

**Women's Legal Service Tasmania, submission to the Senate Community Affairs References Committee inquiry into Centrelink's compliance program, 'Robodebt'.**

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**About Us**

Women's Legal Service Tasmania operate a free and state-wide service, with offices in Hobart, Burnie and Launceston.

From our office in Hobart we provide confidential and free legal advice and referral to women right across Tasmania through our telephone advice line. Our legal staff are able to provide advice and referral on all legal matters, including family law, family violence, civil and criminal law, as well as estate and property law. In addition to providing telephone advice, we are at times able to take on casework for clients throughout Tasmania who need representation with their legal matters.

Our Burnie office has been operational since April 2016 where we operate a specialist family violence unit in the north west of Tasmania as part of the Australian Government's response to rising family violence in our communities. Our Burnie office provides legal information, advice and support on any legal matter to those clients in the north west of the state who are experiencing, or who have experienced, family violence.

Our Launceston office operates with funding secured as an extension of our Burnie office, and in part through funding provided by the Tasmanian State Government from the *Family Violence Action Plan 2015–2020* – it also specialises in family violence.

We also provide community legal education sessions and workshops throughout the Tasmanian community. We produce legal information publications such as brochures, booklets, factsheets, and websites, and strive to make the legal system more accessible and responsive to the issues affecting women through our law reform work. Increasingly, we receive queries concerning the interface between family violence and Centrelink.

To best understand our work in this area – I'm sharing three client experiences which highlight:

- i) the impact of debt collection practices on women struggling to get by; and
- ii) how men who chose to use violence, in the form of coercion and control and financial abuse, are not held accountable for aiding and abetting their partners commit Centrelink fraud, resulting in no access for these women to the property pool and/or, exposing them to criminal fraud charges and a Centrelink debt when the relationship breaks down or their activities are detected. This amounts to a systems failure, which David Mandel recognises as a process where all the eyes are trained on the women, the victims of the crime of family violence, to face the consequences of the man's behaviour – it is her response that we then criminalise, that is the fraud. The burden of this crime rests on women, and their children – all of whom are victims of that violence.

## **Sally**

Sally has been working part time or casually for years. She received Newstart, but updates Centrelink regularly about her income to make sure she is paid the correct amount.

About 10 years ago, she received a notice from Centrelink stating that she had been overpaid by \$12,000 over a period of two years. According to the notice, she had

been paid almost double her entitlement. Sally was a relatively recent immigrant to Australia, and English was her second language. The prospect of receiving advice, and pursuing options to dispute this debt were too overwhelming, and she simply agreed to enter into a repayment plan with Centrelink – reducing her already limited income.

Recently, she received a notice from Centrelink saying that she had again been overpaid in an amount of \$14,000. The notice simply outlined the years, and the amount. With her improved English, Sally this time contacted Centrelink to question the source of the debt. She insisted that she had not in fact received the overpayment from Centrelink, and that she had diligently updated Centrelink as to her income to ensure no such overpayment was made. Centrelink staff told Sally she would need to provide bank statements for the 2010 – 2012 period, however Sally's bank told her that they do not hold statement for longer than seven years.

In the meantime, Sally was receiving calls from Centrelink after-hours and on the weekends, to demand payment of the debt. Sally sought legal advice, and was informed of her right to request a review, and ultimately go to the AAT. She feels angry that she is required to provide bank statements she cannot access to prove the debt does not exist, while Centrelink has provided nothing further than a computer-generated statement with the years and the amount, demanding payment.

## **Kylie**

Kylie had two children from a previous relationship when she entered a relationship with Dave. She was receiving a single parenting payment from Centrelink. Dave was self-employed as a builder but business was slow. He also had a young son from a previous relationship. He told Kylie that business was going to pick up, but in the meantime, he would not be able to support her and the children on his wage and reduced Centrelink, so she should hold off on updating Centrelink about their

relationship. Kylie suggested she get some work, but Dave was opposed to this, saying they couldn't afford childcare – and in any case, if she was at home he could have his son stay for extra nights during the week. It was early days, and Kylie did not want to be considered a burden.

As the relationship progressed, Dave would not provide Kylie with any funds, saying that he couldn't afford it, and that in any case she was receiving money from Centrelink for her and the Children. She didn't feel right about not updating Centrelink about their relationship status, but when she raised the issue with Dave, he became angry, threatening to leave her if she reported the relationship to Centrelink. Kylie had been struggling financially for a long time, and being in a relationship with Dave brought some security – he was paying off a house, and provided her with a car. The Children got along well with him, and when he wasn't angry they had a good time together.

Things carried on like this for some time – and Dave's business became more profitable, but he continued to insist that Kylie pay for hers and the children's expenses while he began paying more into his mortgage and bought a couple of nice cars, registered in his name. He paid for some renovations, and life was generally becoming more comfortable for the family. Kylie had raised the issue of Centrelink on another couple of occasions, and Dave became angry, and violent – on one occasion he grabbed Kylie around the throat and again threatened to leave her if she spoke to Centrelink.

Eventually, after the violence increased, Kylie decided to leave the relationship – after years of maintaining the home, purchasing groceries, helping with the renovations and looking after Dave's son. She spoke to a lawyer, who said that she was entitled to a share of the now significant asset pool, perhaps including one of the cars. However, if she were to make an application for her share, she risked being charged with Centrelink fraud, with penalties ranging from a significant debt to a term of imprisonment – not to mention a criminal record.

Kylie decided not to pursue an application. She took with her a suitcase with her children's clothes, and went to stay in a women's shelter, while she looked for rental accommodation. After having spent years out of the workforce, her job prospects were low, and she remained reliant on Centrelink. Dave, on the other hand, continued developing his business and retained the benefit of the vastly increased equity in his property, and other assets – acquired in part as a result of the funds received from the single parenting payment, and Kylie's support with the home and childcare.

### **Jessica**

Jessica sought advice in relation to a property division with her former de facto partner. Justin worked as a miner interstate, and earned around \$200,000 per year. Justin's income enabled them to purchase a number of properties that were worth between \$300,000-500,000.

During the relationship, Justin was financially controlling and considered their respective incomes to be separate. Jessica sought Centrelink assistance and claimed that she was single, as she could not financially support herself and Justin's three children with her casual wage. Justin was aware of this payment and it continued for around 12 years.

Following separation, Jessica was required to consider whether it was worth pursuing a property division, as Justin had already threatened to report her for receiving a Centrelink benefit when she was not entitled, despite knowing she did not have access to the funds she required during the relationship.

It is unknown whether Jessica ultimately pursued a property division, however she indicated that she likely would not due to the amount of money potentially owed to Centrelink and possible criminal prosecution.

## Conclusion

We all need to be more nuanced in our interaction with survivors of family violence. Centrelink has to take into account the circumstances surrounding fraud. Men need to be held accountable for creating the circumstances where these crimes are committed, and they must be seen as aiding and abetting the commission of their crimes.