

# Welfare Rights Centre

# Annual Report

July 2007 to June 2008

Prepared for 2008 Annual General Meeting

# Contents

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<b>Section</b>	<b>Page</b>
Introduction _____	3
1.0 Casework _____	3
2.0 Policy _____	6
3.0 Community Education and Liaison _____	8
4.0 Publications _____	9
5.0 Funding _____	10
6.0 Management _____	11
7.0 Auditor's Report _____	12

# Introduction

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The Welfare Rights Centre is a Community Legal Centre which specialises in Social Security law, administration and policy. Established in 1983, the Centre provides expert advice and representation on Social Security and Family Assistance matters. Now in its twenty fifth year, the Centre currently employs 13 workers and benefits from the service of unpaid volunteer workers and its Board members to provide a wide range of services covering casework, policy analysis and advocacy, publications and community education.

## 1.0 Casework

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### 1.1 Casework service

The Welfare Rights Centre provides a casework service to people with income support problems that come under Social Security and Family Assistance law and to agencies assisting people with such problems. The aim of the Centre's casework service is both to achieve outcomes for individual clients and for classes of clients, and to utilise our casework to improve equitable access to income security.

The casework service comprises a telephone advice service, research, assistance with self-advocacy, written advocacy on behalf of clients and written or personal representation before the Social Security Appeals Tribunal (SSAT), the Administrative Appeals Tribunal (AAT), or the Federal Court in some cases. Advice is given on all aspects of Social Security and Family Assistance law and appeals. Further assistance may be provided in complex cases, matters of wide application, and matters in which the client has no money at all or where they may not adequately represent their own interests.

Telephone advice and assistance is available Monday to Friday, for a four hour period each day. However, on-going clients may contact the Centre at all times between 9 am and 5 pm. The Centre has a toll free number to facilitate access for clients in country and outer-metropolitan areas and a TTY for people with hearing impairments. Initial advice is generally provided by telephone, however, the Centre has an access and equity policy to ensure that people unable to obtain assistance by telephone are not disadvantaged.

The Centre's casework service could not function without the valuable contribution of unpaid volunteer workers. Their contribution is gratefully acknowledged in section 6.5 of this Annual Report.

### 1.2 Casework statistics

The following statistics are compiled from information provided to us by our clients. Some clients choose not to provide some of their personal information. The percentages are calculated on the total number of people volunteering particular information and may not represent the complete picture. Nevertheless, they provide a good overview of the casework of the Centre.

#### Number of clients

From July 2007 to June 2008 the Centre provided assistance to 3,239 clients. We provided 4,156 "advice activities" and opened 514 new cases in the period. This advocacy included representation of clients in internal Centrelink reviews and with appeals to the Social Security Appeals Tribunal, the Administrative Appeals Tribunal and the Federal Court.

Age	2006-07	2007-08
0-18	2%	2%
18-34	19%	15%
35-49	23%	22%
50-64	18%	18%

65+	8%	7%
Not supplied	30%	36%

<b>Gender</b>	<b>2006-07</b>	<b>2007-08</b>
Female	56%	56%
Male	39%	39%
not supplied	5%	5%

### **Country of birth**

The top countries of birth of clients who disclosed country of birth was:

	<b>2006-07</b>		<b>2007-08</b>
Australia	72%	Australia	72%
United Kingdom	2.6%	New Zealand & Cook Is	2.8%
New Zealand & Cook Is.	3.1%	United Kingdom	2.8%
Lebanon	1.7%	Lebanon	2.1%
China	1.2%	China	1.7%
Vietnam	1.1%	Philippines	1.1%
India	1%	Vietnam	1.1%
Iraq	.8%	Italy	.8%
Iran	.8%	Iran	.8%
Greece	.8%	Turkey	.8%
Philippines	.8%	Fiji	.8%
Italy	.8%		

### **Clients of Aboriginal or Torres Strait Islander background:**

2% of all clients identified themselves as being of Aboriginal or Torres Strait Islander background, or both.

