

Welfare Rights Centre

Annual Report

July 2001 to June 2002

Prepared for 2002 *Annual General Meeting*

9 October 2002

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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 all Social Security matters. Now in its nineteenth year, the Centre currently employs 13 workers and benefits from the service of some 40 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.

In 2002, the Centre established the National Welfare Rights Network website with a grant from the NSW Law and Justice Foundation. Further information about the Centre and Social Security rights, entitlements and obligations can be found at www.welfare-rights.org.au.

1.0 Casework

1.1 Casework service

The Welfare Rights Centre provides a casework service to people with Social Security problems and agencies assisting people with Social Security problems. The aim of the Centre's casework is both to achieve outcomes for individual clients and 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 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 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 and caseworkers.

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. All initial advice is 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. In many cases, 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 2001 to June 2002 the Centre assisted 3,557 clients and agencies.

Age

The ages of clients providing a year of birth were:

0-17	1.4%
18-20	3.7%
21-30	11.4%
31-40	14.9%
41-50	14.7%
51-65	15.6%
66+	6.1%

Gender

The gender of clients, other than those represented by agencies, was:

Female	52.2%
Male	41.5%
not supplied	5.5%

Country of birth in which the first language is a language other than English

40.1% of clients responding to this question were born in a country which has a first language other than English.

Clients of Aboriginal or Torres Strait Islander background

5.4% of clients responding to this question identified themselves as being of Aboriginal or Torres Strait Islander background.

Region

Of those clients identifying their postcode, 77% contacted us from within the Sydney metropolitan region (including Penrith and Hawkesbury) and 23% were calling from outside this region.

Type of payment

The most frequent contacts with the Centre related to the following types of payments:

Newstart Allowance	25.1%
Disability Support Pension	20.4%
Sole Parent Pension / Parenting Payment (single)	11.1%
Age Pension	7.9%
Family Allowance/Tax Benefit	5.5%
Youth Allowance	6.3%
Special Benefit	5%

Type of problem

The most frequent contacts with Centre were in respect of the following problem types:

Debt issues	18.6%
Income and assets test	10.9%
General eligibility	8.5%
Newstart and Youth Allowance Activity issues	8.5%
Disability and carer issues	6.1%
Marital status issues	5.2%
Residence issues	5.1%
Compensation preclusion/recovery	3.7%

1.3 Casework during 2001/2002

The Centre continues to assist clients, who, despite our Social Security safety net, have no income at all due to activity test breach penalties, compensation preclusion periods, and two-year waiting periods. However, the most resource-intensive issues relate to debts - particularly where the client is at risk of criminal prosecution in respect of a debt. The Centre is regularly successful in having recovery of clients' debts waived, but even where there are no grounds to waive recovery of a client's debt, they may need assistance in establishing that they in no way intended to be overpaid. This can require time-consuming examination of large Freedom of Information releases of Centrelink files.

Problems with Centrelink internal review practices frustrate our efforts to encourage clients to pursue appeals on their own, with the most disadvantaged and vulnerable clients having the greatest difficulty instigating an appeal. Without assistance, clients can be needlessly left without income support or can be inappropriately convicted of a criminal offence in respect of a debt.

1.4 Special Benefit - infant rate cases

In October 2001 the Administrative Appeals Tribunal (AAT) established, in *Sec, DFACS* and *Vu*, an appropriate benchmark for the rate of Special Benefit payable to infants in the care of parents who are not residentially qualified for Social Security. Despite the precedent set by the AAT, the Department of Family and Community Services' policy guidelines have still not been amended to reflect the *Vu* decision. This results in the iniquitous situation that infant citizens who do not appeal their rate of Special Benefit continue to live in poverty, whilst those who appeal to the Social Security Appeals Tribunal have the *Vu* decision applied. The Centre will continue to represent infant clients affected by this policy, while urging the Department to amend its guidelines so as to reflect the principles established in *Vu*.

1.5 Special Benefit for newly arrived residents.

The Centre has continued to represent clients affected by the two-year waiting period in both internal Authorised Review Officer (ARO) appeals and in appeals to the Social Security Appeals Tribunal (SSAT) and the AAT. The Centre's success in the Federal Court in *Zandieh-Nadem* and *Sec, DFACS* has benefited a number of our older clients who did not have a clear capacity to work on arrival in Australia.

1.6 Breaches & barriers to review of decisions

The Centre's law reform and community education work regarding breaches has continued to encourage clients who have had breach penalties imposed to seek our assistance.

Centrelink procedures for dealing with requests for review of breach decisions appear generally to have improved in the last 12 months. However, many clients who contact the Centre regarding breaches have made several requests for internal review by an ARO, to no avail. Centrelink's insistence that decisions must be reviewed by the original decision-maker before the case is referred to an ARO can act as a barrier to gaining full appeal rights.

