



Committee Secretary  
Joint Committee of Public Accounts and Audit  
Parliament House  
Canberra ACT 2600

Submitted electronically via Parliament of Australia website

8 May 2026

## ***EJA submission to the Inquiry into the Administration of the Age Pension***

### **About Economic Justice Australia**

1. Economic Justice Australia (EJA) is the peak organisation for community legal centres providing specialist advice to people on their social security issues and rights. Our members across Australia have provided people with free and independent information, advice, education and representation in the area of social security for over 40 years.
2. EJA provides expert advice to government on social security reform to make it more effective and accessible. Our law and policy reform work:
  - strengthens the effectiveness and integrity of our social security system
  - educates the community
  - improves people's lives by reducing poverty and inequality.
3. EJA welcomes the opportunity to provide input to the Joint Committee of Public Accountants and Audit's Inquiry into Administration of the Age Pension.
4. Submission commentary is based on the experience of EJA members who advise and represent thousands of people each year to address barriers to their social security entitlement. It also references interviews with community services providers undertaken to inform EJA's *Social Security for Women Outside Our Cities* reports. All case studies have been de-identified.

5. This submission supports the findings of the Audit of Age Pension Administration by the Australian National Audit Office (ANAO), noting recommendation 3 is beyond the scope of EJA's work.
6. EJA recognises that relevant departments have either agreed or agreed in principle with all the ANAO's recommendations.

### **Personal assistance**

7. EJA Member Centres report that many people on Age Pension require personal assistance to claim payments, prevent debt acquisition and manage debt repayments.
8. This experience is consistent with the findings of a 2018 report, [The Centrelink Experience](#). Through open-ended questions (that did not include a specific question about seeking assistance), 82 per cent of respondents raised they had sought assistance when completing their Age Pension claim. This included assistance from general Centrelink staff, FIS Officers, financial advisors/planners, or family and friends.
9. It is worth noting that assistance with Age Pension claims has generated a commercial industry. Advertising on one company's website leverages community fears about the Age Pension claim process to recruit customers, describing their service as relieving the burden of:
  - "100s of complicated questions and confusing forms
  - Multiple visits to a Centrelink office
  - Long queues and wait times"<sup>1</sup>
10. Their fee to complete an Age Pension claim form starts at \$335 for single people and \$455 for couples with simple financial arrangements. People without more complex financial arrangements can pay almost \$1000.
11. Age Pension is a payment with income and assets provisions restricting payment to people of modest means. Consequently, it is extremely problematic that Services Australia's limited capacity has resulted in the Government effectively outsourcing the Age Pension claim process to the private sector for individuals who are unable to manage it themselves.

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<sup>1</sup> [Retirement Essentials website](#)

12. While some people prefer to engage with Services Australia over the phone for convenience or to manage mobility restrictions, others want nothing more than to sit across the desk from a Service Australia officer to fully explain their circumstances as an assurance their circumstances have been fully understood.
  13. Here, Services Australia's roll out of an appointment-based system should be commended. EJA recommends promotion of this service to Age Pension claimants and recipients.
  14. EJA Member Centres continue to advise Age Pension recipients who struggle to use Services Australia's digital systems. This can lead to claims being delayed by weeks or months.
  15. EJA Member Centres also assist people on Age Pension who struggle with their reporting obligations as they continue to be pushed online.
  16. While Services Australia's digital coaching has been a positive initiative, awareness among social security recipients and support workers remains limited, with uptake surprisingly low.
  17. Notably, where digital engagement is beyond the customer's capacity, referral to non-digital support is essential. This point is critical in relation to people of Age Pension age, who have low rates of digital literacy compared to the general adult Australian population.<sup>2</sup>
- **Recommendation 1:** That Services Australia increase personal support to people requiring assistance to complete an Age Pension claim.
  - **Recommendation 2:** That Services Australia simplify the Age Pension claim process, including review of claim and associated forms, drawing on input from stakeholders and people with lived experience of Age Pension claim processes or potential new claimants.
  - **Recommendation 3:** That Services Australia increase promotion of the assisted claim process so that people unable to complete forms know to request assistance.
  - **Recommendation 4:** That Services Australia increase promotion of the appointment-based service offer to Age Pension claimants and recipients.

