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# Submission to the Senate Education, Employment and Workplace Relations Committee

17 August 2012

By the National Welfare Rights Network

Submission to the Senate Education, Employment and Workplace Relations  
Reference Committee Inquiry into the adequacy of the allowance system for  
job seekers and others, the appropriateness of the allowance system as a  
support for work and the impact of the changing labour market

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Annexure A - NWRN Submission to the Inquiry into the Social Security Legislation Amendment (Fair Incentives to Work) Bill 2012

Annexure B - NWRN Submission to Grey Area – Age Barriers to Work in Commonwealth Laws (Issues Paper 41)

Annexure C - Special Benefit – Social exclusion and poverty traps. A call for reform by the NWRN

Annexure D - Key income support issue for Aboriginal Australians in the Northern Territory

Annexure E - Welfare Rights Centre submission to the review of compensation payments

## **Executive Summary**

### **Recommendation 1**

That allowance payments for single people be increased by \$50 per week from March 2014, and benchmarked to 66.3% of the combined married couple rate of Allowances as is the case for pension payments (and a higher rate in the case of sole parents). This increase should apply to recipients of Newstart Allowance, Widow Allowance, Sickness Allowance, Special Benefit, Crisis Payment, and Youth Allowance (Other) recipients living independently of their parents.

### **Recommendation 2**

That from March 2014 a \$50 per week increase be provided to Austudy, ABSTUDY payments, Youth Allowance recipients living independently of their parents, and others receiving similar payments including Widows Allowance, Sickness Allowance and Special Benefit recipients.

### **Recommendation 3**

From March 2014 all allowance and related payments (including Austudy, ABSTUDY, Special Benefit) should be indexed six monthly to movements in fulltime average weekly wages, the Consumer Price Index, and the Pensioner and Beneficiary Cost of Living Index, with the payment adjusted to the indicator that provides allowance recipients with the greater benefit.

### **Recommendation 4**

That the 'income free' area be increased to \$50 per week (just under 4 hours at the minimum wage) and that this increase be phased in by an increase of \$10 a week over three years, starting from March 2013.

### **Recommendation 5**

That the Newstart Allowance income test be simplified and reduced from 60 to 50 cents in the dollar, for partnered parents and people with disabilities on Newstart Allowance (partial capacity), from March 2013.

### **Recommendation 6**

Consideration should also be given to more flexible responses to this problem, such as increasing and indexing the "income free" areas for Newstart Allowance, Youth Allowance and other beneficiaries/recipients; providing allowees with the option of averaging their income over a longer periods, from March 2013. Consideration should also be given to introducing a Work Bonus similar to that introduced for Age Pensioners in September 2009.

The Government should reform the assets test rules which apply to Allowance payments.

### **Recommendation 7**

That the Wage Assist program of wage subsidies to help very long-term unemployed people be increased by 10,000 places per year, from 1 January 2014.

### **Recommendation 8**

Consideration should be given to significantly expanding the assistance and supports for the most disadvantaged job seekers, to help overcome extensive work barriers. Employment assistance must be complimented by a wide range of supports, ranging from medical, legal, housing, drug and alcohol counselling, budgeting, relationships, etc

NWRN supports the following package of measures as a way of getting disadvantaged job seekers actively engaged and supported appropriately as they move to overcome employment and participation barriers.

In the short term, we urge the Government to:

- i. Reform existing funds allocated in service fees and annual Employment Pathway funds credits and provide an annual credit to assist Stream 3 and 4 job seekers Employment Pathway Fund;
- ii. Increase the level of resources for long term unemployed people that is available under the Employment Pathway Fund credit in the Work Experience Phase;
- iii. Double the number of wage subsidies for very-long term unemployed job seekers, to 20,000 per annum; and
- iv. Establish a 6 month paid work experience program that targets 10,000 job-ready unemployed people in 2013-14.

### **Recommendation 9**

Future directions for reform in the longer term

NWRN supports longer term reforms to ensure that people who are unemployed are provided with effective support in training, skills development and higher education.

We propose:

That a Commission of Inquiry be established to review employment participation policies affecting working age people, including an examination of their effectiveness, and recommend future directions for reform of social security payments and participation;

That the Terms of Reference be developed after consideration of the major findings and submissions to this current inquiry;

That the Inquiry be facilitated by a small independent panel of experts, supported by a Secretariat comprised of relevant Government agencies and Departments.

That Government (or in the absence of government action, community sector, union and business organisations) establish a Taskforce aimed at developing longer-term options for review of the current system, including an examination of the benefits and risks of moving towards a simplified system of income support, based on the objectives and design principles as articulated at section 3 of this submission.

#### **Recommendation 10**

The Government should abolish the Liquid Assets Waiting Period (LAWP). This would cost \$50 million per year.

In the alternative, the LAWP thresholds should be indexed annually to movements in the Consumer Price Index and increased to \$8,000 for a single person and \$16,000 for a couple or a single person with dependent children.

#### **Recommendation 11**

The Government should increase the maximum rate of Rent Assistance by thirty per cent.

#### **Recommendation 12**

Consideration should be given to alternative methods of indexing Rent Assistance.

#### **Recommendation 13**

That the Productivity Commission undertake a review of the effectiveness of Commonwealth housing assistance, including the appropriate roles of State and Territory governments.

#### **Recommendation 14**

The House of Representatives Education, Employment and Workplace Committee Report into the Social Security Job Seeker Compliance Bill 2011 recommended that the Government undertake a review of the 1 July 2011 'suspension' compliance reforms after they have been operating for 12 months. This review should also examine the impact of the compliance regime on indigenous job seekers; job seekers with Vulnerability Indicators and job seekers with disabilities and caring responsibilities.

#### **Recommendation 15**

That the Australian Government act without delay on the recommendations set out in the report Family Violence and Commonwealth Laws, especially those that relate to access to income support, employment assistance and participation more generally.

## **1. About the National Welfare Rights Network**

The National Welfare Rights Network (NWRN) is comprised of 17 organisations across Australia which specialise in social security and family assistance law and its administration by Centrelink (the Department of Human Services).

NWRN member organisations provide casework assistance to individual clients and conduct training and education for community workers and produces publications to help social security recipients and community organisations understand the system.

### **Our aims**

NWRN member organisations throughout Australia, aim to reduce poverty, hardship and inequality in by:

- providing casework advice and assistance to individuals to ensure they can exercise their rights, fulfil their obligations, meet their responsibilities and maximise their entitlements under the system; and
- advocating for the maintenance of a social security system that has rights and entitlements, obligations and responsibilities, detailed under and protected by law.

### **Our principles**

The NWRN advocates that the social security system in Australia should be characterised by an uncompromising recognition of the following rights:

- the right of all people in need to an adequate level of income support which is protected by law;
- the right of people to be treated with respect and dignity by Centrelink and those administering the Social Security system;
- the right to accessible information about Social Security rights and entitlements, obligations and responsibilities;
- the right to receive prompt and appropriate service and Social Security payments without delay;
- the right to a free, independent, informal, efficient and fair appeal system;
- the right to an independent complaints system; and
- the right to independent advice and representation.

## **2. Terms of Reference for this Inquiry:**

The adequacy of the allowance payment system for jobseekers and others, the appropriateness of the allowance payment system as a support into work and the impact of the changing nature of the labour market.

(a) the adequacy of the allowance payment system for jobseekers and others, with particular reference to the adequacy of the Newstart Allowance payment as an income support payment for jobseekers and the adequacy of all other allowance payments that support a range of recipients who study or provide care;

(b) the appropriateness of the allowance payment system as a support into work, with particular reference to:

- (i) the effectiveness of the payment as an incentive into work,
- (ii) the effectiveness of the allowance payment system in facilitating transitions between working and other activities, such as studying, caring and retirement, or in the event of illness or disability, and in helping or hindering recipients to overcome barriers to employment, and
- (iii) the impact of the differences between pensions and allowances on the transition between working and other activities; and

(c) the impact of the changing nature of the labour market, particularly the rise of insecure work and decline of unskilled jobs, on the:

- (i) nature and frequency of individual interaction with the allowance payment system, and
- (ii) over and underpayment of allowances to recipients.

### **3. Objectives and design principles for a 21<sup>st</sup> century social security system**

#### **3(a) Objectives**

The objectives of the social security system in Australia in the 21st Century should include the following:

- The level of income support must be sufficient to protect people from poverty and provide opportunity to participate in society.
- The income support system should be founded on the principles of adequacy, fairness, clarity, transparency and certainty.
- Entitlement for income support payments should be based on need and should apply to all people with the right to reside in Australia within a means tested framework.

#### **3(b) Design principles**

The design principles that should underpin Australia's Social Security system should include the following:

- That the system be based on legislated, reviewable and transparent payments that are subject to parliamentary scrutiny.
- That the system be sufficiently flexible to take account of diverse individual and family needs and, in particular, the payment structure and payment levels should be flexible enough to meet the additional costs of such individual needs as, the costs of participation, study, training, disability, accommodation/housing, raising children and/or undertaking a caring role.
- That participation requirements recognise differences in individual capacity and individual circumstances (eg caring for children and others).
- That the system be as simple as possible and that unnecessary complexity be avoided. The key characteristics that should underpin the income support system are adequacy, fairness, clarity, transparency and certainty, (ie a legislated basis). These principles should receive the highest priority and should not be compromised by any simplification agenda.
- That the system generally be based on individual, rather than household resources. The current system of payment to individuals and couples strikes the right balance. Base rates of income support should not assume the sharing of income and/or expenses, or significant economies of scale, within non-couple households.
- That means testing of income and assets should protect, first and foremost, those in most need. Withdrawal or taper rates should not produce unfair high effective marginal tax rates or poverty traps and should always provide an incentive to earn.
- That all decisions in relation to rights and entitlements, responsibilities and obligations in the system be reviewable under a three tier system characterised by being internal



and informal (ARO), external and informal (Social Security Appeals Tribunal), and external but formal (AAT).

- That the system be administered by a government agency

#### **4. Introductory comments**

At just 5.2 per cent, Australia's official unemployment rate is likely the envy of many developed nations. The NWRN is supportive of a high participation rate and an emphasis on full employment and the lowering of the structural rate of unemployment as a priority in Australia's macro-economic settings.

Behind Australia's official headline figure is the story of individuals and families struggling to find paid employment, or sufficient hours of paid employment to support themselves and their families. Furthermore, the 'headline' rate also masks what many commentators believe is a higher level of unemployment, heavily discounted by under-employment, hidden caring, the 'discouraged' job seeker effect, and the official ABS data count where an hour of work per week meets the criteria.

