

Welfare Rights Centre

Annual Report

July 2004 to June 2005

Prepared for 2005 Annual General Meeting

Contents

Section	Page
Introduction _____	3
1.0 Casework _____	3
2.0 Policy _____	8
3.0 Community Education and Liaison _____	11
4.0 Publications _____	12
5.0 Funding _____	14
6.0 Management _____	16
7.0 Auditor's Report _____	18

Introduction

The Welfare Rights Centre is a community legal centre which specialises in Social Security law, administration and policy. Established in 1983, the Centre provides expert advice and representation on Social Security and Family Assistance matters. Now in its twenty second year, the Centre currently employs 11 workers and benefits from the service of some 20 unpaid volunteer workers each year and 10 Board members to provide a wide range of services covering casework, policy analysis and advocacy, publications and community education.

1.0 Casework

1.1 Casework service

The Welfare Rights Centre provides a casework service to people with Social Security and Family Assistance problems and to agencies assisting people with Social Security problems. The aim of the Centre's casework service is both to achieve outcomes for individual clients and for classes of clients, and to utilise our casework to improve equitable access to income security.

Our casework service comprises a telephone advice service, research,

assistance with self-advocacy, written advocacy on behalf of clients and written or personal representation before the Social Security Appeals Tribunal (SSAT), the Administrative Appeals Tribunal (AAT), or the Federal Court in some cases. Advice is given on all aspects of Social Security and Family Assistance law and appeals. Further assistance may be provided in complex cases, matters of wide application and matters in which the client has no money at all or where they may not adequately represent their own interests.

Telephone advice and assistance is available between 9 am and 5 pm Monday to Friday with phones staffed by volunteers, under the supervision of a caseworker. The Centre has a toll free number to facilitate access for clients in country and outer-metropolitan areas and a TTY for people with hearing impairments. Initial advice is generally provided by telephone, however, the Centre has an access and equity policy to ensure that people unable to obtain assistance by telephone are not disadvantaged.

The Centre's casework service could not function without the valuable contribution of unpaid volunteer workers. Their contribution, valued at over \$140,000 per annum, is gratefully acknowledged in sections 3.3 and 6.5 of this Annual Report.

1.2 Casework statistics

The following statistics are compiled from information provided to us by our clients. Some clients choose not to provide some of their personal information. The percentages are calculated on the total number of people volunteering particular information and may not represent a complete picture.

Number of clients

From July 2004 to June 2005 the Centre provided advice or advocacy to 3365 clients. We opened 768 new cases in the period and undertook ongoing advocacy on 1208 cases (already open and new). This assistance included representation of clients in internal Centrelink reviews, the Social Security Appeals Tribunal, the Administrative Appeals Tribunal and the Federal Court. 42 cases closed over the period involved formal Tribunal or Federal Court representation.

Clients' age:

	2004-05	2003-04
0-18	2%	(2%)
18-34	18%	(21%)
35-49	25%	(28%)
50-64	17%	(18%)
65+	7%	(7%)
not supplied	31%	(24%)

Gender

	2004-05	2003-04
Female	59%	(40%)
Male	37%	(57%)
not supplied	4%	(3%)

Country of birth

The top ten countries of birth of clients who disclosed country of birth was:

	2004-05	2003-04
Australia	69%	(76%)
United Kingdom	2.3%	(3.4%)
New Zealand & Cook Is.	2.4%	(2.4%)
Vietnam	1.4%	(.9%)
Lebanon	1.3%	(2%)
Iraq	1.3%	(1.3%)
Philippines	1.3%	(.6%)
Greece	1.2%	(1.1%)
Italy	1.2%	(1%)
China	1%	(.8%)

Clients of Aboriginal or Torres Strait Islander background

2% of clients (the same as last year) responding to this question identified themselves as being of Aboriginal or Torres Strait Islander background, or both.

