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Friday, 12 May 2017

Committee Secretary

Senate Community Affairs reference Committee
Parliament House
Canberra ACT 2600

Dear Secretary,

Inquiry into the "Design, scope, cost-benefit analysis, contracts awarded and implementation associated with the Better Management of the Social Welfare System initiative."

Thank you for the opportunity to make this submission.

The Townsville Community Legal Service Inc (TCLS) is a non-profit community based legal centre that provides free legal advice and assistance to residents of Townsville and surrounding communities.

TCLS is a generalist legal centre but also provides specialist services in social security law, family law, migration, and elder abuse.

The TCLS is a founding member of the National Social Security Rights Network (NSSRN), formerly the National Welfare Rights Network, a national peak body in the area of social security and family assistance law, policy and administration.

TCLS has assisted clients with advice and representation in the area of social security law for the past 26 years.

TCLS supports the NSSRN submission (dated 22 March 2017) to this Inquiry and also recommend that the OCI system be abandoned.

Like the NSSRN, TCLS submits the OCI should be evaluated against fundamental principles and standards of administrative law and public administration.

Our submission addresses the following terms of reference:

- the impact of the automated process on people affected by the process;
- the administration and management of customer records;
- the capacity of the DHS and Centrelink to deal with the resultant demand on their systems;
- the adequacy of the complaint and review process;
- issues arising from data matching between the ATO and Centrelink;

- the error rate in notices; Government response to individually affected individuals;
- the error rate in debts and steps taken to remedy such errors;
- and the adequacy of departmental management of the OCI.

In this submission we share the case studies of two clients we assisted to challenge debts raised by the OCI system. We believe these cases highlight some of the serious flaws in this system. Both individuals provided consent for us to share their stories on the basis that they remain anonymous.

We submit that these cases highlight the significant human cost of the OCI system.

Please do not hesitate to contact the writer to discuss this submission.

Yours faithfully

Townsville Community Legal Service Inc.

Per: BILL MITCHELL
Principal Solicitor
MARN 0215663

Case Study 1 - Colin

Colin contacted us in mid April 2017 angry and upset by his experiences with the OCI system and wanting to seek compensation.

Colin is a 53-year-old man living in his own home in Townsville. He is single and has two adult daughters.

Colin is a sheet metal worker by training. He also has a number of certificates in workplace training and occupational health and safety. He has worked at all levels in the work force from management to labouring. His recent work history includes casual and contract positions. In between employment Colin has had to rely on Newstart. Colin's most recent job, with Employer A, ended in February 2016. He has relied on Newstart ever since.

Colin is computer literate but does not have access to a computer at home as he is unable to afford a computer or Internet access. Colin has a smart phone, but his phone plan does not include data, as he is unable to afford this. Colin accesses email when he visits his job network provider or his daughter.

Colin has a MyGov account. This was setup by a Centrelink employee for him. When it was setup Colin explained he had limited access to the Internet and so would prefer to receive notices by post. Nevertheless Centrelink only provides letters to Colin through MyGov.

Colin has a 1996 Holden Commodore station wagon in desperate need of repairs. He limits his use of his car as much as he can.

Colin was just getting by on Newstart until December 2016.

Colin recollects he first received a SMS in October or November 2016 directing him to look on his MyGov account. Initially he took no particular notice of this message as he often receives such notices and has found they usually refer to update assessments or other non urgent notices.

On the 7 December 2016, Colin noticed his most recent fortnightly Newstart payment was about \$80 short. He phoned Centrelink. He was referred to the Debt Recovery Team.

Colin was told money was being withheld as Centrelink had raised a debt against him. An "earned income review" suggested he had not declared all his income in the 2014/15 financial year. The alleged debt was approximately \$300.

Colin came to understand the debt was raised as he had two jobs in that financial year. This was the year he started working casually for Employer A. However Employer B had also employed him for approximately 4 months. Employer B paid a commission each week for varying amounts depending on the number of sales Colin made.

Colin believed he had declared his income each fortnight as required. He did not agree with the debt.

On the 12 December 2016 Colin got in his car and drove to his local Centrelink office. Here he accessed his MyGov account and got print outs of all letters sent

to his MyGov account. Colin was told to get a copy of his payslips and upload them to his MyGov account.

Colin requested Centrelink postpone collecting repayments while they reassess the debt. He was told that they could not do this and after the 1 January 2017 interest would be applied to the outstanding amount.

A further \$80 was also withheld from his next fortnightly payment. Thus Colin received approximately \$160 less in payments than he should have in the weeks immediately before Christmas. As a result Colin was unable to purchase Christmas presents for his daughters, and he could not pay his phone bill or credit card bill. Colin entered into a payment plan for his phone bill. He accrued further interest on his credit card, as he was unable to make the minimum monthly payment. Colin was already on the edge financially. Unfortunately Colin found, once you get behind on bills when you are on Newstart, a snowball effect sets in and over the next months you get further behind. Colin subsequently had trouble paying his electricity account and had to cancel his home insurance policy.

After further contact a Centrelink officer did agree to reduce Colin's repayments to \$10 per week after Christmas.

Colin contacted Employer A and was provided with his pay slips. This necessitated a car trip to Employer A to collect the payslips and another to Centrelink to lodge them. Unfortunately things were not so simple with Employer B. Colin and his daughter searched for Employer B. Employer B appeared to have gone out of business and so Colin was unable to get copies of his payslips. Colin provided to Centrelink his payslips from Employer A and explained the situation with Employer B. He was told it would take time to input the information into the system and he should ring back after the 21 December to review progress.