Many people cobble together of low paid, insecure work and interact with a complex and confusing set of social security requirements and rules as a result. This submission seeks to describe key aspects of our income support system, and puts a face on those who are unemployed or marginally attached to the labour market. We look at the characteristics of those currently unemployed, explore the evidence of financial hardship among various groups and cast a critical eye over the design of our social security system, including levels of payment, indexation arrangements, means-testing arrangements and the adequacy employment assistance to help people into work. We also examine the impact of housing costs and of rental stress, which is an acute problem facing significant numbers of people on allowances. Issues related to the effectiveness of the allowance system in supporting transitions between other activities, including work, study and caring, are not addressed in the main submission, but are covered in greater detail in annexures about single parents and mature age participation and caring.

We propose a number of policy reforms which, if adopted, would ensure that vulnerable people receive the support to enable them to take part in the economic and social life of the community.

The Newstart Allowance payment structure is not a relevant or appropriate payment for a society which has a growing number of its members excluded from full-time participation in the workforce. The incidence of a changed life event whereby a person is forced onto the Newstart Allowance occurs far too often. Examples seen by our caseworkers include, for

example, when a person ceases caring, retrenchment, illness or the death of a partner. The joint submission by the Federal Government agencies indicates that the rate of Newstart Allowance is deliberately extremely low. This is a debilitating policy because it leaves too many people in abject poverty, exacerbating a decline in mental health and for some, the slide into homelessness, chronic illness and severe depression.

NWRN believes that there is a much better way, which will deliver benefits for individuals, the economy, and society more generally.

## 5. Unemployed people in Australia – who and how many?

People experience unemployment for many reasons, including retrenchment, insufficient work experience, illness, low levels of literacy or an absence of available jobs or lack of child care. Many jobseekers in Australia are subsisting for long periods of time on the Newstart Allowance often in grinding poverty.

At June 2012 there were 663,762 people in receipt of either Newstart Allowance (NSA) or Youth Allowance (YA). There were 580,807 adults on Newstart Allowance, an increase of 3.4% in the past year when there were 561,839 on the unemployment payment. There were 82,955 people receiving Youth Allowance (other), the social security payment for young unemployed people aged under 22 years of age.<sup>1</sup>

Unemployment payments in Australia have traditionally been lower than, for instance, the Age Pension. This has been because primarily NSA was seen as a short-term benefit to assist people during limited spells of unemployment. However, this is no longer the case, with sixty per cent of job seekers having been out of work for over 12 months. In addition, over 210,000 people in receipt of NSA have been unemployed for more than two years.

The following table outlined the duration on income support by current Newstart and Youth Allowance recipients.<sup>2</sup>

**Table 1: Duration on income support**

Payment	Duration on income support				Total
	< 1 year	1 to < 2 years	2 to < than 5 years	5+ years	
<b>Newstart Allowance</b>	188,417	86,865	131,698	105,712	512,692
<b>Youth Allowance (o)</b>	33,616	17,822	27,753	156	79,347

<sup>1</sup> Department of Education, Employment and Workplace Relations, *Labor Market and Related Payments – a monthly profile*, 25 July 2012.

<sup>2</sup> Standing Committee on Education, Employment and Workplace Relations, Questions on Notice, Supplementary Budget Estimates 2011-12, *DEEWR Question No. EW0708\_12*.

Today, an increasing number of job seekers have disabilities but are on Newstart Allowance. A decade ago many of those people would have been on the Disability Support Pension (DSP). As a result of the suite of DSP changes since 2006, as at July 2012 there are 99,884 people currently on Newstart Allowance 'partial capacity to work'. This represents 18 per cent of those on Newstart. These people must seek work of 15 hours per week and look for at least 3 jobs a week. On NSA, they receive \$133 a week less than they would have received had they been eligible for the DSP.

Many people with disabilities want to work, but many are unsuccessful. Australia has a low success rate in the employment of people with disabilities, ranking 21 out of 29 countries in the OECD. Australia has an employment rate of 39.8% for people with disabilities, compared with 79.4% without a disability.<sup>3</sup>

Despite a range of incentives to assist people with disability into employment, less than 2% move off DSP into employment each year. The proportion of DSP recipients with earnings fell from 9.9% in June 2007 to just 8.5% in June 2011.<sup>4</sup> Welfare groups argue that there is little awareness of existing incentives and that the incentives are undermined by the existence of the \$133 "payment gap" between the pension and the allowance. People on both the DSP and the NSA want and seek to work where possible. Nevertheless, there is always the fear for people in receipt of the DSP that they will be moved onto the lower-paying NSA losing security and the ability to adequately manage their health.<sup>5</sup>

Over the past 18 months those people with disabilities who are already on the NSA (partial capacity) have been joined by many more people with significant disabilities. Since 1 January 2012 tougher impairment tables have been in operation. Other changes introduced in September 2011 require a person with disability to have tried a program of support for up to 18 months and failed before they are eligible for the Disability Support Pension.

Most of those affected by these reforms end up on the lower-paying Newstart Allowance, which is \$133 less than the rate of the Disability Support Pension.<sup>6</sup>

There has been a collapse in the numbers of new claimants successfully claiming the Disability Support Pension, compared to just a year ago.<sup>7</sup> Since 1 July 2010, the number of successful new claims for the Disability Support Pension DSP has fallen by over 20 per cent to 42.3 per cent last May. This means in practical terms the rejection of one in every 7 new DSP claims.

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<sup>3</sup> *Disability Expectations – Investing In A Better Life, A Stronger Australia*, 2011.

<sup>4</sup> Department of Families, Housing, Community Services and Indigenous Affairs, *Characteristics of Disability Support Pension Recipients*, 2010-11.

<sup>5</sup> National Welfare Rights Network, *Submission to 2011 Tax Summit*.

<sup>6</sup> Department of Families, Housing, Community Services and Indigenous Affairs, *Characteristics of Disability Support Pension Recipients*, 2010-11.

<sup>7</sup> See *NWRN Submission to Senate Community Affairs Committee Inquiry into Schedule 3 – Impairment Tables to the Disability Support Pension*, 2011.

NWRN, along with Australian Council of Social Service and the Australian Federation of Disability Organisations and a wide range of other organisations, raised concerns over recent changes to the DSP, and the ability of people to find employment.<sup>8</sup>

### **Characteristics of unemployed people**

The typical unemployed person is not a 'dole bludger', 'shirker' or 'welfare cheat' which is how they are often stereotyped in the media. For example, of those currently unemployed:

- one in six has a disability that means they can only work part-time;
- one in three is aged over 45;
- one in 10 is Indigenous;
- one in 15 is a sole parent;
- one in 2 has been unemployed for over a year and a quarter unemployed for more than 3 years; and
- half have not completed year 12.

As a result of the 2006 'Welfare to Work' reforms there are now over 44,194 single parents on the Newstart Allowance (principal carer). If legislation before Parliament goes ahead an additional 122,000 single parents will be placed on Newstart Allowance, reducing payments and affecting work incentives. NWRN has provided a detailed submission on the impacts of placing parents onto Newstart Allowance. We urge the Committee to consider this evidence as it is highly relevant for the issues under consideration.<sup>9</sup> A copy of our submission is attached at Annexure A. Stereotypes of single parents are very prevalent, yet less than 3 per cent of single parents are young mothers aged under 20. Most women arrive at single parenthood as a result of divorce or a relationship breakdown, with a third having experienced domestic or family violence.

Age discrimination and disability discrimination is rife in Australia, and is acknowledged as a major barrier to the employment of people in mature age people. Once unemployed, older people find it very difficult to find work again. Their average time spent on NSA is 70 weeks; double that of their younger peers.

NWRN members regularly engage with older people who struggle to get by on the Newstart Allowance. NWRN provided a detailed submission to a current Inquiry by the Australian Law Reform Commission into barriers to workforce participation experienced by mature age Australians. The submission explores a broad range of matters that are relevant to this current inquiry, including transitions for carers who move to NSA, employment, concessions and supports for people with disabilities. A copy of this submission is attached as Annexure B for the information of Committee members.

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<sup>8</sup> Ibid.

<sup>9</sup> See NWRN Submission to *Senate Education, Employment and Workplace Relations Committee Inquiry into Social Security Legislation Amendment (Fairer Work Incentives) Bill 2012* (attached).

Long term unemployment is often associated with poor physical and mental health, social isolation and poverty. A national survey on factors which lead to major depressive episodes indicates that a significant causal linkage is the impact and consequences of unemployment.<sup>10</sup> Those who remain out of the workforce for a period find it very difficult to break back into employment, as they lose their skills and employers tend to favour those with recent workforce experience.

## **6. Payment rates & work incentives – Terms of Reference (a)**

Newstart Allowance for a single adult is just \$245 a week. NSA is paid at \$264 if the person has a dependent child or is aged 60 years and over and has been on NSA for nine months or more. By contrast, Age, Disability or Carer Payment recipients receive \$347 per week, plus a \$30 pw Pension Supplement.

Age and related pensions receive various supplementary benefits and concessions linked to the Pensioner Concession Card (PCC). The value attached to the PCC varies according to usage, and other factors such as mobility, home-ownership, etc. The PCC is estimated to be worth around \$30 per week to the typical user. Generally, allowance recipients are only entitled to receive a Health Care Card, which has a limited range of ancillary benefits attached to it.

A wide range of stakeholders including business groups, unions, faith-based and welfare organisations recently drew attention to the inadequate levels of income available to unemployed people looking for work. The NWRN agrees with the Government that the best solution is to help unemployed people obtain safe, secure and sustainable employment. However, this should not deny individuals sufficient financial assistance to meet cost of living expenses including those related to jobsearch activities or undertaking study, training or re-skilling while they are unemployed.

Concern about the low level of benefits for people out of work is not new. In November 2008 the Organisation for Economic Cooperation and Development (OECD) found that single unemployed people in Australia were relatively the poorest of the 30 nations it studied. In 2010, the OECD warned that Australia's unemployment benefit was so low as to "raise issues about its effectiveness" in providing the financial resources needed to assist Australians to find employment or participate in skills acquisition, study or training.<sup>11</sup>

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<sup>10</sup> Wilhelm, P, et al, *Prevalence and Correlates of DSM-IV Major Depression in an Australian National Survey*, Journal of Defective Disorders, 155, 2003.

<sup>11</sup> Koutsogeorgopoulou, V. (2011), "Enhancing Labour Utilisation in a Socially Inclusive Society in Australia", *OECD Economics Department Working Papers*, No. 852, OECD Publishing. <http://dx.doi.org/10.1787/5kgf32fbtrs5-en>

Opponents to increasing allowance rates cite concerns of reduced work incentives and relativities to minimum wages. Professor Peter Whiteford, formerly of the OECD and until recently Director at the UNSW's Social Policy Research Centre, points out that "since 1996 Newstart for a single person has fallen from around 54 per cent to 45 per cent of the after-tax minimum wage", and that any increase is unlikely to undermine workforce incentives.<sup>12</sup>

Professor Whiteford expands his arguments rejecting claims of reduced work incentives as follows:

"Since 1996 the level of Newstart for a single person has fallen from around 54 per cent to 45 per cent of the after-tax minimum wage. If it were still 54 per cent of the net minimum wage, then benefits would be around 19 per cent higher. It is difficult to see that going back to the 1996 relativities between Newstart and the minimum wage would pose serious disincentives to work."<sup>13</sup>

More recently, the Centre for Independent Studies, coming from a very different perspective, also dismisses the validity of the work disincentive argument.

