



# **Relationships & Centrelink**

## **Frequently Asked Questions**

This booklet aims to assist people who are receiving income support payments from Centrelink. It provides information regarding a persons' rights and obligations when being investigated for an alleged de facto relationship, by Centrelink.

This booklet is produced by the National Welfare Rights Network and the Illawarra Legal Centre. These organisations provide independent legal advice and are not part of Centrelink.

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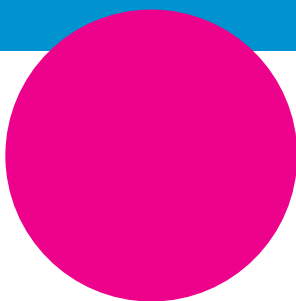
Disclaimer: While every effort is made to ensure that the information in this booklet is as correct and up to date as possible, readers are advised to seek advice when faced with specific issues in relation to Centrelink and de facto relationships - particularly to seek legal advice where there is the possibility of prosecution. This booklet is intended as a guide and should not be used as a substitute for legal advice.

The law as at 31 July 2009.

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# Relationships

## Why does Centrelink want to know whether I have a partner?

Centrelink needs to know whether or not you are a member of a couple because this may affect your Social Security entitlement. Centrelink assesses your entitlement differently if you are a member of a couple to the way it would if you were single.

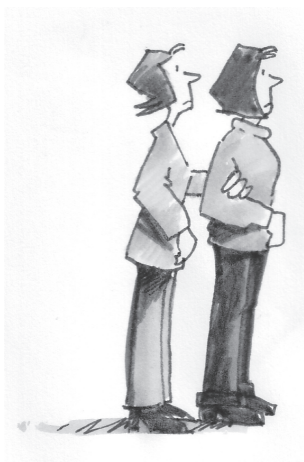
## Which Centrelink payments are affected?

Most Social Security payments are affected by whether the person claiming payment is regarded as being in a 'de facto relationship' or a 'member of a couple'. For example:

- a 'member of a couple' does not qualify for Parenting Payment (single) or Widow Allowance;
- a person must be a 'member of a couple' to qualify for Parenting Payment (partnered);
- different income and assets tests apply to a recipient of a pension, allowance or Family Tax Benefit where that person is a 'member of a couple' and different rates of payment apply.

For further information on rates of payment contact Centrelink or your local Welfare Rights Advocate. (Please see page 36 for contact details).

If Centrelink decides you are a member of a couple you may not be entitled to the payment you are receiving, or you could be entitled to a lesser amount. If you are receiving the wrong payment or rate you could end up in debt, or even worse, being prosecuted (See Debts & Prosecution, pages 16 and 20).



## What if I am in a same sex relationship?

Recent changes to Commonwealth legislation mean that for the first time people in same-sex relationships will be recognised under Social Security and Family Assistance law from 1 July 2009.

If you are in a same sex relationship you may now be regarded as a “member of couple” or in a “de facto relationship” for Social Security purposes.

Under the amended laws, gay, lesbian and opposite sex couples will have equal rights and entitlements effectively removing different treatment. Amendments to the legislation have replaced the term “marriage-like” with “de facto”. Same-sex couples may now be regarded as living in a “de facto relationship”.

This means that you will be required to advise Centrelink if you live with a same-sex partner. If you are considered by Centrelink to be a member of a couple, your partner’s income and assets are assessed and this may affect your payment/entitlement.

If you are transgender or intersex you may be regarded as being a member of a couple under the new law whatever your partner’s gender.

Under the new law you will be considered to be a member of a couple if you are married, in a “registered relationship”, or in a de facto relationship. (Registration is currently only possible in Victoria, Tasmania and ACT).

Whether Centrelink considers the relationship to be de facto or not will depend on the factors explained below. (These factors are the same as those previously applying to assessment of “marriage-like” relationship).

The new law applies to people claiming payments on or after 1 July 2009 and also to people already receiving payments on that day.

**What if I am in a same sex relationship and I do not want to declare this to anyone including Centrelink?**

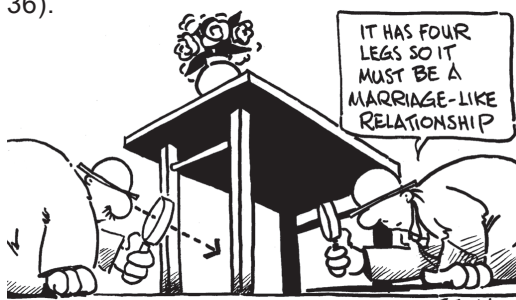
The laws have changed to eliminate discrimination towards same sex couples, however the impact in the area of Social Security is causing problems for many couples who do not want to be public about their relationships.