Colin contacted Centrelink on at least 8 further occasions:

- Colin rang on the 19 December and was told there were computer problems and to ring back later.
- He called back again on the 3 January and was told his payslips were on the system. He was told the review should take 14 days.
- He rang again on the 30 January and was told his matter was yet to be assigned to a staff member.
- Colin called again on the 14 February and was told it had been referred to a "Cal Team" and he should hear back in 24 hours.
- He rang again on the 15 and 16 February. On the second call he was told the matter had been referred to the "appraisal team" to revise and he should hear within 2 weeks.
- He contacted Centrelink again on the 22 February and the 24 February. In the last call Colin was told the debt had been reduced to \$13.21 and he would be reimbursed in the next payment period.

Each time Colin contacted Centrelink he spoke to a new person unfamiliar with his case and so it took time to get them up to speed. Often the person would then say they had to transfer him to somebody else so he would then have to explain his case to the next person. On occasion the person Colin needed to speak to was not available, so he was told to ring back. Centrelink would not ring him

back. Colin recalls he spent at least 30 minutes on the phone each time he called Centrelink.

At some point, Colin can not recollect exactly when, Centrelink identified that Colin did not need to provide further information about Employer B as Centrelink's system had incorrectly calculated the information Colin had previously supplied.

Initially Centrelink reduced the alleged debt to approximately \$100. Colin questioned the basis of this amount. The Centrelink officer told Colin that was the amount the computer system came up with, but could not explain further. He said he would refer it for manual calculation. After manual calculation Colin was told he had a debt of \$13.21. Colin believes this was because he did not properly declare a meal allowance on two occasions. Colin says he was told the debt of \$13.21 was "non recoverable", nevertheless he would not be reimbursed for it.

Colin estimates resolving this debt problem took between 20 and 30 hours of his time, this includes time on the phone to Centrelink and Employer A; collecting documents from Employer A; attending at his local Centrelink office to collect and lodge documents; and finally time trying to locate Employer B. Colin estimates he would have spent at least 8 hours on the phone to different Centrelink employees. All this for \$13.21.

Colin found this experience very stressful. He said he felt like a criminal, as if he had fraudulently taken money he was not entitled to. Colin is very angry about his experience.

Case Study 2 – James

James is a 59-year-old man also currently on Newstart. James is a carpenter by trade. He owned his own business for many years. Unfortunately the downturn in the economy since 2009 means he has had a number of periods of unemployment in recent years.

In early February 2017 James contacted the TCLS “at his wits end.” He had previously complained about his experience with Centrelink to the Commonwealth Ombudsman who referred him to us.

In November 2016 James received an online letter in his MyGov account. The letter said that through data matching with the ATO, Centrelink identified he was overpaid approximately \$6500 dollars in benefits, which he had to repay.

James rang the 1800 number provided on the letter. He was told the alleged debt related to a period between 2013-2015 when James had work for three different employers, A, B and C.

James believed he had reported his income to Centrelink “down to the last dollar he earned.” He did not agree with the debt.

James was told he needed to provide payslips for each period of employment if he wanted the debt reassessed.

James had payslips for two employers, A and B and, despite numerous computer issues and following numerous phone calls to Centrelink, was able to upload these to his MyGov account. However the last employer, C had not provided James with pay slips, however he did have a group certificate. James phoned and emailed employer C attempting to get payslips but was unsuccessful. He later discovered employer C had gone out of business. James was able to upload his group certificate to MyGov.

He then waited for a response.

In mid January Centrelink, without contacting James and despite the reassessment still pending, began deducting \$80 per fortnight from James’s Newstart payment. James believed that by repaying the alleged debt, he was acknowledging the debt, so he cancelled his Newstart payment, his only form of income.

On the 29 January 2017 James completed an Online Centrelink complaint form and added his bank statements showing the exact dates and payments from employer C. Centrelink’s complaints page said he would hear back within 10 days of making a complaint. He has yet to receive a response to his complaint.

When he contacted us in February, James’s MyGov account was still showing “the assessment is pending and you will be contacted by SMS or telephone once the decision is made.” However in the “money owing” menu it showed his debt had been reduced to just over \$2000. James told us he believed this was because Centrelink accepted the payslips but not the group certificate.

By the time James sought our assistance he had not received any income for a few weeks. Further the letters he received from Centrelink led Colin to believe he was being accused of fraud and was at imminent risk of being criminally

prosecuted. As a result, Colin was afraid to drive his car for fear of being pulled over by the police and arrested.

We were able to reassure James repayment was not an admission of guilt and he was not at imminent risk of arrest and prosecution. We encouraged him to continue challenging the debt. We encouraged him to reinstate his Newstart payment. We also advised him to negotiate an affordable repayment plan while the debt was being reassessed.

Centrelink eventually reduced James's debt to \$1700 after the matter was referred to the "Integrity Debt Collection Agency". Centrelink accepted he had declared all income correctly from employers A and B. However Centrelink would not accept James's group certificate from employer C or his bank records. He was told these only showed his net earnings and did not show what was income and what were allowances. The debt could not be further reduced without further payroll information.

James was sick of debt collection letters. James estimates he rang Centrelink at least 25 times but only managed to get through to a Centrelink officer about 7 times. Each phone call he waited on hold for between 20 and 40 minutes. Often the phone call dropped out before he actually spoke to anybody. He felt stressed and harassed. James told us he would spend all day and much of the night worrying and trying to remember events over 3 years ago. James ended up deciding it was all too hard and is paying now paying back the \$1700 at \$80 per week. James has not reapplied for Newstart, as he does not want to go through this experience again. He has had to draw down on his Superannuation to meet his living requirements. James is confident that as a carpenter he will find work soon, even if he has to travel for it.