### **The most common payment types for matters over the period were:**

Disability Support Pension	20.5%
Newstart Allowance	18%
Parenting Payment (single)	14.5%
Age Pension	10.2%
Family Tax Benefit	6.5%
Youth Allowance	6.3%

### **1.3 Casework issues during 2007-2008**

The most resource-intensive issue for our advice and casework service continues to be related to the raising and recovery of Social Security and Family Tax Benefit debts - particularly where the client is at risk of criminal prosecution in respect of their debt.

### **Debts**

This year the Centre continued to focus on Social Security payment debts caused by the non-assessment of income, where our clients were overpaid despite the fact that their income was properly assessed by Centrelink for the purpose of assessing their Family Tax Benefit entitlement. These debts are extremely unfair as our clients have

notified Centrelink of their earnings, and changes to their earnings, and believe that Centrelink will use this to assess their entitlement to all their payments. Clients are justifiably perplexed by the plethora of income tests for different payment types, and are often surprised to be told about the existence of a “Family Assistance Office” when all their dealings have been with “Centrelink”!

### **Activity testing**

Throughout the year the Centre was contacted by numerous clients on Newstart Allowance, Youth Allowance, and Parenting Payment with questions or problems about the activity test obligations imposed on them by Centrelink or their Job Network provider. It became clear to the Centre just how inflexible Centrelink and the Job Network providers were about what activities a person was expected to undertake, and how unwilling they were to provide exemptions from the activity test. This leaves people in great hardship and faced with the daunting task of appealing against the terms included in their activity agreements. In particular, clients who were both parents and had a disability were poorly treated. There are reduced activity requirements for parents, and separate activity requirements for people with only a ‘partial capacity to work’ due to their disability, however none that address the combined impact of these factors on a person. Where clients had inappropriate activities imposed on them, they were far more susceptible to failing these activities, and therefore being at risk of having participation failures imposed on them and ultimately an eight week no payment penalty.

### **Prosecution and debt waiver**

The Centre is regularly contacted by clients who need advice as they have been asked to attend a Centrelink prosecution interview, because their matter is being referred to the Director of Public Prosecutions, or because they received a Court Attendance Notice. Where there is a chance that their debts could be waived the Centre will generally assist these clients, in the hope that criminal proceedings will be dropped (although this is not always the case). What is distressing is that many of our clients cannot be assisted through administrative review but need experienced representation before the criminal courts, and this is often not available or not affordable. It highlights a major gap in our casework service that we are attempting to remedy in 2008-2009 by seeking funding for a criminal solicitor to assist with Social Security prosecutions.

### **New Zealand and residence issues**

In 2007-2008, the Centre witnessed a resurgence of cases involving residence issues, in particular a large number of New Zealand citizens living in Australia who are able to live, work and pay taxes in Australia indefinitely, yet are excluded from the Australian Social Security system. New Zealanders are shocked to discover that unlike other migrants, it is not a matter of applying a waiting period before they are eligible, they are simply not eligible for income support payments at all, unless they acquire a permanent visa. The Centre has submitted numerous Act of Grace requests on behalf of New Zealanders facing destitution, but these are generally unsuccessful.

A student undertaking her social work student placement at the Centre has prepared a discussion paper on the issue which highlights the many ways in which domestic Social Security policies fail to support the goodwill implicit to the Trans Tasman Agreement. See 3.7.

### **Marriage-like relationship decisions and payment pending review**

“Marriage-like relationship”/“member of a couple” cases are some of the most resource intensive matters run by the Centre. We assist large number of mainly women clients appealing against Centrelink decisions to cancel their payments and raise debts, based on assessments that they are in “marriage-like relationships”. The Centre is concerned that Centrelink staff are increasingly refusing to grant “payment pending review” to a person who is appealing against one of these decisions. Social Security law provides that a person’s payment can continue if they appeal against a decision that involves the exercise of a discretion, such as ‘whether a person is in a “marriage-like relationship”.’ Payment can continue to ensure that the person and their dependants are not left destitute during the appeals process. The Centre will pursue this issue with the Commonwealth Ombudsman and Centrelink in the next 12 months.