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<sup>2</sup> [Australian Digital Inclusion Index](#)

- **Recommendation 5:** That Services Australia increase promotion, provision and evaluation of the effectiveness of digital coaching, including identifying where customers should not be referred into digital systems.
- **Recommendation 6:** That Services Australia staff stop referring clients in Service Centres to computers without having a conversation to establish digital capacity. This includes Services Australia ensuring that either appropriate staffing is available to assist to navigate digital systems; or that referral to face-to-face assistance is available to complete claims.

### Confirmation of documents

18. Community workers report clients' frustration that Services Australia no longer provides a clear postal address where correspondence can be sent. This issue is particularly important in remote and very remote areas where other means of access are unavailable.
  19. This is a pressing issue for many older Australians who prefer to send documents by post than by any other method, noting electronic methods may be unavailable to them.
  20. EJA Member Centre clients also report frustration that when they provide documents to Service Centre staff, for example an Age Pension claim or request for administrative review, they leave without evidence they have done so. Unfortunately, it is not uncommon for documents to go astray.
  21. EJA recommends that people be given a receipt listing the documents they have provided, with Customer Service Officer checking and advising them if there are documents outstanding during that point of contact.
- **Recommendation 7:** That Services Australia include options for customers to communicate via postal services where that is the most convenient or efficient means of communication.
  - **Recommendation 8:** That Services Australia introduce an onsite system confirming receipt of documents, with concurrent checking and notification about outstanding documents.

## Quality of advice

22. High quality training is essential to ensure Services Australia officers are equipped to advise people about Age Pension eligibility requirements and their ongoing reporting responsibilities.
23. Compared to most social security recipients, people on Age Pension are more likely to have complex financial circumstances, for example, circumstances affected by a lifetime of savings and investing, inheritance or arrangements made by family members that they do not understand.
24. It is not uncommon for a person on Age Pension to lose their spouse or a parent, which frequently involves transfer of assets and changes to income. When loss of a spouse occurs, the person will be considered single and income and assets testing will change. Debts arise when, during this traumatic time, a person fails to understand reporting obligations as they relate to an increase in personal assets following the death of a loved one.
25. EJA Member Centres continue to see people who have received inconsistent advice when they call or visit a Service Centre, which many find distressing. Given the enormity of the social security system, key issues that may be encountered by frontline staff should be identified and prioritised for training

### **Case study – Martin**

Martin, an elderly man in his 70s, faced an unexpected financial crisis due to lack of clear information about his Age Pension reporting obligations. Despite managing multiple complex medical conditions- paranoid schizophrenia, hoarding disorder, gambling addiction and depression - Martin had successfully maintained his regular reporting obligations and relied on his fortnightly Age Pension payments for stability.

When Martin's mother died, he notified Services Australia of her death, but was unaware of his obligation to also tell them that he would inherit her home. Critically, during this interaction, Service Australia staff did not ask necessary follow-up questions or provide information that would have helped Martin understand the need to report this significant change in assets.

Sale of the inherited property was significantly delayed for several years due to its dilapidated condition and complications from Martin's hoarding disorder. Throughout this extended period, Martin continued to receive his

full Age Pension. By the time the property was finally sold and Services Australia became aware of the situation, Martin has unknowingly accumulated an overpayment exceeding \$50,000. The discovery of this substantial debt caused Martin severe emotional distress.

An EJA member centre represented Martin to seek a waiver of the debt, which was ultimately successful. However, the process required intensive support given Martin's vulnerabilities, and proved resource-intensive for both the EJA member centre and Services Australia.

Martin now says he would have preferred to forgo his Age Pension payment during the inheritance period rather than face the overwhelming anxiety and stress of such a significant debt. This situation could have been avoided entirely had Martin received clearer information and appropriate support when reporting his mother's death to Services Australia.