The changes to the law require that for people receiving Centrelink payments, all people in partnered relationships must tell Centrelink.

If people do not tell Centrelink about their circumstances, it is possible that Centrelink may investigate and find that there is a relationship and then raise a debt against the persons involved and possibly prosecute them.

Not revealing a relationship could also have repercussions further down the track. It can cause difficulties with property settlements or result in other disadvantages, such as when one partner goes into an aged care facility, the house that the couple was living in may not be treated as the family home.

It is a good idea to contact your local Welfare Rights Advocate to discuss these concerns. (See list of Welfare Rights Advocates on page 36).



# Centrelink decision making process

## How does Centrelink decide whether I am a member of a couple?

You will be considered a member of a couple if:

- you are married (and you have not separated); or
- you are living with someone in a de facto relationship, (either registered, or according to Centrelink's assessment).

## What is a de facto relationship?

The process for determining whether a person is, or is not, in a de facto relationship is set out in Social Security law.

If a person has registered their de facto relationship with a State/Territory authority, Centrelink will treat the person as being in a de facto relationship

Centrelink must consider all the aspects of the relationship where a person has not registered their relationship. Questions about each of these aspects are on the 'Assessment of Living Arrangement' form Centrelink sends out.

These aspects are:

- the nature of the household;
- the financial aspect of the relationship;
- the social aspect;
- the nature of the people's commitment to each other and
- any sexual relationship that exists between them.

Each aspect should be considered equally. No aspect should be given more weight than the other. You should consider all of them in relation to your own situation.

See pages 8 and 9 for a list of questions you can use to help decide whether you are a member of a couple.

## Are there any situations in which Centrelink will not regard me as being a member of a couple even though I am in a relationship?

There are a number of situations in which Centrelink will not regard you as being a member of a couple even though you are still in a relationship. These include:

- if you are under 16 years of age;
- if your partner cannot live at home because of ill health, and
- there are special reasons why you should be paid the single rate.

You should not assume Centrelink will regard you as single in these situations. Contact a Welfare Rights Advocate if you think you may fall within any of these categories. (See page 36).

## What if I am not sure if I am a member of a couple?

If you are not sure whether you are a member of a couple go through the questions on pages 8 and 9 and contact your local Welfare Rights Centre. You should also discuss the situation with Centrelink. If Centrelink makes a decision you are not happy with, you have the right to appeal. (See page 18).



# Questions Centrelink use to assess relationships

**The questions below are relevant when deciding whether you are in a de facto relationship. No one individual answer is conclusive evidence that the relationship is de facto. All of the factors need to be taken into consideration.**

## **Financial arrangements**

- Do you provide financial support for each other?
- Do you have any joint accounts or credit cards?
- Do you have a joint loan or have you signed loan papers for each other?
- Whose name is the telephone/electricity/gas in?
- Who pays the bills and how do you work it out?
- Do you jointly own large items, eg house, car, furniture?
- Do you know about each other's financial affairs?
- Are either of you listed as a dependent spouse for tax or Medicare?
- Has either of you named the other person as a beneficiary in your will or superannuation?
- Do you lend or give each other money?
- If the other person lost their job or had no income, would you feel obliged to offer them financial help for a period of time?

## **Arrangements for children**

If one of you has children:

- Is the person you live with the father or mother of the child?
- Do you share parenting activities, eg. feeding, dressing, disciplining, taking children to school?
- Who would care for the children if their parent could no longer do so?

## **Sexual relationship**

- Do you have a continuing sexual relationship with each other?
- Does either of you have a sexual relationship with anyone else?

## **Accommodation and domestic arrangements**

- Do you live at the same address?
- How long have you lived there?
- Have you lived together at other places?
- Why did you first decide to live together at the same address?
- Has the way you live together changed since you first moved in?
- Do you intend to keep sharing accommodation in the future?
- Do you have separate bedrooms or living areas?
- Whose name is the lease or mortgage in?
- How do you arrange your domestic chores eg cooking, shopping, cleaning, laundry, ironing & lawn-mowing?

## **Social relationship**

- Do you share the same circle of friends?
- Do you tell each other where you are daily or what you are doing when you go out?
- Do you frequently go out together or do you regularly go out separately?
- Do either of you have a girlfriend or boyfriend?
- Do you visit each other's families?
- Would your friends and families consider you a couple? Do you correct them?
- Do your family or friends make plans for you as a couple?
- Have you ever let a government department, real estate agency or bank assume you were a couple?
- Do you use the same family name?
- Do you take holidays together?