"Unemployment benefits must be designed with two competing objectives in mind: to provide an adequate level of support while still making certain that 'work pays.' Unemployment benefits are set well below the minimum wage to ensure there is a strong economic incentive to move from welfare to the workforce. Newstart Allowance is set at only 40% of the minimum wage. If the payment was increased by \$50 a week, it would still only be worth half of the minimum wage – suggesting that an increase of this size would not dramatically undermine incentives."<sup>14</sup>

Newstart is less than half of the minimum wage in Australia. While the minimum wage is \$606.40 per week, Newstart at \$245 is 41% of minimum wage. Therefore, after income tax, a single unemployed person would double their disposable income if they got a job at the minimum wage. There is clearly scope to increase payments above the poverty line without eroding work incentives.

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<sup>12</sup> Peter Whiteford, *Why Newstart Allowance needs to be increased*, Inside Story, 5 December 2010.

<sup>13</sup> Peter Whiteford, *op cit*.

<sup>14</sup> Jessica Brown, Centre for Independent Studies, *CIS notes, Newstart*, 13 January 2012.

## 7. Hardship and Newstart Allowance – the evidence

There is growing evidence that levels of financial assistance for people who are unable to find work are too low, and need adjusting, with a numbers of recent studies and reports highlighting the financial difficulties experienced by unemployed people.<sup>15</sup>

The recent Australian Bureau of Statistics 2009-10 *Household Expenditure Survey* on indicators of financial stress paints a bleak picture of life for someone trying to make do on a Newstart Allowance. In the previous 12 months more than one in four people (78.7%) on Newstart Allowance reported three or more indicators of financial stress.

For all people in households where the main source of income was pensions and allowances unemployed people on just \$245 a week experience much higher levels of financial stress than others reliant on income support.

In unemployed households 48 per cent reported three or more instances of financial stress.

Financial stressors included:

- sought financial help from family or friends (27% of all on NSA);
- being only able to afford second hand clothes most of the time (46.1% of all on NSA), or
- sought assistance from a welfare/community organisation (14% of all on NSA).

More than half of all unemployed people (56.8%) were unable raise \$2,000 in an emergency and two in five (40%) couldn't pay an electricity, gas or telephone bill on time. One in eight (15%) failed to pay car registration or insurance on time.<sup>16</sup>

There is a wealth of other evidence attesting to the particular financial disadvantages that are experienced by people in receipt of the Newstart Allowance.

More people on the Newstart Allowance are referred to Centrelink social workers for reasons of financial hardship than for any other group. In 2011-12, there were 101,660 referrals of this type. Of these, 24,642 were made for people receiving Newstart Allowance.

The largest volume of Centrelink social work referrals to community services for emergency relief was for people receiving Newstart Allowance (11,400), followed by Disability Support Pension (5,915), and Parenting Payment Single (4,795).

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<sup>15</sup> See: Australian Council of Social Service, *Who is missing out? Hardship among low income Australians*, 2008.

<sup>16</sup> Australian Bureau of Statistics, *Household Expenditure Survey, Australia, Cat. No. 6530.0, 23 November 2011*.

Unemployed people are also more likely to seek access to an urgent payment from Centrelink, which is only available in exceptional or unforeseen circumstances.

Other findings are more troubling when the future profile of Newstart Allowance recipients is factored into the equation. By 2014, one in five of those living on the Newstart Allowance will have a partial capacity to work. Previously these people may have qualified for the Disability Support Pension. The average time of Newstart for this group was 151 weeks, compared to just 88 weeks for the general Newstart Allowance population.

Many people assessed with a partial capacity to work struggle to find work and a failure to increase the Newstart Allowance is simply to condemn them to poverty. Significantly, many in this group are faced with additional costs as a direct result of their disability. However, they are on a payment rate set at \$133 per week less than the Disability Support Pension.

Other evidence of hardship emerges from a recent survey that was undertaken by the NWRN.<sup>17</sup> The NWRN commissioned a survey in September 2011, asking Australians what they would choose to go without if they found themselves having to live on the amount of weekly financial assistance paid to people on the single adult rate of Newstart Allowance.

More than 60 per cent would stop buying fresh food and almost half would not visit a doctor when sick. Seventy seven per cent would cut back on electricity or gas.

Nearly one in two (45 per cent) would stop studying or training. This finding confirms the unprecedented warning by the OECD in 2010 that Australia's unemployment benefit is already so low as to "raise issues about its effectiveness" in providing the financial resources needed to assist Australians to find work or study.

### **Advance Payments**

Income support rates are so low that it can be difficult for a person on a payment to save money for emergencies like replacing a fridge or paying car registration. Surveys consistently indicate that people receiving Newstart Allowance cannot get access to the small amount of funds to meet these 'lumpy' expenditures. As noted above, the ABS found that almost 3 in five people on Newstart Allowance could not raise \$2,000 to deal with an unexpected emergency. The low rates of income support, often making it difficult to save money for an unexpected expense, helps to explain why so many unemployed people access the Advance Payments options that are currently available from Centrelink.

A person receiving income support can apply for an Advance Payment from Centrelink (Department of Human Services). For a person on Newstart, the maximum amount is \$500 and the minimum is \$250. Repayments start from the next payment after the advance is

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17 National Welfare Rights Network, Media Release, *Life is no picnic on just \$243 a week: poll reveals poverty and despair on Newstart*, 21 October 2011.



paid. Allowance recipients are generally only able to obtain an Advance Payment once in a twelve month period and are repaid in fortnightly instalments.

There were 262,870 Newstart Allowance recipients and 103,932 Youth Allowance recipients accessing an Advance Payment in the period 2010-11. Over the same period, there were 231,446 Age Pensioners and 561,711 DSP recipients obtaining an Advance Payment.

Eligibility rules for Advances have been tightened and later eased for some income support recipients. For instance, Age Pensioners and DSP recipients can apply for Advance payments more regularly. In 2010-11 182,000 DSP recipients and 68,000 Age Pension recipients access more than one advance in a twelve month period.<sup>18</sup>

An increase in the maximum rate of Newstart Allowance by \$50 per week, as proposed by business, union and welfare groups, will not remove the need for many allowance recipients to Advance Payments, as many will find it problematic to save larger sums of money from their income support payments. However, it could offer alternatives to people living on low, fixed incomes.

NWRN recognises that, as a policy response, options such as Advance Payments are not without their drawbacks as they reduce a person's ongoing level of payment. However, they definitely meet a demand in the community. As noted, a more flexible system of Advance Payments operated for people on Allowances did operate but it was changed as part of savings measures in previous budgets.

As part of a suite of payment reforms to address the challenges of payment adequacy the Committee should give consideration to ensuring that the operation of Advance Payments more flexible for people on Allowance payments wanting to access this option. For example, recipients should be able to access more than one Advance in a 12 month period.

### **Weekly payments**

People experiencing hardship and difficulties managing to live on low rates of social security payments from week to week can seek access to their payments on a weekly basis. At January 2012, there were 14,378 people on a weekly payment cycle: 3,939 were receiving the Newstart Allowance, 2,239 received Youth Allowance, with the majority on the Disability Support Pension: 7,433.

In the 2012-13 Federal Budget the Federal Government removes barriers to accessing weekly payments. The weekly payment option should be promoted more widely among people who would benefit from having access to their social security entitlements on a more regular basis.

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<sup>18</sup> Senate Community Affairs Legislation Committee, Budget Estimates – 29 May 2012, Answers to Questions On Notice, Human Services Portfolio, *Question Reference Number: HS 55*.

Over the past year there has been considerable discussion about the growing “allowance/pension” gap. This gap is the result of a number key design features which are at the core levels of payment system:

- higher basic rates of payment;
- less generous indexation arrangements, and,
- increases to payments for some groups in the community seen as ‘more deserving’.

Table 2, below, highlights these different levels of payment

<b>Table 2. Various social security payments rates, July, 2012</b>				
Payment (single)	Rate (pf) single	Difference between payments and rate of pension (pw)	Max. earnings p/f before nil rate	Payment type as a % of pension
Pension*	\$755	Nil	\$1,663	100%
Newstart Allowance (NSA)	\$489	\$133	\$909	65%
Parenting Payment (Single)*	\$648	\$53	\$1,797	86%
NSA (Principal Carer)	\$529	\$113	\$1,174	70%
Youth Allowance at home under 18	\$220	\$267	\$258	29%
Youth Allowance over 18 Independent	\$402	\$176	\$535	53%

\* including Pension Supplement

Table 3, below, further highlights the consequences of maintaining current payment arrangements. By 2030 it is estimated that the pension rate will be double the rate of the Newstart Allowance. NSA will be just 11% of the national minimum wage by the year 2050. In terms of considerations of fairness, equity, social cohesion and community acceptance it is difficult to believe that the wider community would countenance a division of such magnitude of deep exclusion of a class of individuals in Australia.

**Table 3: Projected growth of single Newstart Allowance and Pension rate**

<b>Comparison of single Newstart Allowance and Pension rates</b>			
Year	Pension \$ per f/n	Newstart Allowance \$ per f/n	Newstart as share of the Pension %
2012	755	489	65
Projected 2020a	1,036	593	57
Projected 2040a	2,271	972	43

Source: Productivity Commission, *Disability Support and Care, 2011* (updated).

The last time that NSA was increased more than the usual twice-yearly Consumer Price Index adjustments was in 1994 when the Hawke Government increased the unemployment benefit rate by \$2.95 per week.

The Henry Review of the tax and transfer system recommended that a new benchmark be established for allowance payments, based on the *2008 Harmer Review* into pension adequacy, which resulted in welcome increase to the single age pension by \$32 per week. The Henry Review suggested that single allowance payments be set at two thirds of the partnered rate. Under current rates, this would require an increase to the Newstart Allowance of around \$50 per week.

Many job seekers face a range of barriers and have additional costs in health, housing, transport and other social services which cannot be met on the inadequate Newstart Allowance of just \$245 a week. Government needs to consider the long-term benefits of boosting this payment. Such a boost is likely to increase the employment prospects of unemployed people and eventually reduce reliance on income support payments.