26. EJA supports the escalation of cases to Complex Assessment Officers where appropriate but notes concern regarding assessment delays.
27. EJA also notes that escalation requires that frontline staff recognise escalation is required.
28. EJA Member Centres generally receive positive feedback regarding clients' interactions with Financial Information Service officers.
  - **Recommendation 9:** That Services Australia increase investment in training and long-term retention of staff to ensure enough experienced staff to undertake complex claim assessments.
  - **Recommendation 10:** That Services Australia introduce specialist Age Pension customer service officers who have received nuanced training on issues relevant to older customers to better provide support to this cohort, including to help them understand reporting obligations and reporting changes in circumstances.
29. While EJA supports implementation of the ANAO's recommendation 9, we seek its application beyond claims to encompass reporting and debt issues.
30. Some people are unable to understand basic reporting obligations, requiring greater assistance from frontline staff or referral to a Services Australia social worker.

### **Case Study: Barbara**

Barbara, who has had a mental health condition since childhood, was referred to an EJA Member Centre because of a problem with her housing. Barbara, who was receiving the Age Pension, had not reported her income to Centrelink since she had started working casually more than 12 months prior.

Barbara was very anxious about engaging with Centrelink. She struggled to identify how much she was earning fortnightly and did not understand how to report her income through Centrelink's online system. Barbara had previously contacted Services Australia by phone and had been into a service centre but still did not understand how to report.

The Member Centre lawyer worked with Barbara to help her understand her income reporting obligations, how income is assessed, operation of the Work Bonus system, and the risk of debt. The Member Centre then helped Barbara gather the information and documents required and sent them to Services Australia with a letter setting out her situation. The Member Centre lawyer asked Services Australia to contact Barbara to assist her to report past income and comply with her reporting obligations moving forward.

SA confirmed that after updating their records with Barbara's income, her Work Bonus credit was not completely depleted. Consequently, Barbara did not have a debt. Barbara was very relieved but also frustrated the process had been so stressful given, in the end, her reporting had not changed her Age Pension income.

### **Automation**

31. EJA welcomes recommendation 6 of the ANAO's Audit concerning risk management of automated processes to assess Age Pension claims, and commends Services Australia's agreement to accept this recommendation. However, EJA remains concerned about risk management of automated processes in all parts of the social security system.
32. EJA continues to raise concerns about the design and testing of automated systems, accuracy of decisions, lack of transparency about how decisions are made, the legality of some decisions, and the impact of decisions on people navigating complex circumstances.
33. EJA reiterates that great care must be taken in the adoption and use of automation within the social security system, with social security a high-risk setting given

decisions effect essential payments for people with minimal or modest financial security.

34. EJA remains disappointed that the Government has not implemented Robodebt Royal Commission's recommendation 17.1 to introduce a consistent legal framework for Automated Decision Making (ADM) and recommendation 17.2 to establish a body to monitor and audit ADM.

### **Legality of debt letters**

35. EJA highlights the ANAO's recommendation 8 regarding the need for Services Australia to review and revise letters notifying recipients of their possible debt to ensure letters specify the rationale or basis for the decision.
36. EJA has previously raised with Services Australia and the Department of Social Services concern regarding the legality of debt notices which lack a genuine explanation of the facts underpinning a debt.
37. Section 1229 of the *Social Security Act 1991* requires that debt notices specify the reason a debt was incurred, including a brief explanation of the circumstances that led to the debt. Debt notices regularly fall short of this standard, including lacking information about which particular 'change of circumstances' is being relied upon.
38. Consequently, it is common for EJA Member Centre clients to misinterpret or be unable to establish the reason for their debt. That results in people repaying debts without establishing whether the facts relied upon are correct.
39. While this affects a cross section of the community, EJA Member Centre's experience is that this commonly affects people in vulnerable circumstances who struggle to navigate social security (and other) systems.
40. EJA Member Centre caseworkers can sometimes interpret letters but otherwise resort to Freedom of Information requests, sometimes running to hundreds of documents, to facilitate advice to clients about the merits of seeking debt review.
41. EJA understands progress on improving debt notices is largely limited by IT constraints but notes the poor standard of debt letters has now been named by both the Robodebt Royal Commission and the Commonwealth Ombudsman, requiring Services Australia's urgent attention.
42. EJA's legal advice indicates non-compliance with this provision could render the letters legally ineffective, and could amount to a denial of procedural fairness. As

above, the failure to include sufficient information prevents a person from understanding the debt. If a person is not provided information about the reason for the debt, that limits their ability to argue against its accuracy or to challenge their obligation to repay it. This is both significant and material.

