



By email: [CSAGSecretariat@dss.gov.au](mailto:CSAGSecretariat@dss.gov.au)

7 November 2023

## ***Economic Justice Australia submission to DSS Issues paper 'A stronger, more diverse and independent community sector'***

### **About Economic Justice Australia**

Economic Justice Australia (EJA) is the peak organisation for community legal centres providing specialist advice to people on their social security issues and rights. Our members across Australia have provided people with free and independent information, advice, education and representation in the area of social security for over 30 years.

EJA provides expert advice to government on social security reform to make it more effective and accessible. Our law and policy reform work draws on evidence from the work of our member centres, and:

- Strengthens the effectiveness and integrity of our social security system;
- Educates the community; and
- Improves people's lives by reducing poverty and inequality.

EJA currently receives funding from the Department of Social Services (DSS) as a peak body under the Families and Community Service Improvement (FCSI) funding stream. We note that our current funding agreement ends at 30 June 2024, and we are engaged in current discussions with DSS regarding the internal review to inform the future of FCSI funding.

### **About our members**

EJA has [22 member centres](#) located across every Australian state and territory. The majority of them provide social security legal assistance. We note that our member centres have a diversity of funding sources, but their main Commonwealth funding source is funding pursuant to the National Legal Assistance Partnership (NLAP). EJA has recently made a submission to the Independent Review of the NLAP on behalf of our members.

For the purposes of this consultation, we consider that all EJA members fit the definition of community sector organisations (CSOs).

### **Proposals**

We note that a number of the proposals below are drawn from our submission to the NLAP Review, which we **attach** for reference (Appendix 1).

1. As recommended in the Report of the Royal Commission into the Robodebt Scheme, the Commonwealth should establish a designated funding stream for the provision of social security legal assistance.
2. EJA member centres should be funded the full amount of delivering social security legal assistance to meet community need, including their indirect costs, and funding agreements should account for the increased costs of facilitating service delivery in regional, rural, remote and very remote locations.
3. Funding should be appropriately and consistently indexed across the term of funding agreements to meet the real increase in costs that organisations are incurring to deliver services.
4. EJA should be adequately funded as the peak body for community legal centres providing social security legal assistance. This funding ensures appropriate input from the on-the-ground expertise of relevant CSOs to the development of government social security policy and service delivery. Specifically, EJA submits that additional funding received from DSS in FY24 should form a permanent part of our funding package, making our funding grant \$452,250 (ex GST) per annum.

## Conclusion

EJA appreciates the opportunity to engage with DSS and make this submission. EJA consents to this submission being published, referenced and quoted in any report relating to the DSS's consultation.

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## APPENDIX 1

Independent Review of the National Legal Assistance Partnership  
By email: [submissions@nlapreview.com.au](mailto:submissions@nlapreview.com.au)

26 October 2023

### ***Economic Justice Australia submission to Independent Review of the National Legal Assistance Partnership***

#### **About Economic Justice Australia**

Economic Justice Australia (EJA) is the peak organisation for community legal centres providing specialist advice to people on their social security issues and rights. Our members across Australia have provided people with free and independent information, advice, education and representation in the area of social security for over 30 years.

EJA provides expert advice to government on social security reform to make it more effective and accessible. Our law and policy reform work draws on evidence from the work of our member centres, and:

- Strengthens the effectiveness and integrity of our social security system;
- Educates the community; and
- Improves people's lives by reducing poverty and inequality.

#### **About our members**

EJA has 22 member centres, located across every state and territory. Some are specialist centres that provide legal advice and services only in relation to social security law. Others are generalist centres providing services in a range of areas of law.

