Tasmanian Council of Social Service Inc.

Submission to Senate Standing Committee on Community Affairs Inquiry into Centrelink's Compliance Program

September 2019

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About TasCOSS

TasCOSS is the peak body for the community services sector in Tasmania. Our membership includes individuals and organisations active in the provision of community services to low-income Tasmanians living in vulnerable and disadvantaged circumstances. TasCOSS represents the interests of its members and their clients to government, regulators, the media and the public. Through our advocacy and policy development, we draw attention to the causes of poverty and disadvantage, and promote the adoption of effective solutions to address these issues.

Please direct any enquiries about this submission to:

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Introduction

Thank you for the opportunity to comment on Centrelink's compliance program.

TasCOSS advocates on behalf of low-income Tasmanians who often live in vulnerable and disadvantaged circumstances. We advocate for public policy that values and respects the diversity of Tasmanians and makes a real difference to the lives of people who are experiencing vulnerability. We work to ensure that the human rights of all Tasmanians are integrated into government consultation processes, policy approaches and budget allocations.

TasCOSS submissions and advocacy are strongly informed by the expertise of our members and the lived experiences of the Tasmanians we represent. This submission focuses on the use of automated debt collection and data-matching processes and their impact on those Tasmanians. In preparing this submission we draw on our 2017 submission to the Senate Community Affairs Committee inquiry into Centrelink debt collections[1] and, to highlight the destructive impact on people's lives of automated debt collection, we relay the recent experiences of two people with experience of the robodebt system.

The 2017 inquiry found deep flaws in the design and operation of the system, particularly the lack of human involvement in assessments and an inappropriate burden of proof on recipients to prove their compliance. The design of the system also fails to take account of obvious factors that affect people in receipt of Centrelink pensions or benefits, including their various vulnerabilities, lack of access to resources, legal and other supports, and financial disadvantage.

The inquiry recommended far reaching changes which to date have not been implemented. It is disappointing that we and many others are once again having to argue the case against this most unfair, impersonal and brutal system. Without change, it will create and further exacerbate poverty, inequality and exclusion. While TasCOSS is not opposed to the use of data-matching to assist Centrelink in identifying potential over or under payments for further investigation and decision making by appropriately-trained Centrelink staff, this process should be conducted in the context of a social security system in which people are paid what they are entitled to, no more and no less.

Key Issues

Income averaging

In 2016 the Federal Government introduced a compliance system called Online Compliance Intervention (OCI) (also referred to as 'robodebt') which automatically compares the income people declare to the Australian tax Office (ATO) against income declared to Centrelink. This resulted in high numbers of incorrect debt notices, often issued because the system uses 'income averaging,' where a person's

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[1] https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/SocialWelfareSystem

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annual income is averaged over 26 fortnightly periods and then assumes the person was not eligible for benefits at any point in the year.

Unfair burden of proof

Those issued with a debt notice can be required to produce pay slips from up to seven years previously – a difficult task for those who have multiple employers, or whose former employer is no longer in business. Social security lawyer Terry Carney says, 'when confronted with suggestions of having an overpayment, often from up to seven years ago, the least literate, least powerful, and most vulnerable alleged debtors will simply throw up their hands, assume Centrelink knows that there really is a debt, and seek to pay it off as quickly as possible.'[2]

This system has a particularly extensive impact in Tasmania. This state has the highest rate of the population receiving some kind of income support payment and has the highest unemployment rate in the country. It has the highest proportion of the population with a disability, including intellectual or learning disability. Tasmania has the second lowest school retention rates in the country and consistently records below average scores in NAPLAN results. Nearly 50% of the adult population in Tasmania have very low levels of functional literacy and numeracy. The latest national report released by Telstra shows Tasmania has the second-lowest levels of digital access and digital capability. Tasmanians, like many Australians living in rural and regional areas have very limited access to legal assistance and extremely low levels of access to pro-bono legal services. This means that hundreds if not thousands of Tasmanians are vulnerable to becoming embroiled in a process that could have a devastating impact on their lives. We believe that this is entirely avoidable if the recommendations below are implemented.