43. There is legal authority for the fact this kind of error would render the letters void and of no effect. In *Prygodicz v Commonwealth of Australia (No 2)*,<sup>4</sup> otherwise known as the Robodebt settlement decision, Justice Murphy expressly said he could not “see much force in the Commonwealth’s contention that the *Social Security Act* indicates a legislative intent that a notice issued for the purpose of s 1229(1) of the *Social Security Act* will have legal effect even if the notice was issued ultra vires and unlawfully”.<sup>5</sup>
44. The need to provide recipients with procedural fairness when raising debts is of paramount importance for government agencies, not least because of their obligations as model litigants. We raise the issue of procedural fairness here not just in the interests of our member centres’ clients, but also in the interests of the Agency. A court or tribunal finding debt letters to be non-compliant and void is likely to call into question the legitimacy and recoverability of a vast number of Centrelink debts, both past and current.
45. It is vital debt letters are issued in compliance with legislation.

- **Recommendation 11:** That Services Australia work to bring debt letters up to a lawful standard.
- **Recommendation 12:** That Services Australia, as an interim measure, investigate the possibility of attaching a separate document to debt letters, which sets out the reasons for the person’s debt and the circumstances leading to it.
- **Recommendation 13:** That the Government provide Services Australia with funds to re-develop its IT system so it is fit for purpose, enabling correspondence with social security recipients that explains their social security entitlement, and in particular the reasons they have accrued an alleged debt.

## Debt recovery

46. After a debt has been raised, a reduced repayment rate can be negotiated where a person is unable to meet the default debt recovery rate set by legislation at 15 per cent of a person’s income support payment, i.e. Age Pension.

47. In most cases, the reduced rate must be renegotiated every 13 weeks, with a failure to contact Services Australia before the deadline triggering automatic reversion to the default rate<sup>3</sup>. This can cause significant financial distresses including people being unable to afford food or medication or pushing people into rental arrears.
48. For many people who rely solely on Age Pension, there is no realistic prospect of their financial circumstances improving within 13 weeks, with the short timeframe placing an unnecessary burden on people to contact Services Australia.
49. The 13-week review period also creates significant inefficiencies for Services Australia.
50. In EJA Member Centre's experiences, some people simply cannot manage regular contact which results in a significant reduction in their Age Pension. People generally find this process distressing.

#### **Case study: Marta**

Marta, who is in her mid-90s, lives in a nursing home. Her only income is her Age Pension. She has no savings and no likelihood of receiving additional income or assets. Marta has been repaying her Centrelink debt for some years at a reduced rate to ensure she is able to cover nursing home fees and other necessities.

Periodically, Marta's debt repayments revert to the standard debt recovery rate. Each time this occurs, she contacts her local EJA Member Centre to ask what has occurred, including asking what the debt is about. Marta is often confused and unable to retain details regarding the reasons she has a debt or her debt repayment arrangements. Each time her repayment default to the non-standard rate, her caseworker contacts Services Australia at Marta's request to again request reduced withholdings.

#### **Case study: Francesca**

Francesca had worked full-time before receiving Age Pension when she moved to part-time work pre-retirement. She had tried her best to report her income and had thought she was reporting correctly. Francesca contacted an EJA Member Centre for advice after a debt of more than \$30,000 was raised due to misreported income. The EJA Member Centre worked with Francesca to appeal her debt, which the (then) Administrative Appeals Tribunal reduced.

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<sup>3</sup> Information regarding the 13-week period is not included in legislation or in the *Guides to Social Policy Law*, so is likely contained in an Operational Blueprint that is not available to the public.

