

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO
SUPPLEMENTARY BUDGET ESTIMATES 2019-20

Administrative Appeals Tribunal

LCC-SBE19-21 - Mr Carney's decision in regard to Centrelink's debt scheme

Senator Kim Carr asked the following question on 22 October 2019:

Senator KIM CARR: ... Five months before he lost his job, Mr Carney delivered a decision in which he declared the Centrelink robo-debt scheme to be unlawful. Did that happen?

Ms Leatham: I would say he would have made many decisions. I would have to take on notice whether there was a specific decision of that nature.

Senator KIM CARR: Mr Carney also told the Community Affairs References Committee he handed down about six behind-closed-doors AAT decisions which found that the robo-debt scheme was illegal. In relation to those decisions Mr Carney said that Centrelink never appeals those decisions to second level, where the decision would become public. Are you familiar with any of those decisions?

Ms Leatham: We would certainly have a range of decisions in relation to debts. We don't record specifically what is referred to as robo-debt.

Senator KIM CARR: What would you call it?

Ms Leatham: We call them debts to the Commonwealth. So they're within our Centrelink caseload.

Senator KIM CARR: Within the technical definition I am using, he made a decision in regard to debts to the Commonwealth. Can you tell me categorically that the government is not aware that Mr Carney delivered a decision in which he declared Centrelink's debt scheme to be illegal?

Ms Leatham: The only thing I could confirm is whether or not the former member made a decision of the nature that is described.

Senator KIM CARR: What is the answer to the question?

Ms Leatham: We will take that on notice to determine when he made decisions and what the nature of those decisions were.

Senator KIM CARR: Can I have a copy of that decision?

Ms Leatham: Yes. If we can identify that, we can certainly provide that. I would say, though, it may have to be de-identified. It's probably not one that would be published, because of the—

Senator KIM CARR: I understand if you need to de-identify it, but I would like a copy of the decision. He's made a statement to the Community Affairs References Committee, and I'd like to see the decision, which I understand has not been published.

Ms Leatham: Yes.

The response to the honourable senator's question is as follows:

The AAT conducted a search of decisions with written reasons made by Member Professor Terry Carney AO. The AAT has identified five decisions made in the AAT's Social Services and Child Support Division in relation to six applications for review of decisions made by Centrelink about debts in which Professor Carney considered in detail Centrelink's online compliance intervention system in determining whether the applicants had been overpaid an allowance.

A review of the attached decisions show that the terms 'unlawful and or illegal' are not used in reasoning, findings or decision making of Professor Carney.

Copies of the five decisions are attached. Information that may identify the applicant or any other person has been removed.