## **8. Low Social Security payments for young people**

Social Security payment rates for young people who are unemployed or are students are even lower than for those on the Newstart Allowance. The basic rate for young unemployed people living independently of their parents is \$202 a week. Private renters may receive up to \$60 a week extra if they are in receipt of the maximum rates of Rent Assistance. The single rate of Youth Allowance is \$42 a week less than NSA and \$173 a week less than the single rate pension that is paid to Carers, people on the Disability Support Pension and the Age or Veteran's Pension.

Payments for pensions and NSA are indexed each March and September, but the rate for young people is adjusted just once a year, in line with movements in the Consumer Price Index.

For the purposes of the current inquiry, NWRN is most concerned about the levels of payment available to young people who are paid independently of their parents. As such, this involves those on Youth Allowance (students) and Youth Allowance for independent people under 22 looking for work. Payments to young Aboriginal people students on ABSTUDY and to mature age students on the Austudy are also of concern. Many young people are surviving on just \$28 a day; some are trying to make do on considerably lesser amounts.

## 9. Increasing support for people who are unemployed

The issue really confronting the government is not should Australia provide a decent minimal safety net to support jobless people back into work, but how it can be paid for.

In 2011-12 the Federal Government spent \$6.6 billion on Newstart Allowance. In 2007, the most recent period where comparable data is available, the OECD indicates that Australia spends 16 per cent of Gross Domestic Product (GDP) on social spending, ranking ninth lowest among the 33 OECD nations surveyed. The average OECD expenditure in this area is higher than Australia's contribution, at 19.2 per cent.

In terms of spending on unemployment payments, Australia is ranked in the middle of the OECD nations, ranked 15<sup>th</sup> out of 32 OECD countries. GDP expenditure on unemployment benefits in 2007 stood at just 0.4 per cent.<sup>19</sup>

The cost of a \$50 increase in the Newstart Allowance (and related payments) is an estimated \$1.5 billion per year. The increase in allowance payments could be paid for by tackling excessive tax concessions and loopholes in any number of areas, including capital gains tax concessions on housing (\$35.5 billion); superannuation tax breaks (\$28.8 billion); tax breaks on termination payouts (\$1.5 billion), and fringe benefits tax breaks on cars (\$1.2 billion).

### **Recommendation 1**

That allowance payments for single people be increased by \$50 per week from March 2014, and benchmarked to 66.3% of the combined married couple rate of Allowances as is the case for pension payments (and a higher rate in the case of sole parents). This increase should apply to recipients of Newstart Allowance, Widow Allowance, Sickness Allowance, Special Benefit, Crisis Payment, and Youth Allowance (Other) recipients living independently of their parents.

<sup>19</sup> Department of Education, Employment and Workplace Relations, DHS, FaHCSIA and DIISRTE, *Submission to the Senate Inquiry on the adequacy of the allowance payments system for job seekers and others*, August 2011, p. 15.

## **Recommendation 2**

That from March 2014 a \$50 per week increase be provided to Austudy, ABSTUDY payments, Youth Allowance recipients living independently of their parents, and others receiving similar payments including Widows Allowance, Sickness Allowance and Special Benefit recipients.

## **10. Fairer indexation of Allowances and related payments**

NWRN has consistently argued for fairer payment indexation arrangements for those reliant on allowance and related payments. Fairer indexation arrangements are the key to addressing the problems with the growing gap between pension and allowances.

Future increases to allowance payments as a result of regular indexation will be lower than the increase for pensions because Newstart Allowance is subject to less beneficial indexation arrangements than apply to pensions. Allowance payments are indexed only to the Consumer Price Index (CPI).

However, the Age Pension and related pensions are indexed to the best possible outcomes from a formula that includes 27.5 per cent of Male Total Average Weekly Earnings, the Pensioner and Beneficiary Cost of Living Index, and the Consumer Price Index (CPI).

This arrangement means that pensioners benefit from improvements in community living standards, but unemployed people and students do not.

Students fare even worse than unemployed adults, as Youth Allowance, ABSTUDY and Austudy Payments are indexed to the CPI only once in January each year. This means that young people must cover the increased cost of living for up to 18 months before their payments are indexed (or increased). This 'indexation lag' places many young people in dire financial circumstances, as it compounds the already lower rates of social security payments that are paid to young people.

Current indexation rules have essentially meant that the rate of Newstart Allowance has 'flat lined' for over 20 years and has increased by just 0.5 per cent in real terms. If no changes are made to the system, the Newstart Allowance will be just 11% of the minimum wage by the middle of the 21<sup>st</sup> century.

The situation facing allowance recipients is growing worse, as new analysis of cost of living impacts reveals that allowance recipients experience much higher costs of living pressures than all other types of income support recipients.

Unless indexation changes are introduced any efforts to reduce the 'payment gap' by increasing allowances, the proposed \$50 per week increase in this submission will be eroded over time.

### **Recommendation 3**

From March 2014 all allowance and related payments (including Austudy, ABSTUDY, Special Benefit) should be indexed six monthly to movements in fulltime average weekly wages, the Consumer Price Index, and the Pensioner and Beneficiary Cost of Living Index, with the payment adjusted to the indicator that provides allowance recipients with the greater benefit.

### **Employment, work incentives and payment poverty traps**

A major problem faced by some people receiving social security payments is that under the current arrangements Australia's poorest pay very high effective marginal tax rates, leading to long-term work and participation disincentives for income support recipients. The complex interaction of Australia's tax and welfare systems can result in the simultaneous tapering of multiple benefits when someone receiving a social security payment re-enters the workforce.

The existing tax and transfer system punishes some people very harshly for undertaking paid work or more hours of paid work.

Some of the key differences between pension payments and Newstart Allowance are detailed in the following table.

**Table 4. Comparison of allowance and pension payment features**

<b>Pension &amp; Newstart Allowance : a comparison, July 2012</b>		
<b>Payment Features</b>	<b>Newstart Allowance single (\$pw)</b>	<b>Age Pension, Carer Payment, DSP single (\$pw)</b>
Maximum rate	\$245	\$374 (inc. supplement)
Earnings free area	\$31	\$76
First taper rate	50%	60%
2 <sup>nd</sup> threshold	\$125	N/A
Second taper rate	60%	N/A

Income cut-out point	\$455	\$831
Payment taxable	Yes	Yes (Not DSP)
Assets cut-out (homeowners)	Nil payment at \$192,500	Payment cuts out at \$696,250
Assets cut-out (non-homeowners)	Nil payment at \$332,000	Payment cuts out at \$835,750
Pensioner Education Supplement	Not eligible	\$31.20 (limited eligibility)
Liquid Assets Waiting Period	1 week wait for every \$500 in savings over \$2,500; max. 13 weeks	Not applicable

Some of the most severe poverty traps are those faced by people in public housing and the workforce disincentives embedded in public housing arrangements, particularly for those on waiting lists, require urgent attention.

One of the worst examples of a welfare ‘work disincentive’ is found in the payment Special Benefit, described as the ‘social security payment of last resort. This benefit, only paid to around 6,000 Australian’s, is paid at the rate of Newstart Allowance, but has no ‘income free area’. There is a dollar for dollar withdrawal for earned income and is subject to a \$5,000 ‘available funds’ assets test.

NWRN is deeply concerned by the conditions which apply to this payment. In order to stimulate a dialogue with Government Minister’s, agencies and community organisations about problems with this payment NWRN has written a discussion paper, *Special Benefit – Social exclusion and poverty traps – a call for reform from the National Welfare Rights Network*. A copy of this paper is attached as Annexure C for the Committee’s consideration.

Broader issues around reform to the social security means tests were the subject of submissions from a wide range of community and welfare organisations to the 2011 Tax Forum that was attended by a range of stakeholders, including NWRN.

The Government has recognised that harsh withdrawal rates and low taper rates can cause negative work incentives for senior Australians and has provided a generous income limit before payments are withdrawn (\$75 a week as opposed to just \$31 a week for Newstart and Youth Allowance). The Government further relaxed income tests for age pensioners with significant employment income, allowing a person to keep all earned income up to \$125 per week, which was part of the Government’s age pension reforms.

The income “free areas” for allowances (unlike pension free areas) are not indexed and have remained static for over 30 years. The result is a reduction in the financial returns from employment. Income above \$31 per week reduces by 50 cents in the dollar until earnings reach \$125 pw, and 60 cents in the dollar for income above this amount.

Indexation arrangements (or the absence of them) have been responsible for a decline in the real value of the free area for allowances. In 1986 the allowance free area — (the amount that a person can have before their payment is reduced) was 31 per cent of the lower single rate of allowance. By 1995 this had fallen to 20 per cent and is currently 14 per cent.<sup>20</sup>

The failure to adjust the amount that a person can earn before their social security payment is reduced constitutes a serious work disincentive especially in an era which much of the paid work available may be casual or irregular shifts. The income free threshold for Newstart and Youth Allowance needs to be increased and indexed to improve the incentive to work additional hours.

Furthermore, the current withdrawal or “taper” rates of 50 cents in the dollar for income between \$62 and \$250 and 60 cents in the dollar for income above \$250 means that the financial returns from work are extremely limited for some unemployed people, especially when the costs of transport, clothes and other costs associated with employment are taken into account.

Recently, the Federal Government has made some changes to improve the operation of the social security means tests for certain groups, most notably, for existing Principal Carers on Newstart Allowance. These changes were proposed, and supported, by NWRN, along with a number of other organisations.

Other changes from 1 July 2012 impact on Youth Allowance (unemployed) withdrawal rates, which were accompanied by an increase to the ‘working credit’ from \$1000 to \$3,500 per annum. This will be of significant benefit for young people in supporting the transition from income support to employment. However, the increase in eligibility for Youth Allowance to 22 years of age will see unemployed people face a major work disincentive once they hit their 23<sup>rd</sup> birthday, where their income may be reduced if they are working.

Unfortunately, the beneficial means-testing changes were not extended to recipients on Newstart Allowance (partial capacity), who also have requirements to look for and accept part-time work.

The existing arrangements constitute a serious work disincentive. Only around 16 per cent of Newstart Allowance recipients report any income. The income free threshold needs to be increased and indexed and the maximum withdrawal rates of should be reduced.

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<sup>20</sup> Henry. K, Report to the Treasurer, *Australia’s Future Taxation System*, 2009.



Another feature of the architecture surrounding the allowance payments that is in need of repair relates to the ‘sudden death’ assets test which applies to allowances and related payments. The assets test which applies to job seekers does not taper off, unlike that for pension payments. This means that a single homeowner and non-homeowner loses all entitlement to income support when their assets reach \$192,500 and \$332,000 respectively. Assets test for pensioners tapers, and hence single homeowners and single non-homeowners are eligible for part rate pensions when their assets reach \$696,250 and \$835,750 respectively.