Francesca's repayments were set at 15 per cent of her Age Pension but she was not keeping up with her bills. Although articulate, she struggled to deal with the Debt Recovery Line. Despite repeated instructions and support from her social security lawyer about how to engage with SA, Francesca visited the Member Centre every 13 weeks over years to ask her lawyer to call the Debt Recovery Line with her, often spending long wait times on the phone before the call was answered.

51. EJA recommends that Services Australia exercise greater discretion regarding non-standard withholding review periods, including providing three, six or 12 months options for people who have circumstances unlikely to change.
  52. Further, EJA recommends abolition of the practice of auto-reversion to standard withholdings without first contacting the person to establish their financial circumstances.
  53. EJA is aware that Services Australia is currently reviewing these provisions, and recommends particular attention to the application of these provisions to people of Age Pension age.
  54. When developing criteria for prolonged reduced debt repayments, it is important to recognise the false economy of pushing people to exhaust their savings as it increases long-term vulnerability. The consequences can be particularly acute when people have aged out of the workforce so have no prospect of accumulating future savings and/or they anticipate future medical expenses.
- **Recommendation 14:** That Services Australia increase discretion regarding non-standard withholdings periods, providing people with circumstances unlikely to change with three, six or 12 months options.
  - **Recommendation 15:** That Services Australia abolish the practice of auto-reversion to standard debt recovery withholdings without first contacting the person to establish their financial circumstances.

## **Elder Abuse**

55. Centrelink should be a primary site for the detection and prevention of elder abuse, especially financial abuse given the significant portion of older Australians receiving

Age Pension, and capacity of Centrelink staff to interact with customers regarding their financial and other arrangements.

56. EJA notes Services Australia has a webpage addressing '[Elder Safety](#)' but suggests more could be done to train frontline staff about how to identify, engage with, and refer customers who may be experiencing elder abuse.
57. EJA is unaware of a Services Australia policy or procedures specifically informing staff capacity to recognise and address elder abuse, but suggests such foundational guidance would be a pre-requisite to effective customers assistance and payment administration.
58. Training to identify and address elder abuse, including referrals, may be particularly relevant where Services Australia becomes aware of arrangements being made around 'gifting' or other transfer of assets, and entry into aged care. Training would need to occur for frontline staff and specialist officers dealing with complicated financial arrangements, such as complex assessment and FIS officers.
59. The outsourcing of social security administration into people's homes via technology has opened new avenues for family and domestic violence and elder abuse.
60. Technology-facilitated abuse in the context of Services Australia online systems is alarmingly prevalent. A particularly insidious practice involves abusers exploiting access to family members' or partners' myGov accounts to take out advance payments (colloquially known as 'Centrelink loans') in their name and without their consent.

*We see a lot of people's Centrelink loans being taken out in people's names using myGov. It happens a lot, the financial abuse, it is a huge problem, and the tech-facilitated abuse, and Centrelink seems oblivious to it.*

61. When a person's funds are paid into another person's account through such deception, there is no system whereby Services Australia can pay the equivalent sum into the person's account, even when the facts are clear. That leaves people in dire financial straits.

- **Recommendation 16:** That Services Australia review systems and take action to minimise technology-facilitated abuse whereby funds are stolen from the intended recipient.
- **Recommendation 17:** That Services Australia and Department of Social Services investigate means to recover funds lost through technology-

facilitated abuse, assisted family violence or elder abuse, and how to reimburse the intended recipient for funds lost.

## **Nominees**

62. Social security law allows a recipient to formally nominate another person to act as their nominee, allowing the nominee to enquire, update, receive information and/or act on the Centrelink recipient's behalf in relation to their social security payments. Nominee arrangements are invaluable for many who are not able to manage engagement with Centrelink, but can sometimes be used to perpetrate financial abuse.
63. EJA members assist clients where their nominee has changed payment details and arrangements, diverting the client's Centrelink payment into their own bank account, which has left the client unable to afford even basic necessities and/or facing eviction.
64. EJA is also aware of cases where a person has been left with a debt as the result of nominee arrangements, when misreporting has occurred without any attention to cause the person harm.

