



# Queensland Advocacy Incorporated

Our mission is to promote, protect and defend, through advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland.

*Systems and Individual Advocacy for vulnerable People with Disability*

## Inquiry into Centrelink's Compliance Program

### Submission by Queensland Advocacy Incorporated

### Senate Standing Committee on Community Affairs

**19 September 2019**

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QAI endorses the objectives, and promotes the principles, of the Convention on the Rights of Persons with Disabilities.

Patron: His Excellency The Honorable Paul de Jersey AC

## About Queensland Advocacy Incorporated

Queensland Advocacy Incorporated (**QAI**) is an independent, community-based systems and individual advocacy organisation and a community legal service for people with disability. Our mission is to promote, protect and defend, through systems and individual advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland.

QAI has an exemplary track record of effective systems advocacy, with thirty years' experience advocating for systems change, through campaigns directed to attitudinal, law and policy reform and by supporting the development of a range of advocacy initiatives in this state. We have provided, for almost a decade, highly in-demand individual advocacy through our individual advocacy services – the Human Rights Legal Service, the Mental Health Legal Service and the Justice Support Program and more recently the National Disability Insurance Scheme Appeals Support Program and Decision Support Pilot Program.

QAI has previously made submissions and appeared at Public Hearings on welfare reforms and initiatives considered by the Federal Government that have the potential to impact on the rights and lives of people with disability or mental illness. Relevantly in this regard, in 2014 we made submissions to the Welfare System Taskforce of the Department of Social Services on the review of Australia's welfare system; in 2015 we made a submission to the Australian Human Rights Commission's Willing to Work Inquiry; in 2017 we made submissions to the Senate Community Affairs References Committee's inquiry into the design, scope, cost-benefit analysis, contracts awarded and implementation associated with the better management of the social welfare system initiative; and in 2018 we made submissions to the House of Representatives Select Committee on Intergenerational Welfare Dependence and to the Education, Employment and Small Business Committee's Inquiry into Wage Theft in Queensland.

QAI situates the consideration of issues relating to employment, income support and welfare for people with disability within a human rights framework. This is because the rights to an adequate standard of living, to healthcare, to education and to work freely, in an area of the person's choice, are fundamental human rights. Education and work are critical to the enjoyment of other key human rights too – they provide people with a source of identity, valued status, belonging and community, with the ability to associate with others with whom they share a common interest or connection, and with an income or the potential to ultimately earn a decent income – thus protecting against other vulnerabilities, such as isolation, inadequate healthcare and homelessness.

## Key Recommendations

### QAI recommends that the Government:

1. Immediately implement all recommendations of the Senate Community Affairs References Committee's June 2017 report.
2. Provide people with disabilities, particularly those with an intellectual or cognitive disability, with appropriate support to make and progress a complaint or appeal relevant to the Scheme.
3. Immediately discontinue the flawed process of data-matching between Centrelink and the Australian Taxation Office.
4. Increase staffing levels of Centrelink and the Department of Human Services, including a quota for the employment of people with disability within this increase.
5. Pay compensation to people with disability living in rural and remote areas without access to a telephone who were forced to travel an extensive distance into Centrelink office in an attempt to resolve their issue.

## Response to Terms of Reference

QAI thanks the Senate Standing Committee on Community Affairs (**Committee**) for initiating this important conversation and for the opportunity to make this submission.

Consistent with the focus of our work and our experience, our submission focusses on the impact of income support payments on people with disability and mental illness.

We have confined our submission to address the following four issues associated with Centrelink's compliance program:

1. The ongoing impact of the Federal Government's automated debt collection processes upon current and past income support recipients;
2. Limitations and uncertainties of data-matching techniques and error-handling processes;
3. The handling of under-payment errors;
4. The use of debt collectors in the compliance program.