These rules are inequitable and unfair. Under this test, if a person’s assets are just \$1 above the thresholds, they lose 100 per cent of their allowance entitlement. Table 4 above provides a comparison of the harsher treatment of allowees under the current assets test provisions.

This leads to “inequitable situations” where a person with a small amount just over the thresholds loses entitlement completely.<sup>21</sup> Older people who are retrenched with modest savings or assets are often affected by this poorly designed policy.

NWRN supports consideration of a more comprehensive means test, but in the meantime we urge Government to reduce the harsh application of the “sudden death” assets test.

The Income Maintenance Period rules also need review, as they can affect harshly people with modest termination payments who end in difficulty meeting mortgage commitments.

**Recommendation 4**

That the ‘income free’ area be increased to \$50 per week (just under 4 hours at the minimum wage) and that this increase be phased in by an increase of \$10 a week over three years, starting from March 2013.

**Recommendation 5**

That the Newstart Allowance income test be simplified and reduced from 60 to 50 cents in the dollar, for partnered parents and people with disabilities on Newstart Allowance (partial capacity), from March 2013.

**Recommendation 6**

Consideration should also be given to more flexible responses to this problem, such as increasing and indexing the “income free” areas for Newstart Allowance, Youth Allowance and other beneficiaries/recipients; providing allowees with the option of averaging their income over a longer periods, from March 2013. Consideration should also be given to introducing a Work Bonus similar to that introduced for Age Pensioners in September 2009.

<sup>21</sup> Henry, K. *Report to the Treasurer*, ibid, p. 551.

The Government should reform the assets test rules which apply to Allowance payments.

## 11. Supporting unemployed people into work

One way to improve the position of people who are unemployed or marginally attached to the labour market is for them to have better levels of support and assistance to find work.

In 1998 the employment services system was fully privatised and funding for the system reduced. The current Government has kept the privatised arrangements in place, and a system of “for profit” and “not-for-profit” employment service providers called Job Services Australia has been in place since 2009. The new 2009 system was in many respects better than the one it replaced, especially as it removed waiting lists for the most vulnerable job seekers and sought to target assistance to the most vulnerable, and reduce the practice of “creaming” off the job seekers most likely to succeed, and parking those with the most needs.

Access to effective and responsive employment assistance is critical for individual well-being and the overall prosperity of the nation. Sound investments which engage and motivate job seekers to take up opportunities for education or training, to build skills and overcome barriers and disadvantage can help improve people’s life experiences and opportunities. This can negate the harmful impacts often associated with prolonged unemployment.

NWRN notes and welcomes recent data from the Minister for Employment Participation that indicates significant interest in \$233 million wage subsidy scheme that started on 1 January 2012. NWRN has long supported programs for job seekers that deliver real skills and opportunities, as opposed to schemes that stigmatise job seekers and keep them active in little but “busy work”.

NWRN considers that a far better option is paid work experience via wage subsidies. The Government has made a welcome start with 35,000 wage subsidies over four years from January 2013. Doubling these subsidies in the next Budget would offer unemployed people a greater chance of finding sustainable employment.

### **Recommendation 7**

That the Wage Assist program of wage subsidies to help very long-term unemployed people be increased by 10,000 places per year, from 1 January 2014.

Many job seekers have significant vocational and non-vocational barriers to finding and maintaining employment. An examination of Stream 4 job seekers circumstances reveals the full extent of workforce barriers among Australia’s most disadvantaged job seekers.

Of 157,102 job seekers at November 30, 77 per cent (121,130) had five or more barriers to employment. The main identified barriers to work was limited employment history (57%), followed by psychological/psychiatric condition or mood disorder (48%), limited skills and experience (39%), transport (32%), seeking skills limited job accommodation (27%) and insufficient formal education. One in five were ex-offenders and one in six lacked a support network to help with their employment and other needs.<sup>22</sup>

Indigenous job seekers were more likely to experience barriers to participation, with 83 per cent experiencing five or more barriers to employment.

With the profile of job seekers as described above it is essential that the employment services system offers appropriate levels of support. However, it is critical that substantial, individually tailored assistance is made available for disadvantaged job seekers well beyond the assistance currently provided in 'Stream 4' services.

Assistance to improve employment outcomes for disadvantaged job seekers requires a greater investment in intensive case management, basic skills training and work experience. It also requires better integration between support programs and health, housing and social services generally.

Inadequate resourcing for disadvantaged job seekers is a major weakness of the Job Network and makes it difficult for these job seekers to overcome a lifetime of disadvantage or a series of setbacks such as illness and redundancy.

Considering the multiple problems faced by this group, the existing \$500 provided for employment support for job seekers in the 'work experience' phase is patently inadequate and is unlikely to move these job seekers closer to economic opportunities and financial independence.

At August 2011 there were 158,083 job seekers, out of 724,822 job seekers, on the Job Services Australia caseload at Stream 4 (this is around 22%).

Almost three quarters (74%) of Stream 4 job seekers have been looking for work for more than 12 months: 32,365 (20%) have been unemployed for 12-24 months; 85,380 (54%) have been out of work for over 2 years.

Casework experience across the NWRN points to significant levels of people with complex problems across all levels of employment services.

Thirty seven per cent of the Job Service Australia caseload on Newstart Allowance are people who disclose that they have a disability, with around 130,000 people accessing Job Services support having a disability.

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<sup>22</sup> Senate Standing Committee on Education, Employment and Workplace Relations, *Questions on Notice, Additional Budget Estimates, 2011-12, DEEWR Question No. EW1045\_12.*

Employment services should have a sharp focus on those who are most vulnerable and in need of assistance and support them in moving to sustainable employment. Under the existing arrangements, just \$500 in funds is available for the most disadvantaged job seekers. This is manifestly inadequate.

While a lack of resources to help job seekers is a major problem, it is only one of a number of problems in the current employment services system that can mean that the employment services arrangements are less effective than they should be. Excessive turnover of staff, professional development and job satisfaction issues and unmanageable caseloads all impact upon the assistance available to help people into employment, training or education. High levels of staff turnover in employment consultants, which is currently about 30 per cent, has a flow-on effect on how job seekers experience the system, resulting in disruption, loss of familiarity with staff and frustration at having to keep re-telling their story again and again.

Job seekers also need to be better engaged and more able to actively participate in exercising choices around providers, activities and employment pathway plans.

Under existing rules job seekers have extremely limited opportunities to exercise real and effective choices. An employment services provider must be chosen within two working days, and this time-frame is not conducive to informed or effective choices.

For instance, it is unrealistic to expect an unemployed person to have to demonstrate that they will be better served by a different provider. As they stand, the current rules are weighed heavily against unemployed people exercising free choice. The current policy settings that require job seekers to make quick and uninformed decisions about the selection of their provider are counterproductive.

Very limited information is available about choice of providers, with no specific mention of it in a job seeker's Service Guarantee. At the very early stage of unemployment job seekers are getting over the shock of a sudden retrenchment and are naturally focussed on securing income support. This is probably not the best time to have a conversation about choosing your employment service provider.

The Government, community organisations and providers too are realising that the more engaged and involved job seekers are in making decisions about their engagement with providers, the better the participation outcomes.

As part of the DEEWR *Connections For Quality* initiative job seekers can able to find local information in a comparative website about the success of a provider in finding sustainable jobs, the special skills and services it offers, and how the service will help them if they chose the provider. This information should empower job seekers to find a provider that works for them. However, few job seekers seem aware of this resource.

NWRN believes that across the entire employment services system there is a need for a greater focus on job seekers' rights, in addition to their responsibilities and obligations. In our experience, increased attention to quality and complaints handling, and improving job seekers' understanding of basic processes (e.g. JCA, JSCI, service guarantees, EPP, EPF, compliance rules, etc.) would be beneficial for individuals and the system.

### **Recommendation 8**

Consideration should be given to significantly expanding the assistance and supports for the most disadvantaged job seekers, to help overcome extensive work barriers. Employment assistance must be complimented by a wide range of supports, ranging from medical, legal, housing, drug and alcohol counselling, budgeting, relationships, etc

NWRN supports the following package of measures as a way of getting disadvantaged job seekers actively engaged and supported appropriately as they move to overcome employment and participation barriers.

In the short term, we urge the Government to:

- i. Reform existing funds allocated in service fees and annual Employment Pathway funds credits and provide an annual credit to assist Stream 3 and 4 job seekers Employment Pathway Fund;
- ii. Increase the level of resources for long term unemployed people that is available under the Employment Pathway Fund credit in the Work Experience Phase;
- iii. Double the number of wage subsidies for very-long term unemployed job seekers, to 20,000 per annum; and
- iv. Establish a 6 month paid work experience program that targets 10,000 job-ready unemployed people in 2013-14.

### **Recommendation 9**

Future directions for reform in the longer term

NWRN supports longer term reforms to ensure that people who are unemployed are provided with effective support in training, skills development and higher education.

We propose:

That a Commission of Inquiry be established to review employment participation policies affecting working age people, including an examination of their effectiveness, and recommend future directions for reform of social security payments and participation;

That the Terms of Reference be developed after consideration of the major findings and submissions to this current inquiry;

That the Inquiry be facilitated by a small independent panel of experts, supported by a Secretariat comprised of relevant Government agencies and Departments.

That Government (or in the absence of government action, community sector, union and business organisations) establish a Taskforce aimed at developing longer-term options for review of the current system, including an examination of the benefits and risks of moving towards a simplified system of income support, based on the objectives and design principles as articulated at section 3 of this submission.

## 12. Liquid Assets Waiting Periods

Claimants of Newstart Allowance, Youth Allowance, Parenting Payment and Sickness Allowance can be subject to the Liquid Assets Waiting Period (LAWP) for up to 13 weeks if their liquid assets (which include savings) are above a low threshold amount. These liquid assets waiting periods unfairly strip people of modest savings before being eligible for social security payments. Waiting periods fail to take account of the low replacement rates of benefits. Social security payments allow very little capacity (if any) to meet unexpected, emergency or infrastructure costs and deny employment assistance in the early stages of unemployment.

According to the analysis of the liquid assets waiting periods in the 2009 report by former Treasury Secretary Ken Henry *Report to the Treasurer*, liquid assets waiting period “can result in inconsistent and inequitable treatment of some people with relatively small amounts of savings. It can act as a disincentive to save, especially for people who expect to need income support in the near future. It can also encourage people to run down their savings more quickly in order to qualify for income support”.<sup>23</sup>

A Bill currently before Parliament restores the LAWP to pre-1997 levels of \$5,000 for single people and \$10,000 for couples and people with dependent children. NWRN has welcomed this move while continuing to urge that the thresholds be indexed to maintain their value. We note that the LAWP thresholds have never been indexed since they were introduced in 1991 by the then Labor Government although the thresholds were reduced in 1997. Had the 1991 thresholds been indexed, they would currently be around \$8,000 for a single person and \$16,000 for couples and singles with dependent children.