### **Case study - Rina**

Rina's husband Mal worked while she looked after their children and the family home until Mal was seriously injured in an accident. When it became clear that Mal's injuries precluded any return to work, he claimed Disability Support Pension (DSP), and Rina claimed Carer Payment as Mal required constant care as a result of his physical disability.

Ron continued to manage their finances as he had always done, which now included acting as Rina's nominee with Centrelink. Some 10 years later, both Rina and Mal qualified for Age Pension, which they were both paid at the couple rate until Mal's death.

After decades of delegating finances to Mal, Rina had a very low level of financial literacy and almost no experience of interaction with Centrelink, but realised she would now have to manage her Age Pension arrangements with Centrelink. That's when she realised something was wrong. Mal had not reported to Centrelink a second property that he had owned. Centrelink raised debts against both Rina and her late husband, pursuing Rina for both.

The debt covered the period during which they were paid DSP, Carer Payment and Age Pension.

Rina says there was never any financial abuse or coercive control but could not understand why the nominee process allowed her husband to assume full control of the reporting of her affairs, with no checking or oversight from Centrelink as to whether she, as the person receiving the benefits, was being told the correct information by the nominee or whether the nominee arrangement was even appropriate in the first place.

65. Payment nominee applications are able to be completed online via the 'myGov' website, in person at a Centrelink service centre, or by post or fax. On approval of a payment nominee application, Centrelink sends letters to the principal and nominee confirming the nominee appointment. This may not be enough to safeguard a principal against coercion or fraud, especially where the payment nominee applicant is also the person's correspondence nominee.
  66. EJA seeks the attention of both the Department of Social Security and Services Australia to identify areas of policy and procedural reform to require additional checkpoints to ensure nominee arrangements are being used only in the best interests of the recipient.
  67. An example of a possible checkpoint would be requiring confirmation from the social security recipient when a nominee endeavours to make significant changes to a recipient's payment, such as specifying a new bank account or Centrepay arrangements.
- **Recommendation 18:** That Centrelink staff, wherever possible, speak directly to persons of Age Pension age who are entering into arrangements with others concerning their social security payments.
  - **Recommendation 19:** That the Department of Social Security and Services Australia identify areas of policy and procedural reform to provide additional checkpoints to ensure nominee arrangements are used only in the best interests of the recipient.

## Professional Nominees

68. As well as more traditional nominee arrangements where a family member or friend assists a person to manage their social security reporting obligations and other contact with Centrelink, there are commercial businesses which provide such services for a fee. EJA notes the viability of these services suggests there is much work to be done in making the Age Pension system more accessible and easier to understand.
69. Unfortunately, some commercial services take financial advantage of older people wishing to claim/retain Age Pension, or fail to undertake their service efficiently, leaving a claimant/recipient worse off due to the services not being as expert as they claim.
70. In the case of the latter, EJA member centres report such services do not always do what they say they will. In some cases, a service becomes a person's nominee then fails to action correspondence, leading to payment suspensions, cancellations, and other issues. Importantly, in many cases the person remains entitled to payment throughout the relevant period, and the correspondence not actioned was a simple request to update details. Had the person or service responded in a timely manner (or at all), the person's payment would have continued uninterrupted.
- **Recommendation 20:** That Services Australia monitor engagement with Age Pension management services to ensure they are providing services in an accessible and useful way, alerting customers where they have area for concern and taking action to prevent abuse where possible.
  - **Recommendation 21:** That Services Australia review policy and guidelines relating to payment cancellation in the case of non-response to correspondence, particularly where the person is on Age Pension or Disability Support Pension; is using a Pension Management Service; and/or there is no evidence to suggest the person lacks entitlement to their payment

## Contact

**Anusha Goonetilleke**  
Senior Policy Officer  
Economic Justice Australia  
[anusha@ejaustralia.org.au](mailto:anusha@ejaustralia.org.au)

**Sally Cameron**  
Senior Law Reform Officer  
Economic Justice Australia  
[sally@ejaustralia.org.au](mailto:sally@ejaustralia.org.au)