The Centre has dealt with a number of cases in which Indigenous clients in remote areas face particular difficulties in effectively negotiating Activity Agreements for Newstart Allowance and Youth Allowance, and feel compelled to sign an Agreement which may include obligations that realistically cannot be met. Predictably, that such clients are breached, and invariably, they have difficulty appealing such decisions.

1.7 Debt waiver rules

The need for legislative reform of the debt waiver provisions of the Social Security Act was reinforced in one of the Centre's AAT cases this year. The client had a large Parenting Payment (single) debt that arose during a period in which she was enduring domestic violence. The Centre had sought either waiver, or cancelling of the debt via the application of a provision of the Social Security Act that allows a member of a couple to be treated as single for "any special reason". The AAT decided that our client's debt could not be waived as her husband had "knowingly" contributed to the accrual of the debt. The Tribunal further decided that it would be inappropriate to apply the "any special reason" discretion retrospectively so as to treat her as single and thereby nullify the debt.

This case is a particularly extreme example of the unfairness of the "special circumstances" waiver legislation, which prevents waiver of a debt where a person's partner "knowingly" made a false statement or representation contributing to a debt.

2.0 Policy

2.1 Active policy environment

The long-term goal of the Centre's policy program is:

"To develop expert, constructive responses and recommendations for reform on Social Security legislative, administrative and government policy in order to

minimise hardship and poverty in Australian society in general and Social Security recipients in particular.”

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

2.2 Social Security breaches and penalties

The Centre was involved in a number of projects aimed at highlighting problems with the system of penalising unemployed people harshly for failures to meet administrative and activity test requirements. Material was gathered from the Centre’s casework and that of other members of the National Welfare Rights Network (NWRN), as well as from several Freedom of Information requests.

The projects included the following:

- The production of the poster “Is your client: homeless? breached? underpaid? – A guide to getting it sorted”;
- The production of wallet cards to advise young people of their Social Security rights particularly in relation to breaches; and
- Australian Youth Foundation Breaches Report project “Kicking them while they are down”.

The poster and wallet cards were produced in conjunction with the Australian Federation of Homeless Organisations. The Breaches Report project was primarily funded by the Australian Youth Foundation and this project resulted in the Centre producing the detailed report “Kicking them while they are down” which examined the difficulties young people face in dealing with the Social Security system, particularly in relation to the breaches penalty regime and the spiral of debt that this causes for so many people on Youth Allowance.

Independent Review of Breaches and Penalties

The Centre was one of the initiators, along with ACOSS and seven major charities, of the Independent Review of Breaches and Penalties in the Social Security system. The Review, conducted by former Commonwealth Ombudsman Professor Dennis Pearce (along with Julian Disney and Heather Riddout)

received submissions, held hearings and produced a substantial report that has had a significant impact in changing Centrelink practices and reducing the number of breaches in the 2001–2002 year by 117,000 or 30%.

The Centre appeared before, and presented a submission to, the Independent Review on behalf of the National Welfare Rights Network and continues to represent the NWRN on the Breaches and Penalties Taskforce, the national coalition that is campaigning for the recommendations of the Independent Review, especially in relation to the severity of the penalties, to be fully implemented.

2.3 Gambling Project

The Centre completed the research and writing up of the “gambling” project which examines the relationship between the receipt of lump sum compensation payments, Social Security preclusion periods and gambling. The Centre received funding from the Casino Community Benefit Fund to undertake the study. The report makes a number recommendations as to how the current Social Security and compensation systems can be improved so as to reduce the number of people in hardship who are subject to the Social Security compensation preclusion period (the report is to be released in October 2002).

2.4 Australians Working Together Legislation

The Federal Government proposes to implement sweeping changes to Social Security legislation via the “Australians Working Together” (welfare reform) legislation. This legislation, aims among other things, to extend the penalty system which is currently limited to Newstart and Youth Allowance recipients to Mature Age unemployed people and people in receipt of Parenting Payment where their youngest dependent child is between 13 and 15. The Centre provided a detailed submission to the Senate Community Affairs Committee Inquiry into Participation and Penalties, many of the recommendations in which were supported by the Committee in its final report.

2.5 Legislation

In 2001-2002, the Centre has been involved in debate about, and lobbying on, a number of Bills before Parliament. These include the:

- Family and Community Services Legislation Amendment (Australian Working Together) Bill 2002;
- Family and Community Services Legislation Amendment (Disability Reform) Bill 2002;
- Family and Community Services Legislation Amendment (Further Simplification of International Payments) Bill 2002;

This lobbying has involved the Centre working with the National Welfare Rights Network and many other community organisations and dealt with many issues including:

- proposed changes relating to extending the penalty system to certain Parenting Payment recipients and Mature Age Allowees; and
- the introduction of the Personal Support Program.