### **Recommendation 10**

The Government should abolish the Liquid Assets Waiting Period (LAWP). This would cost \$50 million per year.

<sup>23</sup> Henry, K. Report to the Treasurer, *Australia's future taxation system*, 2009, p. 551.

In the alternative, the LAWP thresholds should be indexed annually to movements in the Consumer Price Index and increased to \$8,000 for a single person and \$16,000 for a couple or a single person with dependent children.

### **13. Allowances and rental affordability**

Any realistic discussions about adequacy of income support arrangements must include a consideration of housing affordability. The costs of housing is also highly relevant to a person's employment options, as people need to be able to afford to live near, or travel to, locations where suitable employment is situated.

Rent Assistance (RA) plays an important role in assisting disadvantaged and low income Australians to meet high housing costs and it targets those in need of greater assistance.<sup>24</sup>

There were 1,130,532 households receiving Rent Assistance in March 2011. A quarter of those receiving Rent Assistance were couples (26%), 46 per cent were single women, with 28 per cent being single men. Almost three in four people (840,000) paid enough rent to be paid at the maximum rate of Rent Assistance.

Some 60 per cent of single Newstart Allowance recipients and 44 per cent of couples are renting privately, compared with 18 per cent of single age pensioners and 8 per cent of couples.

Data shows that three in four students are officially living in 'housing stress' and that unemployed people are twice as likely as age or disability pensioners to experience difficulties meeting their rents.

Housing costs are particularly problematic for unemployed people, many of whom pay more than 30 per cent of their income in rent, and are considered to be facing "housing stress".

The likelihood of an individual experiencing housing stress depends upon where a person lives and what type of social security payment they receive. Age (31 per cent) and Disability Support Pensioners and Carers (29 per cent) are much less likely to be experiencing housing stress than unemployed people on Newstart Allowance, 62 per cent of whom pay more than 30 per cent of their income in rent. Three quarters of young people studying spend more than 30 per cent of their income in rent, as do 71 per cent of young unemployed people and

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<sup>24</sup> For a single person with no children the maximum rate of Rent Assistance of \$61.10 a week is paid if the weekly rent is more than \$133.15. The rate varies according to the number of children and marital status. There is no entitlement to Rent Assistance if the weekly rent is less than \$53.40

young Indigenous students receiving Abstudy. Thirty eight per cent of single parents are in housing stress.

Unemployed people are twice as likely to be experiencing 'severe rental stress', which occurs when a person is paying more than half of their income to secure accommodation. Severe rental stress is greater for Newstart Allowance recipients than for all other people receiving Rent Assistance, with almost 27 per cent of adults on Newstart Allowance paying more than 50% of their income in rent.

It is hardly surprising to find that unemployed people and students are more than twice as likely to face housing stress as Age, Carer and Disability Support Pensioners. The \$133 per week difference between pensions and Newstart Allowance is the most likely explanation for the high proportion of people on Newstart Allowance living in housing stress. Additionally, rates of Youth Allowance as low as just \$202 a week for young people under 20 and the impact of the 'sharers' rules which can reduce the rate of Rent Assistance by a third help to explain why a massive 75 per cent of students are struggling to keep a roof over their head.

NWRN urges the Government to make a number of improvements to the current Rent Assistance arrangements to help those struggling in the private rental market. These measures would complement the significant and welcome program of ongoing assistance to halve the number of Australians experiencing homelessness by 2020.

Over a three year period to July 2009 rents rose by an average of 10 per cent while the maximum rates of Rent Assistance have increased by only 2.7 per cent. This highlights deficiencies in the way that Rent Assistance is indexed.

The method by which Rent Assistance is currently indexed places the recipients at a significant financial disadvantage because it is continually shrinking as a proportion of real increases in rental costs. This is because rent comprises six per cent of the Consumer Price Index basket, yet rent represents around 35 per cent of income for Rent Assistance recipients.

A much fairer and equitable approach would be to index Rent Assistance by increases in national rents paid by income support recipients.

**Recommendation 11**

The Government should increase the maximum rate of Rent Assistance by thirty per cent.

**Recommendation 12**

Consideration should be given to alternative methods of indexing Rent Assistance.

**Recommendation 13**



That the Productivity Commission to undertake a review of the effectiveness of Commonwealth housing assistance, including the appropriate roles of State and Territory governments.

### **“Sharers” Rent Assistance rules**

Some people receiving Social Security payments are disadvantaged by arbitrary and discriminatory regulations that have an impact on the level of Rent Assistance reducing the rate by a third. Special rules for age pensioners and unemployed people sharing commenced in 1997. The rules reduce the amount of Rent Assistance by a third if a single person is sharing accommodation. These rules are counterproductive and undermine the benefit of any increase in Rent Assistance rates for those who need it most. The maximum rate of Rent Assistance for sharers is \$40 a week. The “sharers” rule therefore reduces the maximum amount of Rent Assistance available by \$20 per week. The rate reduction implies imaginary economies of scale at savings which are both unrealisable and illusory.

We note the cost of single accommodation is out of reach for most single people, and Rent Assistance increasingly constitutes a smaller and smaller proportion of a person’s total rent.

When the changes were introduced it was estimated that 80,000 people receiving income support payments would be affected. By June 2010 there were 161,220 income support recipients subject to the ‘sharers’ Rent Assistance rules.

The record of debate from the Australian Parliament reveals that the current Minister for Families, Housing, Community Services and Indigenous Affairs spoke vigorously in opposition to the ‘sharers’ Rent Assistance rules.<sup>25</sup>

*“These are generally people who are the most disadvantaged in our community. A large proportion of them are young people, many of them between the ages of 15 and 19. The figure is 65 per cent, in fact. These get lower social security benefits than everybody else and they will be very seriously affected by this change.*

*“The same applies to a considerable number of elderly people who do not own their own homes and are totally dependent on the age pension. These are very disadvantaged people in our community. They are often sharing with other elderly people in similar circumstances. These are very callous moves.”*

DEEWR notes that single “sharers” receiving Rent Assistance are more likely to be experiencing “severe rental stress” than any other group. This is the same group of individuals whose rent assistance is being shaved by a third under the “sharers’ RA rules.

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<sup>25</sup> Hansard, *House of Representatives*, 5 December 1996.

## **14 Indigenous employment and support**

We note the importance of government and community partnerships aimed at ensuring improved employment opportunities for Indigenous Australians. Feedback we have received from our member organisations and caseworkers in the Northern Territory highlights the importance of real employment and training opportunities. The maintenance of the programs and services available through the CDEP is critical and we welcome Minister Macklin's recent announcement on this issue.

The Federal Government responded to the recent review into Indigenous Employment Services with the new approach starting in July 2012. NWRN has welcomed the directions for reform of remote servicing, including the focus on local engagement and community engagement, though we are concerned over funding cuts. We attach at Annexure D a copy of a briefing paper, *Key Social Security issues for Aboriginal people in the Northern Territory*. The paper was provided to the Department of Human Services by the Northern Australia Aboriginal Justice Agency (NAAJA), the Central Australian Aboriginal Legal Aid Service (CAALAS) and the NWRN.

## **15 Job seeker compliance and financial penalties**

The NWRN believes that the social security system in Australia has both rights and entitlements which stand alongside obligations and responsibilities. This necessitates the inclusion of a compliance regime. However, any compliance system must be fair, effective and easy to understand. The challenge is to get the balance right.

A very small number of people wilfully flout the rules and their behaviour potentially stigmatises all other job seekers. It is also costly and unwise to build an entire on the basis of incorrect assumptions that unemployed people are individually and generally "malingers".

A new job seeker compliance system was introduced in July 2009 which was fairer than the harsh, immediate compliance regime that operated under the former Government. The new system allowed some job seekers to "work off" eight week penalties by undertaking an authorised activity. A new system of smaller penalties, called "No Show No Pay and Reconnection Failures" was also introduced, along with a new Comprehensive Compliance Assessment.

An independent inquiry into the new penalty system was undertaken by Professor Julian Disney. Since this time, the Government has quietly toughened the job seeker compliance regime over successive years, and the numbers of eight week penalties and smaller daily financial penalties, set at a tenth of a person's rate of income support, have increased.

While there are some clear benefits from the compliance reforms over the past few years, there are also some serious problems with the current arrangements and its administration.

Below, we briefly examine some of the difficulties with the current job seeker compliance regime.

In 2010-11 over 93,000 financial penalties were applied, up from 32,000 the previous year. There were 26,000 eight week no payment penalties and 67,277 smaller “no show no pay” penalties.

“Serious non-compliance” penalties rose almost 20-fold, to 8,375 in 2010-11, up from 478 the previous year. Job seekers have the option of “working off” these penalties, and 57% used this option.

Under the guise of ‘simplification’, on 1 July 2012 the Government increased the amount lost through daily penalties by increasing the amount from a 14<sup>th</sup> to a tenth. This means that the daily loss of income will increase from \$34 to \$48 a day for some penalties.

From 1 July 2011 to 31 March 2012 there were 32,898 eight week non-payment penalties and 96,158 smaller daily penalties applied.

Not all “participation failures” lead to financial penalties, though as the system has become more complex, financial penalties have steadily increased. In the 9 months to 31 March 2012 almost 130,000 financial penalties were applied, compared to around 93,000 financial penalties in the previous year. There are significant numbers of eight week no payment penalties being applied, yet these are largely hidden from public view.

This increase in penalties masked some very disturbing trends. Indigenous job seekers bear a disproportionate burden of all penalties. While Indigenous job seekers account for 12 per cent of unemployed people, they bear 30 per cent of smaller financial penalties of up to \$48 a day and 20 per cent of all eight week no payment penalties. A quarter of financial penalties are imposed on Indigenous job seekers.

The compliance arrangements are extremely complex such that many struggle to understand the rules and how they can avoid falling foul of them.

There are inadequate protections in the current system for vulnerable job seekers, including people suffering from a mental illness, those who are homeless or at risk of homelessness or who are experiencing family or domestic violence. Many thousands of financial penalties are applied to job seekers with a Centrelink ‘Vulnerability Indicator’.

There is no evidence that more and harsher penalties have helped even one unemployed person find a job. Better programs, not more costly and counterproductive penalties, are the key to supporting people from income support into ongoing paid work.

In 2010-11 the reasons the penalties which were applied included leaving a job voluntarily (11,768), being dismissed for misconduct (5,080) or refusing a suitable job offer (586). These penalties are applied to job seekers for events that happen before a person applied

for income support, which raises the concern that in many cases a job seeker may not be aware that these rules are in place. NWRN urges the inquiry to consider the relationships between employment laws and unfair dismissal laws and the Government's social security compliance system. Welfare Rights advocates see people who have been dismissed for work who are then unfairly hit by an eight week no payment penalty. As we highlight below, thousands of working people are denied income support for two months, and often plunged into financial desperation and homelessness, because of a set of punitive rules that many unemployed people do not even know exist.