## **Commitment to each other**

- How long has the relationship lasted?
- Is it different from other friendships?
- Do you consider the relationship is likely to continue?
- Who do you talk to when you have a problem?
- If you suddenly got sick, who would you call?
- Have you any long term plans involving the other person?
- Do you think you are likely to marry?
- Do you think your relationship is like a marriage?

# Investigations

## Why does Centrelink investigate relationships?

Centrelink pays a different amount to you if you are single or partnered. Centrelink can receive information about your circumstances that makes them think that you might not be receiving the correct payment. Investigations can just be random or as a result of conflicting information received by Centrelink for example from the tax office, or from a tipoff by someone to Centrelink. Centrelink cannot disclose who gave the information in the tipoff.

Centrelink will review your circumstances if you are receiving a payment as a single person but there is information that suggests you may be a member of a couple. It may also review your circumstances when you change your address.

Centrelink can interpret relationships incorrectly when it does not have enough information and the reasons for living arrangements being as they are is not fully explained. For example carer relationships can be confused with couple relationships, or a friend or ex partner could have put their name on your loan document because of credit rating problems.



The reasons for your living arrangements need to be explained to Centrelink as Centrelink has a responsibility to pay you the correct payment at the correct rate.

### **Where does Centrelink get its information?**

Centrelink may have obtained the information from:

- information on a new claim form;
- information obtained through a review; (Centrelink conducts regular reviews of your circumstances to see whether you are receiving the correct payment type and rate)
- information provided by a member of the public; (for example a 'dob-in' or tipoff by a neighbour, family member or ex-partner)
- bank/credit card records;
- car loans and registrations;
- postal records;
- camera and video surveillance.

(See the section in this booklet on Your Information and Centrelink, page 22).

### **Can a Centrelink Officer come into my house?**

You do not have to let Centrelink staff into your house. A Centrelink officer may call at your home and ask to enter your house. If this happens you have the choice of whether or not to allow the officer into your home. You cannot be punished for not letting the person in. You have the right to know the reason for the visit. (See page 27 for more information).

Centrelink staff have broad powers to investigate your particular circumstances, but you also have rights! (See page 26 for more information about Your Rights).

### **Centrelink have been talking to my neighbours - Are they allowed to do that?**

Yes. Centrelink can ask anyone who may have information about you questions that relate to your eligibility for payment. They may ask questions of friends, hospitals, relatives, employers and neighbours. Schools however should generally not be contacted regarding your relationship with the other person.

### **Do I have to be interviewed by Centrelink?**

Centrelink have the right to review your living arrangements and ask questions to determine whether you are in a de facto relationship. You have the right to request the interview be conducted at the Centrelink office, to take a support person to the interview with you, or to have the Centrelink officer put the questions to you in writing. You are not required to answer questions about your relationship for a prior period if you do not wish to do so.

### **Do I need to prove that I am not in a relationship?**

It is not up to you to provide evidence you are not a member of a couple. But if you are under investigation and not a member of a couple you should provide Centrelink with evidence that supports your single status. The onus is on Centrelink to look at all the factors and make its decision.

## Can Centrelink reinvestigate me?

Yes. Centrelink can investigate you on more than one occasion, even if it had earlier decided that you were not in a relationship.

However, once Centrelink has made a decision that you are not in a de facto relationship it must not investigate whether you are in a relationship with the same person again for another 12 weeks unless:

- your circumstances change; or
- it has new information.

## How will I know when the investigation has ended?

Depending on how complex your situation is, Centrelink investigations may go on for 6-12 months as it gathers information. Centrelink may not contact you to tell you that the investigation has ceased. You can contact the investigating officer to ask whether the investigation has ended.

## What happens if Centrelink has decided I am not in a de facto relationship?

If Centrelink has decided you are not in a relationship you should ask for written notice of the decision.

## Do I have to fill out the review forms?

Yes. The date the form is due back should be on the front of the form. If you don't complete the form and return it by the due date or within 14 days, your Centrelink payment may be stopped.

# When Relationships change

## **What happens if Centrelink decide I am in a de facto relationship?**

If Centrelink decides you are in a relationship the payment you are receiving may be stopped, reduced or your payment type may change. If you have children, you will be advised to provide an estimate of your partner's income to determine your eligibility for Family Tax Benefit. You may also have a debt raised against you.

If Centrelink believes you intentionally provided the wrong information your case may be referred for prosecution. (Please refer to Debts & Prosecution, pages 16 and 20).

If you do not believe you are in a de facto relationship, or you were not in the relationship for the length of time claimed by Centrelink, you should appeal. (Please refer to Appeals, page 18).