Impact of casual employment

In addition, Tasmania has high numbers of people who work part-time and who are underemployed, and this is a trend that is increasing. 94% of the jobs created in the last five years have been casual or part-time jobs.[3] This means that more and more Tasmanians are likely to be both reliant on some form of income support and to receive fluctuating incomes, making them vulnerable to an automated income matching system. Tasmania therefore experiences the dual impact of high numbers of people in receipt of government allowances coupled with low levels of capacity to respond to directions to produce documents, as a result of age, literacy, disability or education challenges. TasCOSS has heard from dozens of Tasmanians who received debt notices who experienced profound distress and hardship. Two of those experiences are provided:

> *In 2016 I was issued a robodebt for 2012/2013. I did two appeals. One resulted in it going down, the other in it going up. I tried to do the maths but didn't have the information to do so. No one could explain to me how they got that figure. I don't know… In the end I give up. I started on $80 per fortnight repayments but talked them down to $15 per fortnight. The worst thing is that they*

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[2] T. Carney, 'The new digital future for welfare: debts without legal proofs or moral authority?', *UNSW Law Journal*, 2018, No.1 http://www.unswlawjournal.unsw.edu.au/wp-content/uploads/2018/12/2018-1-CARNEY.pdf
[3] Labour Force, Australia, July 2019 (ABS Cat No 6202.0)

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took out the remaining from my tax refund. I was expecting/planning on a refund at the end of the year but this year they took it all $1100 for the debt. I had no idea. I just can't see a future. It's just day by day.

I spent an entire 9 months on Newstart alone last year and ended up having to take some money out of my superannuation to live off. A fortnight after Centrelink had approved that, they hit me with a $4800 robodebt from 2011 which thankfully after 6 solid months of arguing and tribunals was waived. I spent 50 hours on the phone and asked for an itemised bill showing the debt. But they wouldn't give me one. They eventually waived it in July. I started talking to them about it in February. That was a very nasty and unnecessary stress and waste of time.

<u>Robodebt should not be expanded</u>

TasCOSS is therefore alarmed at the recent media reports that the Government intends to expand the automated debt recovery process to additional groups. Various media outlets reported that a document prepared for the Government Services Minister outlined a plan to commence 350,000 'sensitive' income reviews in order to meet budget savings targets.

TasCOSS reiterates the call made in our submission to the 2017 Senate inquiry into the automated debt recovery system to cease using an automated system to generate debt notices.[4] We further call for that system to be replaced with a fair and humane process to help those with a legitimate debt arrange a repayment plan that does not push them further into stress, anxiety and poverty. As we pointed out in that submission:

> Just because a person pays a debt alleged by Centrelink doesn't mean the debt is provable and proven. Just because a person doesn't pursue a challenge to that alleged debt, doesn't mean the debt is provable and proven. Citizens should be entitled to expect its Government will act with due care before engaging in collection of alleged debts, particularly from people with known vulnerabilities and little or no access to legal and financial support to challenge the Government.[5]

Recommendations

TasCOSS joins ACOSS to call for the following:

- Robodebt be immediately abolished.
- The Federal Government convene a roundtable of experts in social security, including people affected, to redesign a fair, accurate and humane system of debt recovery.

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[4] file:///P:/S%20P%20&%20R/Submissions/2018-19%20Submissions%20(non-funding)/Submission%20drafts/Newstart%202019/TasCOSS%202017%20submission.pdf
[5] file:///P:/S%20P%20&%20R/Submissions/2018-19%20Submissions%20(non-funding)/Submission%20drafts/Newstart%202019/TasCOSS%202017%20submission.pdf

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- The Federal Government cease outsourcing the administration of income support to private operators.
- The Federal Government strengthen the capacity of Centrelink to meet need by increasing permanent staffing levels.
- Ensure people contacted about alleged overpayments are not bullied or intimidated.
- Guarantee fundamental principles of procedural fairness and reasonableness apply to all Centrelink clients.
- Ensure any data sharing protects people's confidentiality and privacy.

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