The most common payment types for matters over the period were:

Disability Support Pension	19.4%
Newstart Allowance	18.3%
Parenting Payment (single)	13.2%
Age Pension	10.6%
Youth Allowance	6.7%

1.3 Casework during 2004-2005

Debt waiver rules

The most common and resource-intensive issue continues to be related to the raising and recovery of Social Security debts - particularly where the client is at risk of criminal prosecution in respect of their debt. The Centre is regularly successful in having recovery of clients' debts cancelled or waived.

There remains a need for legislative reform of the debt waiver provisions of the Social Security Act - particularly the need to allow for waiver of recovery of a debt where a person would have been eligible for an alternative income

support payment. This issue affects many young Austudy Payment, ABSTUDY and Youth Allowance recipients who may attempt to maintain full-time study despite difficult personal situations, and unwittingly accrue debts due to misunderstandings regarding changed enrolment status and payment eligibility. Some of these young people end up facing criminal charges in relation to the debts and may inappropriately plead guilty. The Centre has an ongoing commitment to resolving this issue.

The unfairness of the “special circumstances” waiver legislation is also unresolved. We continue to advise clients with compelling grounds for debt waiver who had no idea that they were incurring a debt, yet the legislation still prevents waiver of a debt if another person (eg, their partner or parent), “knowingly” made a false statement or representation contributing to the debt.

Marriage-like relationships

The Centre has seen an increasing number of clients who need assistance as Centrelink has cancelled their Parenting Payment Single (or single rate of another Social Security payment) and raised a large debt on the basis that Centrelink considers they are a “member of a couple” and have been for some time.

The rules regarding when a person is a “member of a couple” or in a “marriage-like relationship” are complex and involve subtle considerations. Many clients have been

subject to regular reviews of their living arrangements over a number of years and have provided complete information to Centrelink, yet years later another Centrelink officer determines they were always in a “marriage-like relationship” and raises an overpayment of all the Parenting Payment Single payments paid to the person.

It is not uncommon for these debts to be between \$50,000 to \$80,000. It can be extremely difficult for the client to show they were not in a “marriage-like relationship”, when often years have passed. In many cases they have ongoing contact with the ex partner for the sake of their children (as encouraged under other Government policy). Our clients are at a loss to understand how their attempts to maintain an amicable relationship with their ex partner can be used as “evidence” to raise a crippling debt against them.

The Centre continues to represent a large number of these clients in appeals to Authorised Review Officers and Tribunals.

Most disturbing is that many of these clients are threatened by Centrelink with prosecution action.

Residence issues

We continue to see a steady stream of New Zealand citizens living in Australia who have been denied Social Security income support under the rules that have been in place since early 2001. These rules mean that although most New

Zealand citizens have the right to live and work in Australia indefinitely, recent arrivals are generally only eligible for Australian Social Security income support if they acquire a permanent visa.

This is causing a great deal of hardship and confusion. In some particularly desperate cases we have submitted to the Department of Finance and Administration that periodical payments be made as an “Act of Grace”. These requests are of varying success but at least serve to ensure that the issue is highlighted. The Centre will continue to seek reform such that New Zealanders living in Australia are at the very least given access to Special Benefit.

People with a psychiatric disability

A Senate Select Committee on Mental Health was established to inquire into the provision of mental health services in Australia. The Centre prepared a submission to the Committee regarding access and service issues in dealing with people who are mentally ill.

The Committee is due to report in October 2005. The extremely broad Terms of Reference provided an opportunity for Welfare Rights Centre to highlight fundamental issues for people with a psychiatric disability accessing Social Security rights and entitlements, and the need for health and support services to be able to work hand in hand with Community Legal Centres in advocating for clients.

Centrelink internal review processes

In response to criticism of Centrelink's original decision-maker review process by the Australian National Audit Office, the Breaching Review Taskforce, the National Welfare Rights Network and its own internal audit, Centrelink's Legal Services Branch is undertaking a project to develop and trial alternative internal review models. The Welfare Rights Centre, on behalf of the National Welfare Rights Network (NWRN), is represented on the project's Steering Committee.