You should seek advice from a Welfare Rights Advocate in any of the above situations. (For a list of Welfare Rights Advocates, see page 36).

## **We have just separated but are sharing accommodation. Am I member of a couple?**

If you think you may not be a member of a couple because you have separated from your partner, the same list of questions on page 8 can be used. You need to ask yourself and tell Centrelink what your relationship was like before and after the separation, and how things have changed.

## **Living separately but apart under the one roof**

People who have been previously living together as a couple and who separate due to their relationship breaking down, may still be living in the same house but be separated. You can notify Centrelink of this situation and apply for recognition by Centrelink of you as living “separately and apart under one roof”.

It can be difficult to prove to Centrelink that you are separated in these circumstances. You need to look at what the situation was before the separation and show how things have changed. To do this it can be useful to look at the factors set out in the section on “How does Centrelink decide whether I am in a de facto relationship?” (See page 8).

## **Will my rate of payment change if I have separated?**

Depending on what payment you are receiving your payment may change. You should contact Centrelink or a Welfare Rights Advocate to find out what payment you are entitled to.

You need to inform Centrelink as soon as possible that you have separated. Centrelink will ask you for evidence of the change in the relationship.

# Debts

## Centrelink told me I have an overpayment - What does this mean?

Centrelink often refers to a debt owed to them as an overpayment. An overpayment describes a payment that was made to you that Centrelink does not think you were entitled to receive, or you received a rate higher than you were entitled to.

## Did I really get overpaid?

You should make sure that you understand the reasons why Centrelink has decided you owe a debt.

**NEVER JUST ACCEPT  
THAT YOU WERE OVERPAID!**

Centrelink's decision to raise a debt and recover a debt may be wrong. You should also check the way in which Centrelink has calculated the debt, as it sometimes calculates debts incorrectly.

Ask Centrelink to clearly explain the debt to you. You can also contact a Welfare Rights Advocate who may be able to make inquiries on your behalf.

Always get independent advice before accepting you were overpaid. (See the list of Welfare Rights Advocates, on page 36 and Helpful Contacts, on page 37).

## Do I have to repay the debt?

Debts can (and usually will) be recovered by Centrelink.

There are a number of methods to recover debts including:

- deductions from your Social Security payment;

- repayment;
- garnisheeing your wages;
- legal proceedings.

If you are having money withheld from your payments and this is causing hardship you can negotiate with Centrelink to have the amount reduced to reflect your capacity to repay. The number to call to make these arrangements is 136 330. If you are unsuccessful you can appeal that decision. (See Appeals, on page 18).

There are situations where debts will not be recovered or where recovery can be delayed. For advice about when debt recovery might be waived or recovery action delayed, contact a Welfare Rights Advocate. You should also be aware that **even if you are repaying or have repaid the entire debt, Centrelink can still take prosecution action.**

### **I don't agree with Centrelink's decision. What can I do?**

You can appeal. (See page 18 for more information).

You should appeal if you believe:

- Centrelink has made a wrong decision; or
- the debt amount is incorrect; or
- there are special circumstances why you should not have to repay the debt.

For example, Centrelink may say you have a debt because you were living in a de facto relationship and claiming Parenting Payment single. You can appeal against this decision and argue that you were not in a de facto relationship. On appeal it may be decided that you do not owe any money, you owe less money, it is not appropriate to recover the money from you, that the debt is higher or the decision may remain unchanged.

When you appeal the debt, evidence that arises during the appeal may be used by Centrelink in relation to their decision to prosecute or not, or be used as evidence in the prosecution

# Appeals

## Can I appeal against a Centrelink decision?

You have the right to appeal any Centrelink decision you are not happy with. If you think Centrelink has made a mistake about the nature of your relationship with another person, or the length of time such a relationship existed, you should appeal.

Appealing simply means asking for a review of the decision with which you disagree. The person or tribunal you appeal to can change the original decision if it is wrong.

You cannot get into trouble or be penalised for appealing a decision.

## How do I appeal?

Appealing is easy and free.

You can download a form to assist you to lodge an appeal from [www.welfarerights.org.au](http://www.welfarerights.org.au) or write to, phone or visit your local Centrelink office and explain that you would like the decision reviewed by an Authorised Review Officer (ARO). The ARO is a senior Centrelink officer who will take a close look at all the facts in reviewing the decision. Many people are successful at this level.

If you are not satisfied with an ARO decision, you can appeal to the Social Security Appeals Tribunal (SSAT). This is the first appeal stage that is outside Centrelink. The SSAT is totally independent.

If you are not satisfied with the SSAT decision you can appeal to the Administrative Appeals Tribunal (AAT). Centrelink can also appeal against the SSAT decision to the AAT.