# 2.0 Policy Report

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## 2.1. The aim of policy advocacy

### Goals

The Australian Social Security system is a very complex, tightly targeted and intrusive system of residual income support. Whilst the bulk of rights and entitlements, obligations and responsibilities are set out in legislation, increasingly many of these provisions are being shifted to policy guidelines. In this context, and in a situation where the Government of the day has almost total control of the legislative process, through having the numbers in the Senate, policy advocacy for Social Security protection and reform becomes even more critical.

In these circumstances it is important for the Welfare Rights Centre to have a clear set of goals to guide its increasingly important law reform and policy advocacy activities. Currently, these goals are:

1. to develop and advocate proposals for reform of Social Security legislation, administration and Government policy in order to minimise hardship and poverty in Australian society in general, and for Social Security recipients in particular;
2. to ensure that the Social Security system is:
  - based on rights and entitlements, responsibilities and obligations which are clearly stated in legislation and enforceable,
  - administered under clear, publicly accessible policy guidelines, and
  - characterised by a robust review and appeals systems that allows individual decisions to be challenged; and
3. to promote fair and accessible administrative law particularly in the field of income support.

### Implementation in 2007 – 2008

Over the last year the Centre, in partnership with the National Welfare Rights Network, has been engaged in a very active program of law reform and policy advocacy aimed at achieving these goals.

## 2.2 Introduction - work shared with National Welfare Rights Network (NWRN)

Most of the Centre's policy advocacy is done in conjunction with, and often for and on behalf of the NWRN. Most of this work has been summarised in the special Policy Report that is attached to the President's Report in the NWRN Annual Report. Set out below is therefore just a brief summary of some of the highlights of the policy work that Sydney was particularly involved in.

## 2.3 Papers and presentations

In 2007-2008, the Centre addressed and/or presented papers at the following conferences.

- 12 July 2007, Presentation at Social Policy Research Centre Conference, UNSW, Advocacy and Consumer Participation;
- 13 July 2007, Presentation at Social Policy Research Centre Conference, UNSW, Equity in Response to Climate Change;
- 9 August 2007, Commonwealth Ombudsman 30th Anniversary Seminar, Canberra, Rebalancing the Risks in the Social Security System;
- 10 September 2007, National Association of Community Legal Centres Conference, Brisbane, Equity in Response to Climate Change;
- 7 May 2008, NSW Cancer Council Conference, Sydney, presentation on Income Support and Centrelink issues;
- 26 June 2008, NSW Shelter Conference, presentation on Welfare Reform and the changing face of public housing policy.

## **2.4 Submissions**

The Centre contributed to the preparation and presentation of a number of submissions including:

- Submission to the Department of Education, Employment and Workplace Relations, Review of Employment Services,
- Submission to the Department of Human Services, Review of Job Capacity Assessments,
- Response to “The Future of Employment Services in Australia: A Discussion Paper”;
- Submission to the Department of Education, Employment and Workplace Relations on the 2007 Budget Measures bills;
- Submission to the Federal Government’s Homelessness Green Paper “Which way home? A New Approach to Homelessness”;
- Submission to the Review of the Department of Education, Employment and Workplace Relations Social Security Appeals and Litigation Arrangements;
- Submission on “Social Security Savings Proposals: considerations for Government”;
- Submission to the Review of Carer Payment (child) Review Taskforce;
- Senate Inquiry into the Northern Territory “emergency intervention”;
- NWRN, 12 Point Plan: 2007-08 Budget Priorities Submission: Re-balancing Risks and Responsibilities.

## **2.5 Liaison with Government agencies and departments and community agencies**

Over the year the Centre contributed to the NWRN delegations in which we met with representatives from a range of Government departments and agencies, including Centrelink; the Department of Education, Employment and Workplace Relations; the Department of Families, Housing, Community Services and Indigenous Affairs and the Job Capacity Assessment Branch of the Department of Human Services.