This is an issue of fundamental importance to the entire Social Security and Family Assistance legislation appeal system. We are pleased to see a concrete response on the part of Centrelink – at last.

2.0 Policy

2.1 Long term goal

The long term goal of the Centre's policy program is: "To develop and advocate proposals for reform of Social Security legislation, administration and Government policy in order to minimise hardship and poverty in Australian society in general, and for Social Security recipients in particular;

To ensure that the Social Security system is based on rights

and entitlements, responsibilities and obligations which are clearly stated in legislation and enforceable; and To promote fair and accessible administrative law in the income security field.”

Throughout the year the Centre aimed to achieve this by focusing on the following key issues.

2.2 Major policy initiatives

Ongoing collaboration with a wide range of community organisations continued throughout the year, with close and continuing contacts with ACOSS. The Centre continues to play the formal role of a policy adviser to ACOSS on Social Security policy.

The Centre participated in forty two meetings with Centrelink during 2004-2005. In addition, the Centre participated in two biennial meetings with Centrelink and the Department of Family and Community Services (DFACS) as well as pre and post Federal Budget and delegations link ups. Meetings were also held with Department of Employment and Workplace Relations (DEWR), Department of Education Science and Training (DEST), following the changes to Government policy responsibilities announced in October 2004. The Centre also exchanged views of policy matters with a wide range of other organisations, including the Commonwealth Ombudsman and the Australian National Audit Office.

The Centre, as part of the NWRN, is a Steering Committee

member of the Disability Participation Alliance to help form policy and tactical approaches to welfare reform for people with disability within the sector generally.

The Centre was also represented on Centrelink's Australians Working Together/Participation Reference Group, was a member of the Internal Review of Appeals working group established by Centrelink, participated in the Breaching Review Taskforce and was also convenor of the NSW Centrelink Multicultural Advisory Committee.

We actively participated in nine link ups of NWRN sub committees, including the Family Tax Benefit, Marriage-like Relationships and Debt sub-committees.

The Welfare to Work agenda of the Federal Government became a significant focus of the Centre's activities over the year and we participated in a total of 22 discussions and meetings with a range of stakeholders, ranging from community welfare organisations, church charities, politicians and policy agencies such as the DEWR.

Debt and MLR

The main focus of our policy work over the last period has been on Centrelink debts, marriage-like relationships and the Welfare to Work changes.

Debts to Centrelink (excluding Family Tax Benefit debts) are a significant problem for hundreds of thousands of Australians each year.

The Centre, as part of NWRN, has undertaken significant research and lobbying over the past few years to raise the profile of debt prevention within the system, and to highlight unfair debt recovery practices and procedures. These practices leave clients poorly informed about how their debt arose and how to prevent debts in future and result in severe financial hardship for large numbers of Centrelink clients.

Recent developments: the Centre meets regularly with senior Centrelink staff on problems with debt recovery procedures.

- Centrelink established a dedicated “debt recovery community manager” to deal with welfare, church and community organisations;
- Centrelink reorganised its debt recovery teams nationally to ensure more consistency in decision making;
- a new streamlined process means that it is significantly easier for people on maximum rate Social Security payments to have the standard rate of recovery reduced from the maximum 14 percent of their payment;
- Centrelink is working on key debt prevention projects and examining improvements to Centrelink correspondence that could reduce the incidence of debts arising in the first place; and

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- The 2005-2006 Federal Budget included a number of measures that are likely to reduce the incidence of debts.

Australians Working Together legislation

The Centre continues to monitor the impacts of the Australians Working Together (2002 welfare reform) legislation, in particular, the changes to the breaching regime. The Centre was represented on the Breaches Review Taskforce, which handed its report to the Minister for Employment and Workplace Relations in December 2004.

Recent developments: The Government responded to the Breaching Review Taskforce in the recent Federal Budget. Despite the promise to cease imposing breaches from 1 July 2006, the Centre and other community advocates are worried that the proposed new compliance system could be equally as harsh and punitive as the one that it replaces.