## Time limits for appeals

You may appeal to an ARO or to the SSAT at any time. However, to receive back pay from the date you were affected by the original decision, you must appeal to an **ARO within 13**

**weeks of receiving written notice of the original decision** and then, if necessary, appeal to the **SSAT within 13 weeks of receiving notice of the ARO decision** (except for Family Tax Benefit – see below). If you appeal more than 13 weeks after receiving the notice and you are successful, you will only receive back pay from the date you appealed.

Different rules generally apply to appeals to the ARO and the SSAT regarding Family Tax Benefit assessments - see the Factsheets “Family Tax Benefit” and “Family Tax Benefit and estimating your income” at [www.welfarerights.org.au](http://www.welfarerights.org.au)

If you are appealing to an ARO or to the SSAT about a debt only, no time limits apply. This means that if your appeal is successful, and your debt is cancelled or recovery waived, you may be entitled to a refund of the amount you have paid back to Centrelink.

If you are not satisfied by the decision by the SSAT and you want to **appeal to the AAT**, you must do so **within 28 days of receiving the SSAT decision**.

This time limit can be extended in limited circumstances by order of the AAT.

For more information on appealing see the Factsheet “Appeals – how to appeal against a Centrelink decision”, the form “Request for a review by an Authorised Review Officer” and the booklets, “How to appeal to the Social Security Appeals Tribunal” and the “Administrative Appeals Tribunal Social Security Self Advocacy kit” at [www.welfarerights.org.au](http://www.welfarerights.org.au)

### **Can I continue to get the single rate of payment while I am appealing?**

Centrelink may continue to pay you while the review is being conducted but you will need to ask it to do so. You should request this as soon as possible after you have been informed your rate of payment has been reduced, or that your payment has been cancelled. You should contact your local Welfare Rights Centre for assistance if your payment is cancelled and for advice about appealing. (See page 36).

# Prosecution

## **I have been told I may be prosecuted and have to go to court. What does this mean?**

If you have been overpaid because Centrelink decided you intentionally provided false or misleading information, you may be prosecuted. Prosecution is the process of going to court for a criminal offence.

## **Do I need to attend a prosecution interview?**

No. Centrelink may ask you to attend a prosecution interview to ask you questions which might assist it to prove that you committed an offence. After the interview Centrelink may recommend to the Director of Public Prosecutions (DPP) that you be prosecuted. The DPP, not Centrelink, makes the final decision about which cases will be prosecuted.

The appointment letter should say if an interview is a prosecution interview. You can also tell if it is a prosecution interview because it will be taped.

Before deciding whether to attend a prosecution interview always obtain legal advice. In most cases it will not be in your interest to attend the interview. This is because the interviews are conducted in a manner designed to fill in the gaps in the case against you.

**You have the right not to attend the prosecution interview** and if you do attend you can end the prosecution interview at any time. You cannot be penalised for not attending a prosecution interview. You can simply ring up and advise that you do not wish to go. (For further information about your rights see the section in this booklet on Your Rights, on page 26).

### **Will I still be prosecuted if I am repaying the money?**

Even if you are repaying the money, you may still be prosecuted.

Sometimes Centrelink has made a mistake about the nature of the relationship or the length of time such a relationship existed and it may be appropriate to appeal to the Social Security Appeals Tribunal before dealing with the criminal matter. If you are in this situation you should obtain advice as early as possible from a Legal Aid solicitor. (See Helpful Contacts, on page 37).

### **If I am prosecuted what can happen to me?**

If you are found guilty, the Court can impose penalties ranging from good behaviour bonds and fines to community service orders and imprisonment.

The penalties vary depending on the seriousness of the offence, your attitude to the offence, any history of previous offences and your circumstances.

# Your Information & Centrelink

## Centrelink has the right to collect information about you

Centrelink can collect information about you from people and organisations such as friends, neighbours, employers, banks, the Post Office, real estate agents, landlords, the immigration department and the tax office.

Centrelink staff should not approach schools for information in person. It may write to schools to obtain certain information, however schools do not have to provide such information. Also, usually, it cannot obtain information from doctors, counsellors or other professional advisers without your consent.

## What information does Centrelink keep on me?

Centrelink keeps copies of:

- your claim forms;
- any written statements, letters, and any other information you provide;
- its own records of contacts with you;
- payment records;
- documents about how Centrelink staff have dealt with your payments.

Centrelink also has extensive powers to ask other people and organisations for information about you, and your file may also contain this information.