We make the following submissions on these issues:

### **1. The ongoing impact of the Federal Government's automated debt collection processes upon current and past income support recipients**

The 'Robodebt' Scheme (Scheme) has had catastrophic effects on vulnerable people in our society. It has been implemented during a period where those most in need are looking to an increasingly lean and patchy social welfare system for support. It has had the harshest impact on some of the most vulnerable Australians, including people with disability and mental illness where their employment may fluctuate, which can be consequential of their disability or an episodic mental illness. While the extent of the harm caused by the Scheme is impossible to measure with any precision, severe, adverse outcomes, including over 2,000 deaths,<sup>1</sup> have been attributed to it.

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<sup>1</sup> <https://www.smh.com.au/politics/federal/minister-denies-robodebt-caused-more-than-2000-deaths-20190217-p50yep.html>; <https://www.abc.net.au/triplej/programs/hack/2030-people-have-died-after-receiving-centrelink-robodebt-notice/10821272>

## **An example of the reported detrimental impact of the Robodebt Scheme**

### **Kath Madgwick's son Jarrad commits suicide after robodebt letter**

Jarrad Madgwick, who "had been struggling with his mental health for some time" received a \$2000 robodebt letter just hours before a Centrelink representative informed him that his claim for Newstart had been rejected because he had not provided them with his BSB number. According to his mother Kath, Jarrad was able to sort that problem in a second phone call with Centrelink. Jarrad's bank records confirmed that Centrelink made Newstart payments to him five, six and 14 days after his death. Jarrad seems to have connected the robodebt letter with his almost simultaneous failed Newstart application. His mother found Jarrad dead a few hours later.

([www.nine.com.au](http://www.nine.com.au), 9 September 2019)

The Report by the committee in June 2017 following the initial inquiry noted that the Committee "repeatedly heard from individuals that the [ECI] system had caused them feelings of anxiety, fear and humiliation and dealing with the system had been an incredibly stressful period of their lives".<sup>2</sup>

This initiative has had a disproportionately harsh effect on already vulnerable and disempowered people, who already experience higher rates of poverty than the relative population without a disability. This is particularly concerning given that people with disabilities, particularly those with an intellectual or cognitive disability, can face additional difficulties accessing relevant information and can require support to make and progress a complaint or appeal. This is alarming in a climate of continued insecurity for advocacy support for disadvantaged Australians to assert and defend their rights, which limits the capacity of community legal centres to meet increased demand.

It is well recognised that Australia is performing poorly in terms of getting people with disability into appropriate and valuable working roles – or indeed, into any employment at all. Our performance in this regard is at an all time low, remaining stagnant over past decades while the relative rates of unemployment have declined.<sup>3</sup>

QAI has been informed of robodebt letters going to:

- A man who is illiterate;
- A woman in a sheltered workshop who had a \$10 raise and did not report it;
- people with very small (eg \$100) debts.

It is of grave concern that the government has reportedly spent at least \$400m to recover \$500m from welfare recipients through the Scheme. Under questioning by the Labor senator Murray Watt at a Senate estimates hearing, Department officials said the Scheme had "raised" about \$1.5bn in debts from welfare recipients since it was rolled out, yet only about \$500m had been repaid, with a further \$500m the subject of a payment arrangement while the remaining money was "unconfirmed"

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<sup>2</sup> The Senate Community Affairs References Committee. *Design, scope, cost-benefit analysis, contracts awarded and implementation associated with the Better Management of the Social Welfare System initiative*. June 2017. [2.110].

<sup>3</sup> The APS disability employment rate fell from 6.6 per cent in 1986 to 3.7 per cent as at 31 December 2018: <https://www.apsc.gov.au/aps-employment-data-31-december-2018-release-diversity>.

and potentially subject to an appeal.<sup>4</sup> We emphasise that this Scheme cannot be seen as a means of revenue raising from vulnerable Australians.

