



Rewinding Robodebt

We're challenging
Centrelink's robo-debt
process to make the
system **fairer for all**



REWIND ROBO-DEBT



Victoria Legal Aid



Miles Browne and Charley Brumby-Rendell



Victoria Legal Aid

Single-Touch Payroll

Social Services and Other Legislation Amendment (Simplifying Income Reporting and Other Measures) Act 2020

- Focus on when income “paid”
- Complicated set of inputs – “employment period” / “assessment period” and “instalment period”
- Difficulties with reporting employment periods for casual work
- Averaging where unable to determine an employment period
- Key dates: Prefilling from 20 September 2020 and implementation from 7 December 2020

Refunds

- \$721 million in total
- 373,000 people receiving refunds averaging \$1900
 - Another almost 50,000 debts were also set aside (where no payments had been made so need to refund)
- Apparently by November 2020 most people should have received refunds
- Clients who have not received refunds will need to contact Centrelink to provide bank details
- Around 7000 have refunds above \$7000

Reflections on other Robodebt elements

10% penalty fee

Section 1228B(1)(c)

(c) the debt arose wholly or partly because the person had:

- (i) refused or failed to provide information in relation to the person's income from personal exertion; or
- (ii) knowingly or recklessly provided false or misleading information in relation to the person's income from personal exertion;

when required, under a provision of the social security law, to provide information in relation to the person's income from personal exertion.

- Separately considered in addition to the absence of a debt
- In *Amato* the Commonwealth never articulated rationale for 10% penalty fee
- Commonwealth ultimately conceded that “Not sufficient material before the decision-maker capable of supporting the conclusion that any of the conditions in s 1228B(1)(c) were satisfied.”
- Must be determined at time debt raised

Other Robodebt elements continued

Garnishee power

Section 1230C(2)

.... only if the Commonwealth:

(b) can establish that the person who owes the debt:

(i) has failed to enter into a reasonable arrangement to repay the debt; or

(ii) after having entered into such an arrangement, has failed to make a particular payment in accordance with the arrangement.

- Garnishing of tax return was unlawful because there was no debt
- The satisfaction of requirements in s 1230C(2)(b) was not separately considered by Federal Court in *Amato*
- Unclear whether practice will change

Other Robodebt elements continued

Review mechanisms

- Inability to access meaningful merit review
- Possibility of appealing reassessments
- The failure of merits review to achieve systemic outcomes

Complaints process

- Assessing effectiveness

The power of client stories

- Media narrative changed over time from welfare fraudsters to focusing on the social security system itself
- There was early threat of Centrelink releasing personal information
- Media and individuals with robodebts often
 - did not focus on legal aspects of robodebt
 - spoke to the value of fairness

'The system is truly Orwellian': our horrifying experiences with robodebt

A lot of people don't know their rights or have the capacity to defend themselves when given an incorrect debt



Alan Tudge  @AlanTudgeMP · Feb 26, 2017

Fairfax acknowledges that Andie Fox did have debt despite publishing her article that Centrelink "terrorised" her. [smh.com.au/comment/centre...](https://www.smh.com.au/comment/centrelink-terrorised-andie-fox-20170226-401111.html)

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'It felt like **guilty** until **proven innocent**. It was a **lot of money...to disappear** without you knowing how or why'.

Our client Deanna Amato



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