Centrelink does not always keep records of general telephone queries, especially if you are inquiring about a payment but have not lodged a claim form and are currently not a Centrelink client. Therefore, **it is important to ask for a receipt number** from the Centrelink office when you contact Centrelink by telephone. Otherwise, there may be no record of your contact, and you may lose payments or be disadvantaged as a result.

## When can I ask to see my file?

You can ask to see your file at any time. It is helpful to obtain a copy of your file if you think that a Centrelink decision is wrong. Seeing your file could show whether Centrelink got some facts wrong, misunderstood your situation or failed to follow the correct procedures.

## What is the Freedom of Information Act?

The *Freedom of Information Act* 1982 (FOI Act) sets out the rules about how you can get information that government departments (including Centrelink) keep on you.

## What information can Centrelink refuse to give me?

The FOI Act allows Centrelink to refuse to provide you with the following information:

- another person's personal records;
- statements or information which would reveal the identity of a member of the public who voluntarily provided information about you;
- medical papers where a doctor believes disclosure may adversely affect your health;
- where it is not in the "public interest" to be disclosed;
- where the information cannot be found or does not exist.

There are some other exceptions under the FOI Act. The letter responding to your request should tell you if Centrelink refuses to release any information and the reasons for the exemption.

## Getting information from Centrelink

Centrelink can release some information without a formal request under the FOI Act. For example, Centrelink should provide you with information about your rates of payment and reasons for any Centrelink decisions. You can also obtain copies of any of your forms or statements without needing to lodge a FOI request. However, sometimes it is easier to lodge the FOI request and be provided with all documents.

## Using the Freedom of Information Act

The FOI Act gives you the right to obtain information held by Centrelink. This applies to:

- written material, stored on paper;
- information stored in computers; and
- audio or video tapes.

## Does it cost anything to use the Freedom of Information Act?

A request to Centrelink for your personal information is free. However, Centrelink may charge a fee for repeated requests for the same documents, or for documents which do not relate to you personally, eg. statistics.

## How can I get my file?

The Welfare Rights Centre's "Request for documents under Freedom of Information" form can be obtained from [www.welfarerights.org.au](http://www.welfarerights.org.au) or from your local Welfare Rights Centre/Advocate. Alternatively, you can fill out a Centrelink form called, "Freedom of Information - I want to see my file and personal documents". You can also write a letter requesting the information. If you write a letter, mention the FOI Act. It is advisable, if possible, to list exactly what documents you want. For example, if you wish to see all the information that Centrelink keeps

on you, you should ask for “copies of all file papers and computer records and printouts concerning me”. If you are having difficulty describing the information you need, speak to a Welfare Rights Centre/Advocate or a Centrelink FOI Officer.

Centrelink have 30 days to supply the information you requested under FOI.

You can either see your file at your local Centrelink office, or you can ask Centrelink to send you copies of documents from your file. If you want copies, make sure you indicate this on the form or in your letter.

### **Can I appeal decisions about access to my file?**

Yes. You can apply for a Centrelink review of a decision under the FOI Act within 30 days.

If you are not satisfied with the Centrelink review you can complain to the Commonwealth Ombudsman or appeal to the Administrative Appeals Tribunal (AAT).

**Appeals to the AAT should be lodged within 60 days of receiving written notice of the Centrelink decision.**

As FOI appeals can get very complicated it is a good idea to get advice before appealing to the AAT.

### **What if the information Centrelink has about me is wrong?**

If you think Centrelink’s information about you is wrong, misleading, out of date, or incomplete, ask Centrelink to amend the file. You can do this by filling out a Centrelink form called “I want to access or change information about me”, or by writing a letter. However, there are some limitations on correcting files, so you may wish to obtain advice from a Welfare Rights Centre/Advocate before asking Centrelink to change its records. (See page 36).

# Your Rights

The rules and laws which govern Social Security payments are found in Commonwealth legislation. Social Security legislation provides you with specific legal rights. These rights and your other general legal rights are discussed below. For more detailed information on your rights see the factsheet “Your Social Security Rights” at: [www.welfarerights.org.au](http://www.welfarerights.org.au)

## Your right to claim any Social Security payment

You are entitled to apply for any payment to which you think you may be eligible. Centrelink cannot refuse to accept a claim form.

You must always lodge a claim for a payment in writing. It is not sufficient to make a verbal inquiry. If you don't lodge a written claim, you may be disadvantaged by missing out on back pay. If you can't get to a Centrelink office immediately to lodge your claim, you can ring and tell Centrelink that you intend to claim a payment. If you then lodge the forms within *14 days* of telling Centrelink about your intention to claim, payments can be backdated to when you called initially.