In addition, the Centre took part in the NSW Nurses Association’s steering group on research into mental health and “Welfare to Work”, and facilitated the launch by the NSW Minister for Women of a report into the impact of “Welfare to Work” policy on women in NSW. The Centre was involved in four activities during Anti-Poverty Week and was a member of the NSW Multicultural Advisory Forum. We also held a number of meetings with the NSW Cancer Council and spoke at its conference on income support and Centrelink issues. The Centre addressed the NSW Shelter Conference on Welfare Reform and changes to public housing policies; took part in Sydney consultations over the Federal Government’s disability and mental health and employment strategy, as well as consultations around homelessness policies. The Centre represented the NWRN on Centrelink’s Participation Reference Group.

## **2.6 Media**

The Centre regularly provided background information to the media on a wide variety of Centrelink and income support issues, with the most consistent topics being the new compliance regime, eight week no payment penalties, proposed Social Security changes, Disability Support Pension, income management/quarantining and equity in relation to climate change. We also did a regular spot on Political Forum at ABC 702 drive time radio on welfare policy.

## **2.7 Other policy issues**

The first year of the “Welfare to Work” changes for parents resulted in a busy and challenging time for the Centre, as did the change of Government from October 2007. Highlights of major policy work undertaken by the Centre, mostly in conjunction with the NWRN, included the: Northern Territory “emergency intervention”; Social Security compliance regime and penalties; Employment Services Review, and reform of Job Capacity Assessments. The impact of Government policies and Centrelink practices in contributing to, and exacerbating homelessness, was also an important part of the Centre’s contribution over the past year.

## **2.8 Projects**

Anna Doyle, a 4<sup>th</sup> Year Social Work Placement from the University of Sydney undertook intensive casework at the Centre and wrote a draft submission on the impact of Social Security policies on New Zealanders since 2001.

# **3.0 Community Education and Training and Volunteer Workers**

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## **3.1 Long term goals**

The community education and training goals are:

- to provide high quality, accessible and targeted community legal education;
- to ensure that the work of the Welfare Rights Centre is widely known and supported throughout NSW in order to maximize its accessibility and strengthen community support for the Centre;
- to ensure that the Welfare Rights Centre plays an appropriate role within, and for the advancement of, the Community Legal Centre movement in Australia.

## **3.2 Education and community liaison**

In 2007-2008, the Centre continued with the aim of targeting the most disadvantaged groups for community education. The Centre held over 50 training seminars for community organisations, including youth centres, Migrant Resource Centres, women's refuges, accommodation services, hospitals, youth and migrant interagency meetings and financial counsellors. Information was provided about the rights and entitlements of Social Security recipients and the role of the Welfare Rights Centre. More in depth training about specific Social Security payments was also provided to youth organisations and financial counsellors in particular.

Regional training was also held in Lismore for staff of Northern Rivers Community Legal Centre and to community workers in the area. Also, training for the Centre's Community Legal Centre /Legal Aid Commission Network was undertaken. Workshops and presentations were provided at the NSW State Community Legal Centre conference. The Centre participated in a one week outreach trip to Dubbo, Walgett and Lightning Ridge with the Legal Aid Commission and Western NSW Community Legal Centre.

In addition, throughout 2007-2008, the Centre continued to be involved in the NSW Multicultural Advisory Forum as community co-convenor.

This year the staff continued to sit on various boards and reference groups including ACOSS, the National Association of Community Legal Centres, the NSW Combined Community Legal Centres Group, and Centrelink's Participation Reference Group.

## **3.3 Volunteer workers**

The Centre's volunteer workers program continued with a number of individual induction sessions for prospective volunteer workers being held throughout the year. The number of volunteer workers at the Centre remained at about 15 at any point in time with some people leaving due to paid employment or study commitments. Ongoing training was provided to volunteer workers and their contribution acknowledged with two social functions each year as a small token of our thanks. Feedback from volunteer workers suggests that people enjoy their time with the Centre and feel they gain both skills and knowledge from the work at the Centre.

