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1. About Social Security Rights Victoria

Social Security Rights Victoria (**SSRV**) is a statewide not-for-profit community legal centre that specialises in social security law. SSRV's vision is that all people in Australia are able to receive a guaranteed equate income in order to enjoy a decent standard of living and its mission is to secure the right to equitable social security entitlements for all Victorians.

SSRV principal activities are the provision of legal information, advice and representation, prevention and early intervention in legal problems through a community legal education program, and law reform activities to address systemic unfairness in the legal system. In the 2013/2014 year, SSRV provided assistance to 1195 individual clients, while in the 2014/2015 year to date SSRV provided assistance to 1410 clients.

SSRV is a member of the National Welfare Rights Network and the Victorian Federation of Community Legal Centres.

2. Overview

SSRV's is seeing an increase in the number of clients who disclose that they have experienced family violence.

SSRV's assistance is sought for a number of areas including that:

- Social security payments have been reduced or withdrawn;
- An application for a social security payment has been rejected; and/or
- Centrelink has imposed (or may impose) a debt based on alleged misreporting of their relationship status or family income.

SSRV's clients' common purpose is to ensure that they have sufficient short term and long term financial security to ensure that they are safe and can move on with their lives.

The Australian Law Reform Commission has extensively considered the impact of Commonwealth legislation operating as a barrier to supporting people experiencing family violence in its report, *Family Violence and Commonwealth Laws – Improving Legal Frameworks (ALRC Report)*.¹ SSRV endorses the recommendations contained in Part B – Social Security, Part C- Income Management and Part D – Child Support and Family Assistance, many of which have not been implemented.

In this submission, SSRV will highlight some of the issues raised in the ALRC Report which are consistent with experiences of SSRV's clients.

¹ *Family Violence and Commonwealth Laws – Improving Legal Frameworks* Report No 117 (2012).

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3. Issues raised by SSRV clients in relation to family violence

Examples of the reasons clients who are experiencing, or have experienced family violence, contact SSRV for assistance includes:

Debts arising from 'Member of a Couple' status

- Concern by a client that a former partner may report them to Centrelink for allegedly misrepresenting the nature of the relationship as “single” rather than a “member of a couple”² where the parties were living in circumstances over a period of many years that the client describes as “separated but living under one roof”. The client was concerned that if Centrelink did not believe that the nature of the relationship was one of “separated but living under one roof”, Centrelink may raise a significant debt and or commence criminal prosecution for alleged fraud.

Debts arising from Income Reporting issues

- Concern by a client that their partner (or former partner) may report them to Centrelink for allegedly misrepresenting the nature of finances within a relationship, giving rise to a debt³ and/or criminal prosecution for alleged fraud.
 - In these circumstances the client experiencing family violence (including economic abuse⁴) may report a lower income than what her partner actually receives, or no income of the partner. This reporting generally occurs or under duress or coercion due to family violence, resulting in the client receiving a higher payment than that they are technically entitled to.
- SSRV strongly supports the recommendations in the ALRC Report in relation to this issue to:
 - Include “family violence” as a specific element of ‘special circumstances’ allowing waiver of a Centrelink debt per s1237AAD of the *Social Security Act*;⁵ and
 - Where a family member makes a statement under duress of family violence, this statement is deemed not to be a ‘knowing false statement’,

² A person classified as being a “member of a couple” receives a lower rate of pay than a person classified as being “single”.

³ Very large debts in excess of \$100,000 are not uncommon.

⁴ Economic abuse includes complete control of all monies, no access to bank accounts, providing only an inadequate ‘allowance’, using any wages earned by the victim for household expenses

⁵ Recommendation 9-9 ALRC Report.

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rather a statement made under the threat of further violence against them or their family.⁶

Crisis Payment⁷ – Qualification

- Our client moved out of her home due to family violence. The client applied for Crisis Payment, however was rejected at first instance on the basis that she did not report the violence to police.

Proof of Identity

- An application for Age Pension being refused by Centrelink because the client was unable to provide sufficient proof of identity. The reason for the inability to provide this evidence was that the client was unable to return home to collect personal documents due to the threat of family violence.