## Your right to written notice of decisions with reasons

You have the right to receive a written decision from Centrelink containing the reasons for the decision, the evidence considered, and the legislative basis for the decision within 28 days of a written request.

If you don't already have it, it's a good idea to ask for this information prior to appealing, though you will usually obtain it if you appeal to an Authorised Review Officer.

## Your rights if visited by Centrelink staff

Centrelink Field Assessors (or Mobile Review Teams) may call at your home. If this happens you have the choice of whether or not to allow them into your home. You have the right to refuse them entry. You cannot be punished for not letting them in. You can arrange to have the interview at a Centrelink office. You do not have to have **any** Centrelink interview at home.

Only let Centrelink staff into your home if it is convenient for you. If you would feel more comfortable talking with them inside your home or at the front door, do so.

They must not look into private areas of the home, such as bedrooms.

You can demand that they leave your home immediately, at any time during the interview. You have the right to request that the Centrelink officer address the questions to you in writing. It is best to make such requests politely but firmly. See the Factsheet "Centrelink home visits and your rights" for more information on this matter at:  
[www.welfarerights.org.au](http://www.welfarerights.org.au)

Centrelink staff have official identification cards displaying their name, photograph and staff number. If they do not provide identification, do not give them any information and do not allow them to enter your home.

Centrelink staff make home visits mainly for the following reasons:

- to regularly review entitlements;
- to conduct reviews about a person's living arrangements (eg, to assess whether a person is a member of a couple) or
- to follow up information about an incorrect payment of Social Security or an allegation of fraud.

Centrelink staff must give you a brochure setting out your rights. The brochure should include the worker's name and contact phone number. Always read this brochure, or ask for it to be read or explained to you. You can also ask to have it translated. Make sure you understand it before answering questions.

### **You have the right to know the reason for the visit**

If you want to know the reason for the interview or why you are being investigated, ask Centrelink staff about any information they have received. However, where there has been a "tip off" they will not tell you who has made it, and there is usually no way you can find out.

### **Your rights at Centrelink interviews**

In most cases, Centrelink has the right to ask you to attend an interview so that it can assess your correct entitlement to a Social Security payment. You may request that questions be put in writing. You may also reply in writing. You will usually have 7 or 14 days in which to reply. You have a right to have a friend or a relative at an interview if you wish.

If you are not happy with the way a Centrelink officer dealt with the interview you should call Centrelink's Customer Relation Unit on 1800 050 004 which deals with such complaints. You can also complain to the Commonwealth Ombudsman. (See Useful Contacts on page 37).

## **Your right to seek independent advice before giving Centrelink information**

You have the right to seek independent advice about any Social Security matter at any time. Don't hesitate to contact the Welfare Rights Centre/Advocate or community legal centre in your area for independent advice.

## **Your rights to have an advocate**

Centrelink allows an advocate to be present at any Centrelink interview or medical examination. You can also have a nominee to handle Centrelink business on your behalf, which may include everything from answering your correspondence to receiving the payment on your behalf. If you want to have a nominee, ask Centrelink how to arrange for this.

## Your right to appeal

If you disagree with a Centrelink decision you have the right to appeal against it. Appealing is easy and free. (For further information, see the section in this booklet on Appeals, on page 18).

## You have the right to complain about a Centrelink worker's behaviour

You have the right to complain about or compliment a Centrelink worker's behaviour.

To make a complaint or compliment, telephone or write to the manager of your local Centrelink office or telephone the Customer Relations Unit on 1800 050 004.

You can also complain in writing to:

- The Commonwealth Ombudsman - a senior, independent person who investigates actions of Commonwealth Government workers;
- The Privacy Commissioner - a senior, independent person who investigates breaches of Commonwealth Privacy laws;
- Your local Federal Member of Parliament;
- The Minister for Human Services.

## Your right to privacy

The *Privacy Act*, 1988 governs what information can be gathered by government departments, how it can be gathered, and how and when it can be released.

Centrelink can lawfully collect information which is relevant to your entitlement without breaching privacy legislation.

Centrelink cannot give your personal information to other people, for example a friend, ex-partner or community worker without your consent.

But Centrelink can, without your consent, give your personal information to, and receive personal information about you from, certain other government agencies, such as the Australian Tax Office or Department of Immigration and Multicultural Affairs.

If you think your privacy has been infringed you can make a complaint to Centrelink on their customer relations line on 1800 050 004 or to the Privacy Commissioner at [www.privacy.gov.au](http://www.privacy.gov.au) or by ringing the Privacy Commissioner's Office on 1300 363 992.