# 4.0 Publications

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## 4.1 Long term goals

The Centre's overall publication goals are:

To produce and distribute clear, informed, effective and targeted, information and policy advocacy material designed to:

- increase accessibility to the Social Security system;
- educate and empower the community about Social Security issues, payments and rights; and;
- improve the Social Security system in Australia.

In pursuit of these goals, the key publications for 2007-2008 were:

## 4.2 "rights review"

"rights review" is the quarterly newsletter of the Welfare Rights Centre. Its purpose is to:

- provide information on recent changes to Social Security law and administration;
- raise awareness of Social Security matters;
- assist community workers to help their clients; and
- promote the services provided by the Centre.

In 2007-2008 "rights review" reported extensively every three months on changes to Social Security law and administration and in particular on issues related to the Northern Territory "emergency intervention" legislation, Centrelink penalty regimes, opportunities for the community sector under the new ALP Government, and issues related to debts.

## 4.3 The Independent Social Security Handbook

In 2007-2008 the Centre continued to produce the ONLINE EDITION of the "Independent Social Security Handbook". The primary purpose of the Handbook is to inform community workers about Social Security law and Centrelink administrative practices and to assist them to better advocate for their clients with regard to Social Security payments.

The ONLINE EDITION was updated four times during 2007-2008 to take into account changes to Social Security law and policy. The ONLINE EDITION continues to be available free to community workers in Western Australia, Tasmania and Queensland due to arrangements made between the Centre and the relevant state government welfare departments in each state. In NSW the ONLINE EDITION is available free to community workers, initially due to support from the NSW Government, and later due to the Law and Justice Foundation of NSW.

In addition, this year the Centre undertook to complete a major rewrite and edit of the Independent Social Security Handbook to incorporate all changes in Social Security law and policy to publish the 6<sup>th</sup> hardcopy edition in 2008-2009.

The Centre received a grant of \$21,000 from the Law and Justice Foundation to assist in producing the 6<sup>th</sup> edition. Caseworkers, who undertake frontline casework in the Centre, then commenced the extensive task of overhauling, revising, redrafting and editing each chapter as necessary with a view to publishing the 6<sup>th</sup> hardcopy edition. There were over 800 pages in 53 chapters of complex Social Security provisions that all have to be checked in the various Social Security and Family Assistance Acts, the Guide to Social Security Law and Family Assistance Guide, and thousands of internal Centrelink e-references. All of this has to be blended with the practical reality of the Centre's own casework experience of how the system really works. The 6<sup>th</sup> edition of the Handbook is to be published in 2008-2009.

#### **4.4 Factsheets and brochures**

The Centre has more than 25 Factsheets available to assist and inform people about Social Security matters. Two Factsheets are available in five languages other than English (Spanish, Mandarin, Serbian, Arabic and Vietnamese). A complete list of the publications produced by the Centre and the NWRN can be found on the NWRN website. This year the Centre has significantly updated the Factsheet: "Debts – what to do if you have a Social Security debt" to include more detailed information about waiver. The two Factsheets on carer issues have been updated as well, "Carer Payment and Carer Allowance for people caring for adults", and "Carer Payment and Carer Allowance for people caring for children".

#### **4.5 National Welfare Rights Network Website [www.welfarerights.org.au](http://www.welfarerights.org.au)**

The NWRN's website, which is hosted and managed by the Centre has over 300 pages of information to assist people with Social Security and welfare rights matters. The website is constantly maintained and updated by the Centre's Administrator.

## **5.0 Funding**

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### **5.1 Major funders**

Funding for the period 1 July 2007 to 30 June 2008 was received from:

- NSW Department of Community Services – \$362,763
- Commonwealth Government - Welfare Rights Program – \$210,085
- CLC Funding Program - (NSW and Commonwealth Governments) – \$113,973

### **5.2 Welfare Rights Trade Union and HESTA Programs**

During this period the Centre continued to provide service to and receive support from the following unions involved in its Trade Union Welfare Rights Program:

- NSW Teachers Federation;
- NSW Nurses Association;
- NSW Independent Education Union;
- NSW Branch of the Australian Liquor, Hospitality and Miscellaneous Worker's Union (Miscellaneous Workers Division);
- Public Service Association (NSW); and
- Police Association of NSW.