Overhaul of review and appeals system

For many years the Centre has raised concerns that Centrelink processes have often made it difficult for people experiencing problems with Centrelink to exercise their right to have a decision reviewed. Not only were clients fearful of “retribution” if they complained, but most did not know about their right to appeal in the first place. Centrelink correspondence and letters confuse people about their rights, appeals often take an inordinate amount of time,

clients are exasperated that the same person who made the decision undertakes the initial “review”, and in the end, clients often give up, a result of what we term “appeal fatigue”.

A report released early in 2005 from the Australian National Audit Office (ANAO) into Centrelink appeals confirmed that the review system is not working as it should, and recommended a series of changes.

Recent developments: Following the release of the damning report on review and appeals by the ANAO, Centrelink agreed to investigate and take steps to solve problems in the review and appeals system. The Centre is represented on an internal review established by Centrelink to address problems experienced by Centrelink in accessing the appeals system.

Centrelink investigations into “marriage-like relationships”

In 2004, the Centre’s caseworkers noticed a significant increase in the number of clients who were experiencing problems with Centrelink over allegations of being in a “marriage-like” relationship. We raised our concerns about these issues with Centrelink, DFACS and the Commonwealth Ombudsman.

The fundamental problem is that Centrelink is not looking closely enough at all the factors that indicate that no relationship exists. It makes judgements based on moral, not legal, grounds and often makes decisions based on flimsy information and prejudicial attitudes.

The extraordinarily high number of cases that are overturned on appeal is proof that Centrelink's current approach is flawed and not working as it should. Last year, 45 percent of the Centrelink decisions on these cases that were appealed were overturned at the Social Security Appeals Tribunal.

The increased number of cases involving older people and carers who share rent and provide companionship and support, is alarming.

Centrelink is also making rash decisions about separated couples with children. Increasingly, we are finding that where the non-resident parent (usually the father) tries to maintain an ongoing relationship with the children, Centrelink takes this as a sign of an ongoing de-facto relationship between the two adults and cuts the payment of one or both parents.

Recent developments: The Commonwealth Ombudsman recently agreed to undertake an "own motion" investigation into marriage-like relationships. FaCS and Centrelink are now looking at how they deal with "marriage-like" relationship issues.

2.3 Submissions and policy papers

A number of policy and research papers and submissions were also made by the Centre. These are listed below.

- Briefing paper for the DFACS and Centrelink about marriage-like relationship issues;
- Research paper entitled "A dogs breakfast - income

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- support for young people and low income families”;
- Submission to Senate Employment and Workplace Relations Inquiry into income support for students;
 - Submission to Senate Select Committee Inquiry into mental health;
 - Submission to Australian Securities & Investment Commission and Australian Competition and Consumer Commission on Draft Debt Recovery Guidelines;
 - Submission to the Administrative Appeals Tribunal on the “Listing and Adjournment Practice Direction”;
 - Submission to Senate Legal Affairs Committee and evidence to Senate Inquiry on the Administrative Appeals Tribunal Act amendment bill; and
 - Background paper: Flaws in the current approach of suspension of Disability Support Pension in the event of gaining employment;

2.4 Media

The Centre was active in the media throughout 2004 - 2005. Most of the media work undertaken by the Centre is done in conjunction with, and on behalf of, the National Welfare Rights Network. We were asked for comment on a wide

range of matters affecting income support recipients including Family Tax Benefit debts, debt recovery, marriage-like relationships and welfare reform proposals. We received over 80 primary mentions in various forms of media. Eight media releases were produced in the year 2004-2005. These are listed below.