3.0 Community Education and Training and Volunteer Workers

The community education and training goals for 2001/2002 were to:

“Inform non-government welfare and community workers, relevant trade union officials and lawyers, of the rights of present and potential Social Security recipients and the processes available to exercise those rights in order to gain their entitlements.”

3.1 Education and community liaison

In 2001/02, 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, Skillmax groups, youth and migrant interagency meetings 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 payments was also provided to youth organisations, migrant services and financial counsellors in particular. Visits were also made to a number of Centrelink offices.

3.2 Continuing education for legal practitioners

A series of training sessions was held specifically for other Community Legal Centres (CLC) and as a result a network of CLCs which undertake Social Security work has been established. The aim of this network is to resource and train workers in other CLCs who provide Social Security advice and representation. The network has proven to be very popular with training sessions held quarterly. The format of the training includes practical tips for advocacy, updates on recent changes and in depth coverage of particular Social Security law topics.

3.3 Volunteer workers

The Centre's volunteer program has continued with three induction days for prospective volunteer workers being held. The number of volunteers working at the Centre has remained around 25 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

The Centre's overall publication goals for 2001/02 were to:

“Produce and distribute clear, informed, effective and relevant multimedia news, information and policy advocacy material that is appropriate and effectively targeted in relation to culture, language and literacy skills, so as to facilitate:

- increased accessibility to the Social Security system;
- education and empowerment of the community;
- reduced demands on service providers as individual clients develop the capacity for self-advocacy; and
- improvements to the Social Security system in Australia”.

In pursuit of these goals, the key publications for 2001/02 were:

4.1 “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 2001/02 “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.

4.2 The Independent Social Security Handbook

In 2001/02 the Centre employed a researcher to update the 4th edition of “The

Independent Social Security Handbook” for the purpose of producing an on-line version of the 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 Handbook will be available on-line by November 2002).

4.3 Factsheets and brochures

The Centre produced numerous Factsheets in line with changes to Social Security throughout 2001/02. Currently the Centre has more than 30 Factsheets. A complete list of the publications produced by the Centre and the NWRN can be found on the NWRN website - www.welfarerights.org.au

4.4 National Welfare Rights Network Website - www.welfarerights.org.au

The Centre received a grant from the Law Foundation of NSW in 1999/00 to produce a website on behalf of the NWRN. While most of the work to produce the website was completed in 2000/01, the website became operational in early 2001/02. The 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.

4.5 Breaches project

The Centre, in conjunction with the Australian Federation of Homeless Organisations, produced information products to provide information to young people and youth workers about Social Security breaches, client rights and what to do if breached. 10,000 wallet cards and 3,000 posters “Is your client Homeless? Breached? Underpaid? – A guide to getting it sorted” were produced. The wallet cards were produced to inform young people about their rights and obligations; the poster was an information product aimed at youth workers.

The Centre also produced the detailed report “Kicking them while they are down” which examined the difficulties young people faced in relation to Youth

Allowance and the penalty system. This report is published on the Centre's website.

5.0 Funding

1.1 Major funders

Funding for the period 1 July 2000 to 30 June 2001 was received from:

- NSW Department of Community Services \$292,001
- Commonwealth Government - Welfare Rights Program \$149,552
- CLC Funding Program - (NSW and Commonwealth Governments) \$112,168

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); and
- Public Service Association (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 2001/02 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”), Handbook sales and occasional consultancies and projects. Details of these are listed in the Auditors Report, attached to and forming part of this Annual Report.

5.4 Auditor’s Report

The audit for this period was conducted by Kazzi and Associates. The Auditor’s Report forms part of this 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 names of the directors in office at any time during 2000/2001 were:

Estelle Adamek

Liz Biok

James Campbell

Diana Covell

Anthony Eardley
Carol Howard
Tracey McDonald
Kim Neville*
Rod Plant (Chairperson)
Terry Mason (appointed 11 October 2001)

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.

Dinana Anagnos#	Caseworker/Researcher
Sandy Clark*	Principal Solicitor
Melissa Coad	Education & Community Liaison Officer
Jackie Finlay#	Solicitor/Caseworker
Linda Forbes	Casework Coordinator
Catalina Loyola	Administrator
Ariella Markman#	Caseworker (locum for two months)
Carla Mullins*	Principal Policy Officer
Michael Raper	Director
Danny Shaw	Publications Officer

6.4 Paid workers - part time

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

Heather Fisher	Casework Assistant
Kerry Perkins	Casework Assistant
Sam Trinity	Financial Administrator

* indicates left the Centre during the period

indicates joined the Centre during the period

6.5 Volunteer workers

Any success the Centre had in 2001/02 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 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 about 3,600 people through the year. They displayed excellent communication and interpersonal skills in assisting many highly distressed clients. Their dedication and enthusiasm was 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.