In addition, the Centre has continued its service arrangement with HESTA, under which HESTA members who are injured or ill and without income support, are provided with advice and assistance in relation to their Social Security entitlements and Disability Income Benefit (DIB).

The Centre is greatly appreciative of this support and the opportunity it provides the Centre to assist low income working people. Throughout the 2007-2008 period, the main features were:

- advising and representing trade union and HESTA members with regard to their Social Security matters;
- providing quarterly bulletins to each union with updates of changes to Social Security Law; and
- writing articles for publication in trade union journals to inform readers about their correct Social Security entitlements.

### **5.3 Income generation**

In addition to the revenue from casework services to HESTA and the trade unions above, the Centre also continues to generate further income through sales of the newsletter ("rights review") and sales of the ONLINE EDITION of the Handbook. The Centre has also received grants from the Law and Justice Foundation of NSW towards both the ONLINE and 6<sup>th</sup> hardcopy edition of the Handbook.

### **5.4 Auditor's Report**

The audit for this period was conducted by Kazzi and Associates. The Auditor's Report forms part of this Annual Report and is attached at section 7.

## **6.0 Management**

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### **6.1 Board of Directors**

Throughout the period the following people played the very important role of planning and overseeing the Centre's work in their capacity as members of the Board of Directors.

### **6.2 The Directors who held office at any time during 2007-2008 were:**

Estelle Adamek  
Liz Biok  
James Campbell  
Diana Covell  
Tony Eardley  
Carol Howard  
Alan Kirkland (Chairperson)  
Megan Magnusson  
Terry Mason  
Kerry O'Neil  
Cristina Pebaque

Details of each of these Board Members are set out in the Auditor's Report.

### **6.3 Paid workers**

Throughout the period, the following people were employed by the Centre on a permanent basis:

Dianne Anagnos – Solicitor/ Caseworker  
Melissa Coad – Education & Community Liaison Officer/ Caseworker  
Lua De Burgh – Administrative Secretary part-time  
Jackie Finlay – Principal Solicitor  
Linda Forbes – Casework Coordinator  
Catalina Loyola – Administrator  
Amie Meers – Handbook Researcher /Caseworker  
Jemima Mowbray - Administrative Secretary part-time  
Gerard Thomas – Policy and Media Officer  
Michael Raper – Director  
Danny Shaw – Publications Officer /Caseworker

## **6.4 Paid workers – contract**

The following people were employed on a temporary, contract basis:

Sam Trinity – Financial Administrator

Melissa Lubowski – Solicitor/Caseworker

## **6.5 Volunteer workers**

Any success the Centre had in 2007-2008 could not have been achieved without the help of our unpaid volunteer workers. The Centre had about 15 people helping us through the year. At any given time the Centre has about 10 casework assistant volunteers who provide an invaluable service each week. Special mention should also go to our administration volunteer workers who help with the administrative functions in the office. These volunteers perform their duties with style, diligence, patience and much skill.

The casework volunteer workers, who have the challenging task of direct contact with people who contact us for advice or referral, assisted in 3,111 matters through the year. They displayed excellent communication and interpersonal skills in assisting many highly distressed clients. Their dedication and enthusiasm provides an inspiration to all of us at the Centre.

The Centre gratefully acknowledges the role played by all our volunteer workers.

These workers contribute services to the Centre valued at over \$120,000 each year. We hope they have enjoyed being at the Centre as much as we have enjoyed having them and we look forward to their continuing involvement with the Centre.

## **6.6 Pro-bono assistance**

The Centre thanks DLA Phillips Fox and Clayton Utz for their pro bono assistance over the past 12 months. Both firms provided greatly needed legal advice and assistance in relation to the Centre's move to new premises, and on leasing issues.

# **7.0 Auditor's Report**

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The Auditor's Report, prepared by Kazzi and Associates forms part of this Annual Report but as it is produced in a different format, is available on request.