

**LEGAL ISSUE –CENTRELINK DEBTS****What is Centrelink's role?**

Centrelink is a government agency that regulates who is eligible for Social Security benefits and what category of benefits an individual should receive. These include payments for when you are in crisis, are looking for work, are financially responsible for children, are caring for someone who is ill/disabled, or if you are ill/disabled.

There are many requirements and reporting obligations that you must follow if receiving these payments. A breach of these obligations may result in the withdrawal or reduction of payments, or an overpayment of benefits resulting in a debt to Centrelink. If Centrelink advises you that you have breached your obligations or must repay a debt to them, you may be eligible for a waiver of the debt or appeal the decision to raise a debt or accuse you of a breach if you believe it is incorrect.

**Waivers**

If you have incurred a Centrelink debt you may be eligible for a waiver or reduction of the debt. The circumstances in which you may be eligible for a waiver include where:

- you were overpaid solely due to Centrelink's error and you received the money in 'good faith';
- there are 'special circumstances' that affect you. This category is broad and can include financial hardship, ill-health of you or a family member, or other circumstances that would make it unfair, unjust or unreasonable for you to be required to repay the debt.

**What does appealing mean?**

To appeal a claim of debt or breach, you must first ask the original decision maker to change their decision if you believe it was wrong. If they do not, don't be discouraged. You must then ask an Authorised Review Officer at Centrelink to change an original decision.

It is best to appeal in writing and keep a copy of the letter for future reference. If you appeal a debt you can ask Centrelink not to collect the debt until the appeal is finalised.

If you are not happy with the reviewed decision you can appeal to the Social Security Appeals Tribunal (SSAT) which is independent of Centrelink. You should obtain legal advice before doing this.

**What is the cost of appealing?**

It costs nothing to ask for review of a decision. There may be related costs in appealing through the SSAT.

**Why should I appeal?**

You will not get in trouble or be penalised for appealing.

It is your legal right to appeal, and thousands of people do this each year. Appealing may directly benefit the person whose case is being reviewed. The SSAT can also make use of important cases previously decided by the SSAT. So if you win, others may also benefit in the future.

**When should I appeal?**

Appeal a decision as soon as possible. In most cases, arrears for wrong decisions can only be paid if the appeal happens within 3 months after a decision.

**How can the Clinic help you?**

If you want to appeal a Centrelink decision, or another decision by an administrative body or government agency, you should attend one of the Clinics. Bring with you:

- All documentation about your Centrelink application;
- Details of your income and expenditure; and
- Details of any special circumstances you may have (eg a doctor's report if you have an illness/disability, or a letter from a caseworker if you are homeless).

Depending on your circumstances, Clinic lawyers may:

- Help you work out what Social Security benefits you may be eligible for;
- Negotiate with Centrelink officers to have your Social Security payments reinstated or increased;
- Take your complaint further to the SSAT or the AAT;
- Appear on your behalf at the SSAT or AAT; and
- Put you in touch with financial counsellors.

All advice and work offered by Clinic lawyers is free.

In addition to this, the Welfare Rights Unit may be able to provide assistance and information in relation to Centrelink debts.

**WELFARE RIGHTS UNIT**

The Welfare Rights Unit (WRU) is an independent organisation which advocates for people's right to have adequate income security and for a Social Security system that is more widely accessible. WRU provides specialist information, training, coordinated advocacy and casework support to individuals and advocates in the area of Welfare Rights and Social Security law, policy and practice.

WRU offers a number of free services to those receiving or seeking Social Security benefits:

- providing information and fact sheets about rights in accessing social security payments;
- assistance with accessing relevant documents required for making Centrelink applications; and
- other information and support regarding social security; and possibly, assistance with appealing to the Social Security Appeals Tribunal and the Administrative Appeals Tribunal, regarding Centrelink decisions.

To access these services contact the advice line on (03) 9416 1111 between 9:30am and 12:30pm weekdays, email [wru@welfarerights.org.au](mailto:wru@welfarerights.org.au) or visit [www.welfarerights.org.au](http://www.welfarerights.org.au)

**GEELONG COMMUNITY LEGAL SERVICE WELFARE RIGHTS SERVICE**

Geelong Community Legal Service also provides a specialist Welfare Rights Service (WRS), which offers free telephone advice and also undertakes policy and law reform.

To access this service, call (03) 5221 4744 on Mondays and Thursdays between 10am and 12pm or email [Welfare\\_Rights\\_Geelong@fcl.fl.asn.au](mailto:Welfare_Rights_Geelong@fcl.fl.asn.au)

## LAW REFORM — MENTAL HEALTH

On 30 March 2006, the Senate Select Committee on Mental Health tabled its First Report, entitled *A National Approach to Mental Health: From Crisis to Community*.