- 26 July 2004, *More than window dressing needed to address Centrelink debt traps;*
- 7 September 2004, *ALP family package strikes at heart of debt problem;*
- 9 March 2005, *“A dogs breakfast” – new report reveals failings in income and participation supports for young people and low income families;*
- 31 March 2005, *Centrelink wrong on de-facto relationships;*
- 5 May 2005, *Experts discover major hole in Govt’s disability plans;*
- 11 May 2005, *Budget of wrong choices gives people on welfare few choices;*
- 11 May 2005, *Budget compliance measures have a sting in the tail for Centrelink clients; and*
- 13 May 2005, *Older and younger students sidelined by “welfare to work” changes, Senate inquiry into student income support told.*

2.5 Student placements

Two students on placement at the Centre provided significant assistance with the research capacity of the Centre in 2004-2005. Catherine Holford, a Social Work student from UNSW analysed problems with Newstart (incapacity) issues and Jacqueline Lees, a Bachelor of Economics research student at Macquarie University worked on the “A dog’s breakfast” report on income support for young people with a grant from the Ronald Henderson Foundation. The report was released by the Centre in March 2005.

3.0 Community Education and Training and Volunteer Workers

3.1 Long term goals

The community education and training goals are:

- To provide high quality, accessible and targeted community legal education.
- To ensure that the work of the Welfare Rights Centre is widely known and supported throughout NSW in order

to maximize its accessibility and strengthen community support for the Centre.

- To ensure that the Welfare Rights Centre plays an appropriate role within, and for the advancement of, the Community Legal Centre movement in Australia.

3.2 Education and community liaison

In 2004-2005, the Centre continued with the aim of targeting the most disadvantaged groups for community education. The Centre held over 50 training seminars for community organisations, including youth centres, Migrant Resource Centres, women's refuges, accommodation services, youth and migrant interagency meetings, financial counsellors and TAFE colleges. Information was provided about the rights and entitlements of Social Security recipients and the role of the Welfare Rights Centre. More in-depth training about specific Social Security payments was also provided to youth organisations, migrant services and financial counsellors in particular.

3.3 Volunteer workers

The Centre's volunteer program has continued with a number of individual induction sessions for prospective volunteer workers being held. The number of volunteers working at the Centre has remained about 20 at any point in time with some people leaving due to paid employment and

study commitments. Ongoing training is provided to volunteers and their contribution is acknowledged with two social functions each year as a small token of our thanks. Feedback from volunteer workers suggests that people enjoy their time with the Centre and feel they gain both skills and knowledge from the work at the Centre. The best evidence of this is that seven of the current staff at the Centre have been volunteer workers at the Centre at some stage before they were employed. (See also 6.5).

4.0 Publications

4.1 Long term goals

The Centre's overall publication goals are: "To produce and distribute clear, informed, effective and targeted, information and policy advocacy material designed to:

- increase accessibility to the Social Security system;
- educate and empower the community about Social Security issues, payments and rights; and; welfare rights centre annual report—july 2004 to june 2005
- improve the Social Security system in Australia"

In pursuit of these goals, the key publications for 2004-2005 were:

4.2 "rights review"

"rights review" is the quarterly newsletter of the Welfare

Rights Centre. Its purpose is to:

- provide information on recent changes to Social Security law and administration;
- raise awareness of Social Security matters;
- assist community workers to help their clients; and
- promote the services provided by the Centre.

In 2004-2005 “rights review” reported extensively on changes to Social Security law and administration. “rights review” also contained many case studies to highlight deficiencies in Social Security law and policy and the difficulties people experience in trying to assert their rights and to obtain their correct Social Security entitlement.

4.3 The Independent Social Security Handbook

In 2004-2005 the Centre continued to produce the ONLINE EDITION of the “Independent Social Security Handbook”.

The primary purpose of the Handbook is to inform community workers about Social Security law and Centrelink administrative practices and to assist them to better advocate for their clients with regard to Social Security payments.

The ONLINE EDITION was updated four times during 2004/2005 to take into account changes to Social Security law and policy. The ONLINE EDITION continues to be available free to community workers in NSW, Western Australia and South Australia due to arrangements made between the

Centre and the relevant state government welfare departments in each state.

4.4 Factsheets and brochures

The Centre has more than 30 Factsheets available to assist and inform people about Social Security matters. Two Factsheets were translated into five languages other than English (Spanish, Mandarin, Serbian, Arabic and Vietnamese). A complete list of the publications produced by the Centre and the NWRN can be found on the NWRN website www.welfarerights.org.au

4.5 National Welfare Rights Network Website www.welfarerights.org.au

The National Welfare Rights Network's website has over 300 pages of information to assist people with Social Security and welfare rights matters and is constantly maintained and updated by the Centre's Administrator. The Centre substantially upgraded the website in 2004-2005.