Qualification for payment – Young Person Unreasonable to Live at Home

- A young person being having difficulty obtaining sufficient proof that it is unreasonable to live at home due to family violence perpetrated by his sibling. The young person required support to procure a letter from a psychiatrist to support his claim that he cannot return home.

Child Support & Family Assistance

- Centrelink raising a debt against a client who was allegedly unlawfully receiving parenting payments during a period when her children were removed from her care. The client separated from her partner as a result of family violence and was unable to communicate with Centrelink during that period due to the complexity of the situation including that the client was dealing with mental illness.

Centrelink Administration

- Client calling distressed that even after leaving her former address due to family violence, Centrelink were continuing to send letters to her old address, resulting in her former partner being able to find her at her new address.

⁶ Recommendation 9-7 ALRC Report.

⁷ Crisis Payment is a one off payment, equivalent to one week of a person's eligible fortnightly social security payment, that is payable to a person who is in 'severe financial hardship' at the time of a particular crisis, including family violence. To qualify for the payment, applicants who have experienced family violence, must be on or eligible for income support, have experienced 'extreme circumstances forcing departure from home', or 'remain in their home after the removal of a family member due to domestic violence' and make an application for the payment within 7 days of the extreme circumstance (eg. family violence).

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4. Impact of a dispute with Centrelink

The National Welfare Rights Network recently commissioned independent research into the impact of the work of Welfare Rights services, which includes the work of SSRV.⁸ The research concluded that the immediate impact of Centrelink's decision to reduce or withdraw their pension/allowance, rejection of an application or the issue of a debt notice had been financial instability, as it had left them with little or no means of support, and in some cases a debt to repay.

The research found that client's quality of life deteriorated during their dispute with Centrelink in the following ways:

- **Financial Instability** including the inability to pay rent, leading to homelessness, begging for food and living off food vouchers.
- **Physical deterioration** due to the impact of stress and anxiety due to exhausting process of trying to persuade and inform Centrelink about their case, inability to afford medication, inability to purchase nutritious food leading to weight loss and poor health.
- **Social isolation** as a result of lacking money, being in poor health, being embarrassed by their circumstances and struggling to look after children
- **Emotional struggle** leading some to fall (further) into depression, and consider suicide.

Financial instability leads to housing distress which is a significant issue for people considering exiting family violence situation, especially women with dependent children.⁹

5. Impact of access to assistance with social security problems

The research into Welfare Rights services also confirms that access to assistance with social security problems can have a profound effect on individuals (and communities) by improving financial, social and health outcomes. It also reduces the ensuing legal problems associated with lack of income such as loss of accommodation, child protection, consumer and criminal law problems.

Current funding to Welfare Rights services is manifestly inadequate to address the full extent of legal need among people experiencing family violence. Substantially more funding is required to improve access to Welfare Rights services for people experiencing family violence.

⁸ "How does the National Welfare Rights Network add value to clients?", Independent research with clients, December 2014, National Welfare Rights Network.

⁹ In the December 2014 quarter, just three in 100 two bedroom rental lettings were affordable to a single parent receiving payments from Centrelink: Department of Health and Human Services, *Rental Report December Quarter 2014*.



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6. Conclusion

The above examples of SSRV clients demonstrate that the impact of family violence should be taken into account in a more flexible and considered way to ensure that people experiencing family violence are afforded the support they need to be safe and to start rebuilding their lives.

Again, SSRV endorses the recommendations of the ALRC Report¹⁰ which amongst other things, recommends various amendments to *Social Security Act (1991)* and the Guide to Social Security Law¹¹, to remove systemic barriers to people experiencing family violence from receiving the income support they need.

SSRV also advocates for training and education of Centerlink officers about the impact and effects of family violence to ensure that where they are making discretionary decisions, they take each individual's experience with family violence into account.

¹⁰ Note 1 above.

¹¹ Department of Social Security, *Guide to Social Security Law*, <<http://guides.dss.gov.au/guide-social-security-law>> at 22 May 2015.