NWRN considers that these rules are unfair and harsh, particularly given that there is no capacity to "work off" these types of penalties. Job seekers can apply under strict hardship rules to have the penalty waived, but only 1% of job seekers meet these requirements. Social security policy and legislation need to be amended so that a person is able to undertake a suitably approved activity to avoid incurring an eight week no payment penalty, regardless of the reason it was applied.

NWRN remains concerned over the impact of financial penalties that are imposed upon vulnerable job seekers, young people; Indigenous job seekers; job seekers with disability and job seekers with caring responsibilities.

#### **Recommendation 14**

The House of Representatives Education, Employment and Workplace Committee Report into the Social Security Job Seeker Compliance Bill 2011 recommended that the Government undertake a review of the 1 July 2011 'suspension' compliance reforms after they have been operating for 12 months. This review should also examine the impact of the compliance regime on indigenous job seekers; job seekers with Vulnerability Indicators and job seekers with disabilities and caring responsibilities.

### **Family violence and job seekers**

Given the pervasive nature of family violence, the consequences for women and children and its impacts upon participation, it would be remiss not to draw the Committee's attention to the recent report by the Australian Law Reform Commission (ALRC) on *Family Violence & Commonwealth Laws*.

This is a landmark report which represents a turning point in the way that our social security system, Centrelink and other government agencies such as the Department of Education, Employment and Workplace Relations treat people experiencing or subject to family violence.

The ALRC report demonstrates that our social security system, and some aspects of employment services system, in both design and execution are failing some of the very

women who are in the greatest need of its protection, those who are experiencing or have been subjected to family violence.

Key recommendations from the ALRC which are relevant to this current inquiry are:

- that the availability of crisis payment be expanded to be available to persons who are otherwise not eligible for income support and be provided to any person suffering severe financial hardship who is 'subject to' or 'experiencing' family violence;
- that harsh debt provisions be modified to ensure that a person who has been subject to family violence is not penalised when acting under the duress of a violent partner;
- that New Zealand residents who have rights to work and reside in Australia have access to Special Benefit, a safety net payment, where there has been a substantial change of circumstances beyond their control such as family violence; and
- that DEEWR review periods of exemption from activity requirements to ensure a long enough time for victims of family violence.

The ALRC has also supported amending the social security legislation to make allowance for situations where women have been pressured by an abusive partner to claim a social security payment as a single person or not to declare the correct amounts of their earnings. While the numbers affected are small, the impact of the existing harsh rules is devastating on women who have suffered at the hands of their partners.

#### **Recommendation 15**

That the Australian Government act without delay on the recommendations set out in the report Family Violence and Commonwealth Laws, especially those that relate to access to income support, employment assistance and participation more generally.

## **16. Over and underpayment of allowances to recipients**

### **An overview of key concerns**

In this section, we submit that Australia's social security system was not designed for a world of casual, temporary and contract work. Many overpayments and consequent debts, although not all, arise from the interaction between insecure work and the social security safety net. Underpayments are another major problem particularly when people in hardship are missing out on entitlements.

Overpayments are recovered from low levels of social security payments or from earnings (or both), causing hardship and resulting in work disincentives.

The problem of overpayments in the Australian social security system is at endemic proportions, with 1,965,994 overpayments valued \$1,692 million raised in 2010-11.<sup>26</sup>

In 2009-10 there were 389,671 Newstart Allowance debts raised, valued at \$234.6 million. At the same time there were 98,579 Parenting Payment debts, valued at \$109.3 million; 69,901 Youth Allowance (job seeker) debts, valued at \$26.8 million.<sup>27</sup>

Data from the Department of Human Services indicates that at December 2011 the level of outstanding Centrelink debt was \$2.8 billion. Most of the overpayments are for “working age” payments: \$470 million for Parenting Payment (Single), Newstart Allowance (\$419 million) and \$26 million (Youth Allowance – jobseekers).<sup>28</sup>

The estimated value of overpayments that have not been raised is \$262 million.<sup>29</sup>

The Department of Education, Employment and Workplace Relations reports on payment accuracy in its Annual Report for the year to June 2011 makes for disturbing reading. The Random Sample Survey indicates a payment ‘accuracy’ (that is, the right payment) rate for ABSTUDY recipients of 82.5%; 93.4% for Youth Allowance (students); 93.9% for Newstart and 91.9% for Youth Allowance (other).<sup>30</sup>

DEEWR also provides a snapshot of the results from Centrelink’s Integrated review System for 2010-11, which details where student were *underpaid*. Of 108,077 student payment reviews, 3,623 (or 3.3%) of young people’s payments were *increased*.<sup>31</sup>

NWRN has frequently raised concerns about people missing out on benefits and urged Centrelink to take steps to address the problem looking at approaches such as “positive data matching”.

Centrelink and the policy agencies are very focussed on raising and recovering overpayments when they believe a person has been underpaid, however, they appear largely disinterested about the circumstances when they are underpaying people.

NWRN urges the Committee to explore these issues with the relevant Government agencies as this inquiry progresses.

### **Overpayments in the social security system – causes and consequences**

Australia’s highly-targeted, means-tested social security system is so complex that some income support recipients face considerable difficulties meeting or knowing how to comply

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<sup>26</sup> Centrelink, *Annual Report, 2010-11*.

<sup>27</sup> Senate Community Affairs, Legislation Committee, Additional Budget Estimates, 16 February 2012, Answers to On Notice, Human Services Portfolio, Topic: Centrelink Overpayments, *Question reference number: HSW 8, Attachment 1*.

<sup>28</sup> *Ibid.* Answer 5

<sup>29</sup> *Ibid.*, p.6

<sup>30</sup> Department of Education, Employment and Workplace Relations, *Annual Report, 2010 -11*, p86

<sup>31</sup> *Ibid.*, p.87

with their reporting requirements. Mistakes and errors by both people who receive payments and staff happen far too frequently.

Furthermore, the balance between the responsibilities of the system versus the responsibility placed on the individual is out of balance. For example, Centrelink may be 99% at fault for an overpayment but debt waiver on administrative grounds cannot occur. The sole cause of the debt has to be Centrelink's (and the overpayment has to be received in 'good faith').

NWRN believes that, apart from the inadequacy of social security payments, the level of debts and overpayments is the most pressing problem with the social security system in Australia. 1,965,994 overpayments worth \$1,692 million raised in 2010-11.<sup>32</sup>

NWRN members report that debt cases comprise 50 to 60 per cent of the cases dealt with by Welfare Rights Centres across Australia. NWRN has sought to highlight the causes, consequences and the solutions to excessive levels of overpayments in our social security system over the past decade, and has worked closely with Centrelink (now the Department of Human Services), the Department of Families, Housing, Community Services and Indigenous Affairs and the Department of Education, Employment and Workplace Relations, and with various Ministers, to raise the profile of this issue and to seek solutions.<sup>33</sup>

### **Centrelink overpayments– workforce casualisation and other causes**

The extraordinary high level of casualisation and changes to the composition of work are major contributing factors to the high levels of overpayments, leading to financial stress and in some cases, the criminalisation of working poor. Commentators suggest that people on low incomes are targeted by the Director of Public Prosecutions much more than white-collar criminals.<sup>34</sup>

### **Working patterns and income reporting**

The increasing casualisation of the labour market and the move to part-time rather than full-time employment adds additional elements and complexity to many people's dealings with Centrelink and/or the Family Assistance Office. Many people on income support payments are reliant upon Centrelink entitlements to supplement part-time or casual work.

Around 40 per cent of workers are engaged in insecure work arrangements, such as casual work, fixed term work, contracting or labour hire.

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<sup>32</sup> Centrelink, *Annual Report*, 2010-11.

<sup>33</sup> See NWRN Discussion Paper: *Redressing the Balance of Risk and responsibility through active debt prevention strategies* and Welfare Rights Centre, Sydney submission to Senate Constitutional and Legal Affairs Legislation Committee Report on Government Compensation Payments, December 2010.

<sup>34</sup> See: Garnaut, J, *Law targets dole fraud as rich cheats escape the net*, 6 February 2006, p. 1 and Hannah, L. *Tax evaders avoid tome behind bars*, Weekend Australian Financial Review, 18-19 June, 2011.

Currently, 16 per cent of teachers are now on short term contracts. The food service and accommodation industry have 20 per cent of all casual workers and the retail industry has 19 per cent. Two thirds of all hospitality workers are casual.

This well-documented shift to a highly casualised labour market, combined with the liberalisation of means tests for eligibility for family payments and child support means that increasing numbers of Australians receiving some form of Government assistance (from either Centrelink or its Family Assistance Office).

Almost 7.2 million Australians now interact with the social security system in an increasingly complex environment, with many unwittingly and inadvertently becoming the victims of a system of financial assistance that is meant to help them.

NWRN believes that there is the fundamental structure of the income support system that places people at risk of overpayment. For example, earnings must be reported to Centrelink when the income is earned or derived, rather than when the income is paid or received.

Casework experience indicates that this key design feature alone is the cause of significant numbers of overpayments. Centrelink rules stipulate that earnings must be reported within 14 days, however, if a job seeker does not receive this income into their bank account, they are left with no income and Centrelink has reduced their Newstart Allowance (or related payment). Under the *Fair Work Act*, employers are allowed to pay wages on a monthly basis.

NWRN urges the Committee to consider the practical implications of the Centrelink reporting rules for the significant numbers of people in low paid, insecure jobs, existing from pay-check to-pay-check, with little back-up in terms of savings and on the other side demands from landlords, banks, etc for regular payment of rent of money each fortnight.

### **The causes of overpayments**

The main reason for debt is under or non-declared earnings. The Australian National Audit Report, *Centrelink Fraud Investigations* reports that in 2007-08, of those cases successfully prosecuted, 79.1 per cent were for employment-related offences.<sup>35</sup> These cases included under-declaring casual earnings; failure to declare part-time and full-time earnings; and failure to declare partner income.

Member of a couple accounted for 6.3 per cent of cases, education 4%, and non-employment income and assets (mainly from older people) at 5.4 per cent.

The smallest group of those prosecuted were for identify fraud, at 1.4 per cent.

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<sup>35</sup> Australian National Audit Office, *Centrelink Fraud Investigations*, Performance Audit Report No. 10, 2010-11, p. 63.