5.0 Funding

1.1 Major funders

Funding for the period 1 July 2004 to 30 June 2005 was received from:

- NSW Department of Community Services – \$330,856 ‘

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- Commonwealth Government - Welfare Rights Program – \$201,869
 - CLC Funding Program - (NSW and Commonwealth Governments) – \$99,793

5.2 Welfare Rights Trade Union and HESTA Programs

During this period the Centre continued to provide service to and receive support from the following unions involved in its Trade Union Program:

- NSW Teachers Federation;
- NSW Nurses Association;
- NSW Independent Education Union;
- Australian Liquor, Hospitality and Miscellaneous Worker's Union (Miscellaneous Workers Division);
- Public Service Association (NSW); and
- Police Association of NSW.

In addition, the Centre has continued its service arrangement with HESTA under which HESTA members who are injured or ill and without income support are provided with advice and assistance in relation to their Social Security entitlements and Disability Income Benefit (DIB).

The Centre is greatly appreciative of this support and the opportunity it provides the Centre to assist low income

working people. Throughout the 2004/2005 period, the main features were:

- advising and representing trade union and HESTA members with regard to their Social Security matters; and
- writing articles for publication in trade union journals to inform readers about their correct Social Security entitlements.

5.3 Income generation

The Centre continues to generate further income through sales of the newsletter (“rights review”) and sales of the Independent Social Security Handbook.

5.4 Auditor’s Report

The audit for this period was conducted by Kazzi and Associates. The Auditor’s Report forms part of this Annual Report and is attached at section 7.

6.0 Management

6.1 Board of Directors

Throughout the period the following people played the very important role of planning and overseeing the Centre's work in their capacity as members of the Board of Directors.

6.2 The Directors who held office at any time during 2004-2005 were:

Estelle Adamek

Liz Biok

James Campbell

Diana Covell

Michael Deane

Tony Eardley

Angela Garvey

Carol Howard

Alan Kirkland (Chairperson)

Terry Mason

Details of each of these Board Members are set out in the Auditors Report.

6.3 Paid workers

Throughout the period, the following people were employed in a full-time capacity.

Dianne Anagnos – Solicitor/Caseworker

Melissa Coad – Education & Community Liaison Officer

Liva De Burgh – Administrative Secretary

Jackie Finlay – Principal Solicitor

Linda Forbes – Casework Coordinator

Catalina Loyola – Administrator

Amie Meers – Caseworker/Researcher

Gerard Thomas – Policy and Media Officer

Michael Raper – Director

Danny Shaw – Publications Officer

6.4 Paid workers - part time

The following people were employed in a part-time capacity.

Sam Trinity – Financial Administrator

6.5 Volunteer workers

Any success the Centre had in 2004-2005 could not have been achieved without the help of our unpaid volunteer workers. The Centre had about 40 people helping us through the year. At any given time the Centre has about 25

casework assistant volunteers who provide an invaluable service each week. Special mention should also go to our administration volunteers who help with the administrative functions in the office. These volunteers perform their duties with style, diligence, patience and much skill.

The casework volunteers, who have the challenging task of interviewing clients who contact us for advice, assisted nearly 3,500 people through the year. They displayed excellent communication and interpersonal skills in assisting many highly distressed clients. Their dedication and enthusiasm provides an inspiration to all of us at the Centre.

The Centre gratefully acknowledges the role played by all our volunteers.

These workers contribute services to the Centre valued at over \$150,000 each year. We hope they have enjoyed being here as much as we have enjoyed having them and we look forward to their continuing involvement with the Centre.

7.0 Auditor's Report

The Auditor's Report, prepared by Kazzi and Associates forms part of this Annual Report but as it is produced in a different format, is available on request.