The PILCH Homeless Persons' Legal Clinic made a major submission to the Committee which is referenced in a number of places throughout the Report. In particular, the Committee acknowledged the importance of the following key Clinic submissions:

1. Mental health services need to be provided within an integrated framework which has regard to human rights and needs relating to housing, employment, training, rehabilitation and disability support.
2. There are strong links between lack of adequate housing and poor mental health. Access to adequate housing is a fundamental human right enshrined in article 11 of the *International Covenant on Economic, Social and Cultural Rights*.
3. Crisis accommodation, provided through the Supported Accommodation Assistance Program, is manifestly inadequate to meet demand. A substantial funding increase, of at least 40 per cent, is required to service unmet need.
4. Lack of access to adequate income support is a significant contributor to people living in or being at risk of poverty, homelessness and poor mental health across Australia.
5. There are strong links between homelessness, mental illness and the criminal justice system, with studies demonstrating that up to 75 per cent of people who are homeless and have a mental illness identify a direct causal link between their legal problems and their homelessness.

## LAW REFORM — RESIDENTIAL TENANCY DATABASES REPORT

The Victorian Law Reform Commission ('VLRC') has released a report on Residential Tenancy Databases (RTDs) which recommends a national approach to the proper and consistent regulation of RTDs. Such an approach should aim at addressing the current faults and inaccuracies of RTD listings and providing greater protection to those who may be indefinitely or inaccurately 'blacklisted' and therefore seriously undermined in their attempts to secure housing through the private rental market.

In 2005, the PILCH Homeless Persons' Legal Clinic made a major submission to the VLRC about RTDs. Several recommendations made by the VLRC which are consistent with the Clinic's submission recommendations include:

1. States and territories should work together to ensure a level of national consistency in the regulation of residential tenancy databases [Recommendation 1]
2. Listings on residential tenancy databases should be limited to information about tenants who are parties to residential tenancy agreements [Recommendation 4]
3. The listing of a tenant on a residential tenancy database should only be made if VCAT has made an order against the tenant for breach of the Residential Tenancies Act and/or a tenancy agreement [Recommendation 5]
4. If a tenant or prospective tenant seeks a copy of their listing from a database operator, the database operator must provide the copy: for minimal charge, if requested to be supplied urgently or free of charge, if requested to be supplied more than 48 hours after the request [Recommendation 18]
5. A tenant or prospective tenant may apply to the database operator to have a residential tenancy listing removed where, for example;
  - the listing is inaccurate and/or misleading;
  - the breach was beyond the control of the tenant and presents no current risk to prospective landlords [Recommendation 20]
6. RTDs listings should automatically expire after a fixed period [Recommendation 24]
7. There should be fines or other appropriate penalties for non-compliance of database operators with regulations [Recommendation 27]

The Clinic welcomes these and other relevant recommendations which seek to amend the current system and address the discriminatory impact that listings have on people who are homeless or have experienced homelessness.

## DID YOU KNOW?

Individuals experiencing a period of financial or personal crisis may be able to access Centrelink *crisis payments*. This is a one-off payment, equal to one week's payment (without add-ons) of the regular Centrelink pension or benefit payment you are entitled to get. It is limited to four payments for extreme circumstances in any 12 months. You may be able to access these payments if:

- you are in severe financial hardship, **and**
- you are claiming in Australia, **and**
- certain payments from Centrelink are payable, **and**
- you have left your home and cannot return because of an extreme circumstance, such as domestic violence, **and**
- you have set up or intend to set up a new home, **or**
- you have served at least 14 days in jail, have just been released and are in severe financial hardship.

## THE CLINIC PROVIDES FREE LEGAL ADVICE AT THESE LOCATIONS AND TIMES:

### The Big Issue

148 Lonsdale St  
Melbourne VIC 3000

**Mon: 10:00am - 11:00am**

### Melbourne Citymission

214 Nicholson St  
Footscray VIC 3011

**Mon: 10:30am - 1:00pm**

*Footscray train station  
Tram 82 (Droop St)*

### Ozanam House

179 Flemington Rd  
North Melbourne VIC 3051

**Tues: 10:00am - 12:00pm**

*Flemington Bridge train station  
Trams 55, 59, 68 (Flemington Rd)*

### Urban Seed (Credo Café)

174 Collins St  
Melbourne VIC 3000

**Tues: 12:00pm - 1:00pm**

### Flagstaff Crisis Accommodation

9 Roden St  
West Melbourne VIC 3003

**Tues: 1:00pm - 2:30pm**

*North Melbourne train station  
Tram 57 (Victoria St)*

### The Lazarus Centre

203 Flinders Lane  
Melbourne VIC 3000

*By appointment - call 9639 8510*

### St Peter's Eastern Hill

15 Gisborne St  
East Melbourne VIC 3002

**Wed: 7:30am - 9:00am**

*Parliament train station  
Trams 24, 42, 109 (Victoria Pde)*

### Hanover Southbank

52 Haig St  
Southbank VIC 3205

**Wed: 1:15pm - 3:00pm**

*Spencer Street train station  
Tram 112 (Clarendon St)*

### HomeGround Argyle Housing

1A/68 Oxford Street  
Collingwood VIC 3066

**Thurs: 12:00pm - 2:00pm**

*Collingwood train station  
Tram 86 (Smith St)*

### Salvation Army Life Centre

69 Bourke St  
Melbourne VIC 3000

**Thurs: 12:00pm - 1:00pm**

### PILCH

Level 1, 550 Lonsdale St  
Melbourne VIC 3000

**(03) 9225 6684**

New  
address