9/10/19

# Rowan McRae, Executive Director Civil Justice Access and Equity

Thank you. My name is Rowan McRae and I am the Executive Director of Civil Justice, Access and Equity at Victoria Legal Aid.

Over the last 3 years, Victoria Legal Aid has received thousands of phone calls from confused and distressed people who have been contacted by Centrelink or debt collectors about a ‘robo-debt’. We provided over 650 services in the last financial year alone.

Victoria Legal Aid sees the significant stress and hardship caused by robo-debt. Our lawyers see firsthand its impact on our clients. One client told us, ‘I was an emotional and physical wreck’ and ‘I didn’t want to get up and face the day’.

Tens of thousands of Australians have been put through the stress and confusion of the broken robo-debt system. But it is the most disadvantaged and marginalised people who struggle to overcome the barriers embedded in how robo-debt operates. This complex and inaccessible system stops people achieving a fair outcome and we know people are paying money they don’t owe.

This inquiry is an opportunity to develop a way forward to ensure no one has to go through the stress of an unfair and confusing system, of scrambling to obtain documents from years ago to disprove a faulty robo-debt, or to unfairly pay off a robo-debt they do not owe.

The National Legal Aid submission combines the practice experience of all state and territory Legal Aid Commissions across Australia. It includes stories from people affected by robo-debt and makes 10 recommendations for a fair and accurate system people can trust.

Informed by our work, legal expertise and the experiences of our clients, we recommend that the Australian Government should stop the elements of robo-debt which are inaccurate, unfair, inaccessible and arguably unlawful. These include the averaging method, the reverse onus of proof, unfairly raising a debt where there has been no engagement with clients and barriers to clients obtaining more information or seeking a review.

This Committee has the power to recommend that the Australian Government invest in a system re-design. System re-design should be done in consultation with service users and stakeholders, to ensure that the system for calculating and recovering Centrelink overpayments is fair, accurate and accessible. Investment in a better model will lead to long-term benefits for any Australian who accesses social security support in their lifetime and will help rebuild public confidence in how Centrelink engages with and treats its customers.

I will now hand over to my colleague and social security law expert Joel Townsend to briefly outline the key pillars of our robo-debt test cases and our clients’ experiences of engaging with Centrelink.

**9/10/19**

**Joel Townsend, Program Manager Economic and Social Rights**

Thank you. My name is Joel Townsend. I am the Program Manager of Economic and Social Rights at Victoria Legal Aid and a Law Institute of Victoria Accredited Specialist in Administrative Law.

In addition to being unfair and inaccurate, in our view the robo-debt process is unlawful. We have four key concerns about robo-debt’s lawfulness currently before the Federal Court of Australia. At a high level, these are:

First, averaging. Robo-debt’s averaging method of comparing fortnightly Centrelink data with yearly Australian Tax Office data is not a lawful way to conclude that a debt exists or to calculate an accurate amount.

Second, the reverse onus: Shifting the onus on to individuals to show that they do not owe a debt is not a lawful way for Centrelink to proceed to raise a debt. If the calculation is inaccurate to start with somebody’s failure to engage does not provide a basis for raising a debt.

Third, penalty fees. Additional penalty fees are being imposed on people who are disputing an alleged debt or don’t know that the debt exists. Under the Act, a penalty fee should only be imposed where Centrelink is satisfied a person knowingly provided misleading information.

Finally, tax garnishing. Centrelink took our client Deanna Amato’s full tax refund of $1700. This is how she learned about her robo-debt of over $2700. After we launched a Federal Court test case, Centrelink recalculated her debt and said she only ever owed $1 and 48 cents. Garnishing a tax return should only occur after an accurate debt has been established and in compliance with the conditions in social security legislation.

We surveyed a sample of clients. More than 80% reported difficulty in engaging with Centrelink. For our clients, this system is intimidating, confusing and hard to navigate. Calling Centrelink has not helped our clients to resolve their robo-debt issues.

According to Services Australia data, 30% of people who receive robo-debt correspondence do not engage with Centrelink, and another 30% of people start but do not complete the process. From our practice, we know many people have not received letters sent to old addresses or to unchecked MyGov accounts, or start the process of responding but can’t resolve it.

To wrap up, I would like to share one of our client’s experiences of dealing with Robo-debt, who needed legal help to reduce his debt by almost $5,000. He said:

“The whole thing was such a bad experience for me. I had a debt collector calling me. It took so much time and was very stressful. It was a big mountain on my head and so it felt like that was gone once the debt was reduced.”

We urge the Committee to seriously consider our recommendations to improve the system.

Thank you.