It is relevant to note that successive governments have consistently placed more obligations and responsibilities on individuals; with severe consequences for error or failure, even if caused by lack of understanding of a very complex system. Where an individual seeks review of a Centrelink decision there is a high level of overturn rate. For example, at the level of Authorised Review Officer level, in 2010-11 over 32 per cent of decisions were changed upon appeal, according to Centrelink Annual Reports.

Debts often occur because people have limited or no understanding of what is required to ensure they receive the correct amount each fortnight. Centrelink letters and correspondence which attempt to explain individual obligations and requirements to recipients are often difficult to understand, particularly for people with limited literacy, with limited formal education or whose first language is not English.

Simple errors and misunderstandings can lead to large debts including:

- confusing declaration of gross and net amounts;
- wrongly guessing the amount of earnings because employers do not provide pay slips;
- having to juggle multiple casual shifts paid at varying rates of payment; and,
- having earnings pay periods unaligned with Centrelink payment periods.

In the worst case scenario it can result in prosecution for social security fraud.

It is not uncommon for a person to be employed by a number of employers. Earnings declaration can be made more problematic if a person is not provided with regular payslips. This is increasingly more common, as reported in the University of Wollongong study undertaken with NSW Legal Aid.<sup>36</sup>

Increasingly caseworkers are seeing instances where job seekers are being sent their pay slips via email online but they do not have regular or reliable access to the internet.

Another common scenario that can result in an overpayment is that the amount put into the bank for many is mistakenly regarded as the amount to be declared to Centrelink.

Aboriginal and Torres Strait Islander income support recipients are particularly susceptible to problems with overpayments and are twice as likely to incur a debt as non-Aboriginal clients. Centrelink has sought to minimise overpayments, but still too many occur.

NWRN has recommended that Centrelink take steps to better understand this problem, and put in place strategies, with business and employers groups, unions and Welfare Rights, to address this problem.

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<sup>36</sup> Hui, F, et al, *Centrelink Prosecutions at the Employment/Benefit Nexus: A Case Study of Wollongong*, Social Accounting and Accountability Research Centre, Report No. 1, 2011.

## Social security debts and workforce disincentives

People with overpayments that are being recovered by Centrelink are often shocked to be told about the “effective marginal debt rates” that can apply to a person who has a Centrelink overpayment. As noted earlier, Centrelink overpayments are not uncommon with 1.96 million debts in 20010-11.

The rate at which deductions are made is at the discretion of Centrelink. The table below shows the rates at which withholdings will usually be made according to Centrelink policy. These rates are called the “standard rates”. While around 40 per cent of debts are for small amounts under \$50 there are hundreds of thousands of much larger debts which, as the table below shows, are subject to very high benefit and earnings “clawback” rates. These hidden workforce disincentives add greater complexity but, more importantly, they remove the financial motivation to take up or start paid employment.

If a person has built up a “working credit”, this may help ease the initial losses, however, high ongoing rates of losses from earnings is a clear disincentive to work.

The Government should develop policies to minimise Centrelink debt workforce participation disincentives that are caused by the existing overpayment recovery arrangements.

### Rates of withholdings from social security and family payments

Rates of withholdings from social security and family payments
The standard rate of withholdings (deduction) from a social security payment is the total of:
15% of a social security pension or benefit (after income testing and excluding additional amounts such as Rent Assistance); plus
55% of any other income within the “free area”, plus
27.5% of income over the “free area”; or
95% of a person’s total Family Tax Benefit entitlement, where the person receives Family Tax Benefit (A) at the minimum rate; or
25% of a person’s total Family Tax Benefit entitlement, where the person receives Family Tax Benefit (A) at more than the minimum rate; or
95% of Family Tax Benefit (B), where Family Tax Benefit (B) is the person’s only payment; or
95% of a person’s Carer Allowance, Mobility Allowance or Double Orphan Pension where a person does not receive another payment.

## **17. Social Security prosecution and its impacts**

The level of deliberate and intentional fraud in the system is acknowledged to be extremely small, at around 0.044%. Unfortunately too many people are saddled with debts often not intentionally incurred. Individuals can, however, be prosecuted and criminalised for incurring debts with the potential for imprisonment or other sentencing options. Apart from the recording of a fraud conviction they can also suffer a range of other impacts including loss of employment and preclusion from being employed in particular fields into the future.

### **Welfare fraud and tax fraud**

Earlier, we noted criticism of the treatment of those charged with social security offences compared to those involving the Australian Taxation Office. We note that the failure to pay a commensurate amount of tax does not invoke a similar level of prosecutorial activity as does a failure to notify of Social Security earnings. The CDPP also prosecutes cases involving tax fraud, Medicare fraud, drug importation, money laundering and people smuggling, yet the bulk of its activities is focussed on “welfare” fraud.

### **Inappropriate recourse to prosecution activity**

In recent years there has been a different approach to the prosecution of people for social security fraud, in response to a recent report from the Australian National Audit Office, and feedback from organisations including NWRN. However, we still see too many instances where cases should never have been referred to the CDPP.

NWRN has consistently raised issues with the Government and Centrelink, and more recently, the Department of Human Services. Generally, Centrelink often considers prosecution in cases where overpayments are fraudulently obtained and the amount is over \$10,000.

### **Lack of legal representation and inconsistent treatment**

There is a 99% conviction rate for Social Security prosecutions primarily because recipients are unable to get legal representation for contested matters and because there are great incentives to “plead guilty. In our experience, many of those prosecuted are extremely vulnerable and their life circumstances should be taken into account and it is not in the public interest to prosecute.

### **Impact of criminal conviction on future employment options**

If a person is convicted for fraud for a Centrelink debt, they will receive a criminal record. A number of professions restrict the employment and licensing/registration of people with a criminal record some include:

- persons working with children

- police and corrections officers
- lawyers, public notaries, justices of the peace
- doctors, dentists, nurses, pharmacists and other health professionals
- members of Parliament , public office holders, company managers
- conveyances, real estate and land agents
- building work contractors, plumbers and gas fitters
- taxi and other public passenger licences
- gaming licence holders, liquor sellers and publicans.

A new approach that focuses on administrative penalties, warnings and a limited amnesty from prosecution

A significant problem with the current system is the potential for prosecution to act as a disincentive for correction if an income recipient is aware that they are being overpaid or that they have not been paid the correct amount (be it intentionally or unintentionally). Increasingly we are seeing income support recipients who know they are being overpaid are too scared to fix the problem because of fear of going to prison. The debts may only be for relatively minor sums at present, but, these sorts of debts left unchecked build up in the system. Whilst confined to a small cohort of clients often in extremely vulnerable circumstances, some people do state they now realise they did the wrong thing but think that there is no avenue to rectify without risking the raising of debts and potentially criminalisation.

The public rightly expects our system of income to support protect those most in need. This approach is strongly supported by the NWRN. However, the system has become unbalanced. Certainly, strong sanctions and procedures which protect public revenue are essential, but the costs paid by some in the current arrangements are far too high.

We have propose that the current prosecution guidelines be re-balanced toward a greater reliance on administrative warnings and other solutions instead of the current and often inappropriate recourse to criminal law. It should consider alternatives to criminal prosecution by building on the work currently being undertaken by the Department of Human Services which seeks to reform the way that Government services are delivered and information exchanged, for example, through greater reliance on verification systems.

NWRN would recommend a limited prosecution amnesty. This would address the range of problems with current arrangements. An amnesty is not without precedent, and in 1995 the Government agreed to a limited amnesty from prosecution. Criminal prosecution would only occur in the most serious cases of deliberate, intentional Social Security fraud, such as persistent and serious multiple offences, identity theft and dual claims. Stern warnings would be provided to debt offenders.

The amnesty period would provide an opportunity for people to advise Centrelink of their correct circumstances without fear of prosecution and the imposition of a custodial sentence. There would thus be the opportunity for Centrelink records to be updated to ensure payment correctness with the potential for rate increases, rate reductions and in some instances cancellation of payments. Ultimately this strategy would prevent the accrual of further debts within the system into the future. Even if Government was unwilling to extend the amnesty to forgive the recovery of the debts which would have been raised through self-disclosure during the amnesty a prosecution amnesty would likely encourage individuals into action and protect future Government expenditure.

### **Centrelink overpayments, fairness and disincentives**

With large numbers of individuals and families moving in and out of the income support system, and in and out of casual and part-time employment, the problem of a Centrelink overpayment is becoming a serious problem for many working people and their families.

NWRN member organisations deal with thousands of people who experience problems with the Centrelink rules. In December 2010 a Senate Legal and Constitutional Affairs Committee report found Centrelink's debt waiver rules were harsh and often unfair. The inquiry heard evidence that Centrelink's clients were forced to bear the costs of its mistakes. Centrelink could make a multitude of mistakes and errors in assessing a person's entitlement to a social security payment and still accept no responsibility for its errors. Please find attached at Annexure E a submission by the Welfare Rights Centre (NSW) to this particular Inquiry.

The main problem is that social security law requires that for a debt to be waived due to administrative error the debt must have arisen solely due to Centrelink error. Even if the person was partly responsible for the debt (eg a 1% contribution) the debt could not be waived under the administrative errors provision.

In the case of Family Tax Benefit (FTB), Centrelink can be 100% responsible for the debt, but unless a person can prove that they are in "severe financial hardship", the debt cannot be waived under the administrative error waiver provisions of the legislation.

Debts cause considerable distress and anxiety for social security clients, particularly given that they are already severely disadvantaged, face considerable financial stress and may have underlying illnesses such as depression.

However, the Government to date has only responded to the Senate Legal and Constitutional Affairs Committee report about the debt waiver rules by stating that it wishes to ensure that social security law provides an appropriate balance between recovering person's entitlement and avoiding onerous and inequitable outcomes for clients. In its Report the Government notes that it is "actively engaging, and will continue to engage the National Welfare Rights Network in ongoing discussion to make the system fairer."

Since Welfare Rights made its submission to the Senate about the debt waiver issue in December 2010 we have raised this issue with the Minister's advisers and the department and agencies. We remain committed to working with the Government to try to resolve an issue that is critically important to social security recipients across Australia.

## **18. Solving the debt problem**

NWRN has put a detailed list of suggestions to Government and Senate inquiry about how to address the problems with overpayments and prosecutions. These are detailed in a 2009 paper: *Redressing the Balance of Risk and responsibility through active debt prevention strategies*.<sup>37</sup> A copy of this submission is attached at Annexure C.

Additionally, proposals from the University of Wollongong study also warrant serious attention, and mirror NWRN's suggestions for reform. These recommendations include:

- using existing data matching technology with the Australian Taxation Office to stop fraud before it happens;
- trialling this data management system with at least one large employer, the ATO and Centrelink;
- creating a more flexible Centrelink income reporting cycle; and
- an education program for those receiving the benefits.

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<sup>37</sup> Find at: [www.welfarerights.org.au](http://www.welfarerights.org.au)