae and I am the Executive Director of Civil Justice, Access and Equity at Victoria Legal Aid.

In 2019 our client Letecia told this Committee:

*'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*.'

Letecia was just one of thousands of people who sought help from Victoria Legal Aid after being contacted by Centrelink or debt collectors about a ‘robodebt’. For three years, from late 2016, we saw daily the stress and hardship caused by robodebt.

From the outset, people who had received robodebts expressed their confusion and distress; legal organisations questioned the foundation for the scheme; and community organisations raised serious concerns about its impact on disadvantaged people across the country. The Administrative Appeals Tribunal made adverse findings about the lawfulness of the debts that were being raised. An earlier inquiry of this Senate Committee [recommended the program be suspended](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/SocialWelfareSystem/Report).

Despite all this, it was not until the resolution of our client Deanna Amato’s legal challenge, that the Australian government conceded that that the averaging method at the heart of the system was unlawful, and agreed to stop raising Centrelink debts based solely on income averaging.

As the Committee is aware, the government has recognised that almost a billion dollars in refunds and waived debts are owed to almost half a million people. As a legal assistance provider that supported some of the most marginalised community members with robodebts, we saw and we reiterate, that the effect of robodebt was not just financial. Many people made sacrifices to pay back money they didn’t owe. They spent time and energy trying to understand and navigate a complex and flawed process. They felt mistrusted and judged, often humiliated and overwhelmed. This damage is hard to undo with a monetary refund, coming years after the fact.

We consider that the ongoing work of this Committee presents a crucial opportunity to make sure the Australian government and policy makers learn from the mistakes of robodebt and commit to real and lasting change in the way our social safety net works.

We see the following as critical lessons.

1. **First**, future changes to the social security system should be designed and discussed with service users and stakeholders. The complexity and confusion of the robodebt processes and the lack of respect afforded to recipients could and should have been avoided. Embedding practices of consultation and co-design is important for rebuilding trust and confidence in how Centrelink engages with and treats people who rely on its services.
2. **Secondly**, when people exercise their rights to have Centrelink’s decisions reviewed, the subsequent decisions of the Administrative Appeals Tribunal, should be heeded and necessary changes flowing from these decisions should be implemented. As early as 2017, the Tribunal found that robodebt was unlawful, but no changes were made to policies and procedures in response to these decisions. If the Government had responded to Tribunal decisions earlier and implemented changes, it could have prevented significant hardship for hundreds of thousands of people who were affected by robodebt after 2017.
3. And **thirdly**, there should be a renewed commitment to transparency and effective oversight in government policy design and implementation. This includes requirements for clear, publicly available policies that guide decisions, engagement with stakeholders and the legal assistance sector around implementation, accessible communication explaining debt calculations and decisions, prompt responses to Freedom of Information requests, and effective mechanisms for reviewing government programs and processes. These safeguards would have helped avoid the extent and duration of the failures of robodebt.

I will now ask my colleague Joel Townsend to outline the experiences of VLA’s clients and additional changes to Centrelink’s policies and practices to avoid hardship and provide better support to the growing number of Australians who need it.

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**Joel Townsend, Program Manager Economic and Social Rights**

Thank you. My name is Joel Townsend. I am the Program Manager of Economic and Social Rights at Victoria Legal Aid and a Law Institute of Victoria Accredited Specialist in Administrative Law.

When Centrelink first introduced robodebt in late 2016, Victoria Legal Aid saw a 300 per cent spike in calls for help from people who had received robodebt letters in the mail. There was a more than 500 per cent increase in visits to Centrelink information on the VLA website. Our team specialises in administrative and social security law. We spoke with distressed and exhausted people who told us about the confusion created by impenetrable Centrelink systems and the practical barriers to locating historical evidence demanded by Centrelink to disprove debts. People experiencing mental health issues, or who spoke English as a second language, were hit particularly hard.

The ongoing work of this Committee is an opportunity to make sure all the problematic aspects of robodebt are left behind.

The services Centrelink provides are crucial to people’s health and wellbeing. This has never been more apparent than during the COVID-19 pandemic. We encourage the Committee to consider the resourcing and training within Centrelink, which would enable it to respond to increasing demand and meet the diverse needs of people relying on social security. Centrelink should be adequately resourced with staff trained to implement accurate systems, and provide accessible and high quality services without significant delays for service users.

Centrelink’s debt recovery practices need to be revised as part of the post-robodebt system re-design. We saw directly that the processes of adding interest and penalties, garnishing tax returns, and referring robodebts to external debt collectors, caused significant hardship for clients.

For example, our client Deanna Amato first learned of her alleged $3215 robodebt when her tax refund of more than $1700 was taken as a repayment. This was money that she had been planning on using to pay down another debt. Centrelink had sent correspondence to her old address which she had moved out of almost three years prior (and after she had ceased receiving payments). Centrelink added a ten per cent penalty when it raised the debt because Deanna had not 'engaged' with Centrelink.

As the Committee knows, after Deanna commenced her court case, Centrelink revisited whether her robodebt was correctly calculated. Centrelink used its information-gathering powers to obtain payslips from Deanna’s employers and determined that Deanna was actually only overpaid $1.48, and this amount was waived. Deanna received a refund for the amount Centrelink had already taken.

Deanna is just one example where the debt recovery practices of Centrelink were not done in accordance with the law and resulted in further financial hardship for people already living close to the poverty line. It is vital that a systemic review ensures that Centrelink does not engage in debt recovery practices that actively exacerbate financial hardship.

We encourage the Committee to make findings and recommendations that support reform and accountability. We believe it is crucial that measures be built in that prevent the policy and practice failure robodebt represents, and the hardship it inflicted, from ever happening again.

Together with people who receive social security and the community of stakeholders who identified and voiced concerns about robodebt from the outset, we would welcome the opportunity to help design, implement and maintain a fairer, more accurate system that people can trust.

Millions of Australians access social security in their lifetime. Never has this been more important than now, as we deal with unprecedented levels of poverty and hardship flowing from the COVID-19 pandemic.