We note that the extent of problems with this system are such that a number of organisations have called on the government to immediately suspend the system until these flaws are fixed. In particular, we draw your attention to a fundamental flaw with the Scheme in the lack of tailored support given by the Department to people with disability, who are expected to go through the same processes as everyone else. This is clearly inappropriate and is not consistent with Australia's obligations under the Convention on the Rights of Persons with Disabilities (CRPD).

While Human Services Minister Alan Tudge MP has stated that anyone with a vulnerability flagged in their file should be excluded from the program and have their debts dealt with by Centrelink on an individual basis, we are anecdotally aware that this has not been the experience of many people with disability and mental illness. We note also that there are many people with disability and mental illness who do not have this documented on their file.

We also note that many people with disability living in rural and remote areas without access to a telephone have been forced to travel an extensive distance into Centrelink office in an attempt to resolve their issue. This is inappropriate and compensation should be provided to those individuals who have been forced to do so.

Under the CRPD, we note that Australia is obliged to take into account the protection and promotion of the human rights of persons with disabilities in all policies and programs<sup>5</sup> and ensure equality and non-discrimination for all people with disability.<sup>6</sup> Under the *Disability Discrimination Act 1992* (Cth), people with disability are to be protected from discrimination in the administration of federal laws and programs.<sup>7</sup> QAI submits that in the administration of Robodebt, the Government has not been compliant with this legislation.

## **2. Limitations and uncertainties of data-matching techniques and error-handling processes**

The process of data-matching between Centrelink and the Australian Taxation Office and the selection of data is a flawed process and should be discontinued immediately. The data relied upon in support of this process (ie Pay As You Go income tax data) is incomplete and inappropriate for use in this way. It disadvantages people in casual employment (in which people with disabilities are disproportionately over-represented, as compared with their representation in permanent employment) and provides an inaccurate assessment of their entitlement to claim welfare benefits.

By Recommendation 6.9 of June 2017 report, the Senate Community Affairs References Committee recommended the Employment Income Confirmation (ECI; formerly known as the Online Compliance Intervention, or OCI) program should be put on hold until all procedural fairness flaws are addressed and the other recommendations of this report are implemented.

## **3. The handling of errors**

Centrelink's quality and capacity in terms of human resources is critically important.

QAI notes the importance of increasing the levels of staff of Centrelink and the Department of Human Services, and imposing a quota for the employment of people with disability within this

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<sup>4</sup> <https://www.theguardian.com/australia-news/2019/feb/22/robodebt-scheme-costs-government-almost-as-much-as-it-recovers>

<sup>5</sup> CRPD, Article 4.1(c).

<sup>6</sup> CRPD, Article 5.

<sup>7</sup> *Disability Discrimination Act 1992* (Cth), s 29.

increase to the size of the Centrelink workforce. QAI is concerned that the Department of Human Services and Centrelink do not have adequate funding and staffing to cope with levels of demand related to the implementation of the program and to ensure that these programs (and information and complaint protocols relevant to the program) are fully accessible.

Centrelink staffing should be reviewed in light of its notorious, ongoing inability to respond to consumers complaints and queries in a timely fashion. The inadequacy of staffing levels is particularly concerning in light of its inability to respond to a situation it has created.

#### **4. The use of debt collectors in the compliance program**

We have been informed that the Scheme has been problematic not only for income support recipients highlighted through data matching processes but also for contractors engaged by the Department of Human Resources to administer the Scheme.

One former contractor, who is a person with disability, reports that he experienced unlawful discrimination and was ultimately dismissed for failing to comply with employment conditions and targets that did not accommodate his disability. Evidence given during the first inquiry noted the inaccessibility and illegibility of information, from the perspective of income support recipients. We note that the inaccessibility and illegibility of information extended to those working to administer the Scheme.

### **Conclusion**

QAI thanks the Committee for the opportunity to contribute to this important inquiry. We are concerned that very few recommendations of the June 2017 report have been implemented and flag this as an urgent priority for government.