### **Your right not to attend a “prosecution interview”**

If you have a Social Security debt, Centrelink may request that you attend a prosecution interview. You can tell if it is a prosecution interview as Centrelink will give you a warning that anything you say may be used against you in a court of law and that the interview will be taped.

**You have the right not to attend that interview, or if you do decide to attend it, you can walk out of it when you want.** No penalty can be imposed on you for not attending this interview, or for stopping the interview once it has commenced. Your current payments cannot be stopped because you do not attend the prosecution interview.

# Your responsibilities

## How do I avoid getting into trouble with Centrelink?

You need to tell Centrelink of any changes in your circumstances. This includes:

- if you become a member of a couple;
- if you change your address;
- if your income changes;
- if there is a change in the number of children in your care;
- if there is a change in your child support payment or
- if you or your children are going overseas.

You should look at the back of Centrelink notices for what changes you are required to notify Centrelink about.

You must tell Centrelink within 14 days of your situation changing or you may not receive the correct payment and risk a debt being raised against you, or even prosecution. (See Debts and Prosecution, pages 16 and 20).

# Complaints

## **The Centrelink Officer investigating my case has been rude and intimidating. Can I complain?**

If a Centrelink officer is offensive politely end the interview. Afterwards, write down what happened and what was said. If there was a witness, ask them to do the same.

## **How do I make a complaint?**

To make a complaint, telephone or write to the manager of your local Centrelink office or telephone the Centrelink Customer Relations Unit on 1800 050 004.

You can also complain in writing to:

- The Commonwealth Ombudsman – a senior independent person who investigates actions of Commonwealth government workers. (See Helpful Contacts page 37).
- The Privacy Commissioner – a senior, independent person who investigates breaches of Commonwealth Privacy laws or
- Your local Federal Member of Parliament.

## **What should I put in the complaint?**

- The name of the person you dealt with, date, time and place of the incident;
- The details of what happened and/or what was said (in the first person, eg. He said “You cannot appeal this decision”) and
- The name of any witnesses to the incident.

# Your health

## **I am stressed about the Centrelink investigation - Is there anyone I can talk to?**

Your health may suffer as a result of Centrelink investigations. You may feel stressed and anxious.

You should seek emotional support from someone you trust and feel comfortable talking with.

You may want to consider talking to a trained counsellor or seeing your doctor.

You may ask to see a Centrelink Social Worker who can advise you on local organisations who provide support and counselling services.

## **Domestic Violence**

If a person you live with behaves in a manner which causes you to be fearful for your safety and/or well being then you are experiencing domestic violence. Domestic violence includes physical abuse, verbal abuse, threats, intimidating behaviour and stalking.

You may wish to speak with a Social Worker from Centrelink, a solicitor at your local legal centre or the police and explain your situation.



## Your Notes



A series of horizontal dotted lines for taking notes.

See Helpful Contacts over page.

# Welfare Rights Advocates

Welfare Rights Advocates provide FREE confidential advice on all Social Security matters and are entirely independent of Centrelink.

Welfare Rights Advocates are located either in a specialist community legal centre or in a generalist legal centre.

Your closest Welfare Rights Advocate can be located through:

[www.welfarerights.org.au](http://www.welfarerights.org.au)

Adelaide: (08) 8223 1338 / 1800 246 287

Brisbane: (07) 3847 5532 / 1800 358 511

Canberra: (02) 6247 2177

Darwin: (08) 8982 1111 / 1800 812 953

Geelong: (03) 5221 4744 / 1300 430 599

Hobart: (03) 6223 2500

Launceston: (03) 6334 1577 / 1800 066 019

Melbourne: (03) 9416 1111 / 1800 094 164

Perth: (08) 9328 1751

Fremantle: (08) 9432 9790

East Victoria Park: (08) 6253 9500 /  
1800 642 791

Sydney: (02) 9211 5300 / 1800 226 028

Townsville: (07) 4721 5511

Wollongong: (02) 4276 1939

**Factsheets and information can be found at [www.welfarerights.org.au](http://www.welfarerights.org.au)**

# Helpful contacts

## Free Advice

LawAccess 1300 888 529  
[www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au)

Legal Aid has offices in all States & Territories  
National Head Office  
[www.nla.aust.net.au](http://www.nla.aust.net.au)

## Tribunals

Social Security Appeals Tribunal 1800 011 140

Administrative Appeals Tribunal 1300 366 700

## Complaints

Commonwealth Ombudsman 1300 362 072

Centrelink Customer Relations 1800 050 004

Privacy Commissioner 1300 363 992

## Centrelink

Centrelink  
To arrange an appointment 131 021

To negotiate debt repayment 136 330

## Support Services

Lifeline (24 hours) 131 114