As at October 2023, EJA's member centres are:

Canberra Community Law (ACT)

Welfare Rights Centre (NSW)

Mid North Coast Legal Centre (NSW)

Illawarra Legal Centre (NSW)

Northern Australian Aboriginal Justice Agency (NT)

Darwin Community Legal Service (NT)

Katherine Women's Information and Legal Service (NT)

Central Australian Women's Legal Service (NT)

Top End Women's Legal Service (NT)

North Australian Aboriginal Family Legal Service (NAAFLS)

Townsville Community Law (Qld)

Basic Rights Queensland Inc (Qld)

Uniting Communities Law Centre (SA)  
Hobart Community Legal Service Inc (Tas)  
Launceston Community Legal Centre (Tas)  
Barwon Community Legal Service (Vic)  
Social Security Rights Victoria (Vic)  
Monash Law Clinics (Vic)  
Fremantle Community Legal Centre (WA)  
Sussex Street Community Law Service (WA)  
Kimberley Community Legal Service (WA)  
Welfare Rights & Advocacy Service (WA)

All except one of EJA's member centres are accredited as Community Legal Centres under the National Accreditation Scheme overseen by Community Legal Centres Australia and the state and territory peaks<sup>1</sup>. We note that not all members provide social security legal assistance, but all of the non-Legal Aid Commission social security legal assistance services currently operating in Australia are members of EJA.

Whilst social security is a priority area of law under the current National Legal Assistance Partnership Agreement, there are currently no designated funds for social security legal assistance services provided under the NLAP. This is despite the number of people affected by adverse social security and family assistance decisions daily – many of whom fall into vulnerable cohorts, and are manifestly unable to self-represent in appeals.

### Proposals

1. Substantial increase to funding allocation for social security legal services.
2. Establishment of designated funding stream for social security legal work.
3. Adequate funding for implementation of a range of service delivery models aiming to identify and meet social security legal assistance need.
4. Adequate funding to enable social security legal services to perform their important public interest role.
5. Each state and territory to publish or otherwise make available their funding allocation of Commonwealth funding administered by the state or territory to social security legal services for community legal centres and legal aid commissions.
6. Consideration of additional issues in development of funding package – particularly the need for CLCs to be able to remunerate staff in similar terms to Legal Aid Commissions;

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<sup>1</sup> North Australian Aboriginal Justice Agency (NAAJA) is a member of NATSILS – the peak body for National Aboriginal and Torres Strait Islander Legal Services.

and the increased costs of delivering services in regional, rural, remote and very remote (RRRR) areas.

### Social Security Legal Need

We note the Community Legal Centres Australia (CLCA) submission to this Review which outlines a number of surveys and pieces of contemporary research that highlight consistently high levels of unmet legal need in the community. We also refer the Reviewer to the Victoria Law Foundation Public Understanding of Law Survey Report, 2023 - which found that of the people who reported having one or more justiciable problems over the past two years, 4.5% reported problems with government payments and 3.6% reported problems with government and public services. There is a significant overlap with individuals with multiple justiciable issues and levels of disadvantage.

There is no single piece of research or survey that captures the scale of legal need in relation to social security law. As at 30 June 2023 there were 5.06 million Australians accessing social security payments<sup>2</sup>. From this we can extrapolate that substantial numbers of Australians annually are impacted by adverse decisions by Centrelink, thus giving rise to the need for legal advice and assistance. This client group is highly vulnerable and it means there is a high level of need for legal assistance, which may be needed at the time a claim for payment is lodged or rejected and at any stage of the review process. The need for legal assistance is compounded by the many issues with social security service delivery and communication outlined in the Robodebt Royal Commission Report.

Data from EJA's specialist member centres (those exclusively providing social security-related legal services) makes abundantly clear that there is vast need that centres cannot meet on current funding allocations. We note that centres across the EJA membership run different service delivery models and approaches to providing advice and assistance. All report that they cannot meet the current level of demand on current funding allocations.

Unmet need also encompasses clients who receive a less intensive service than their issue requires due to inadequate resourcing of the centre providing that service. For many clients, there are less favourable outcomes where representation assistance is not provided and where representation services are provided to some clients, this leaves less resources to assist other clients.

EJA hears repeatedly from our members across the country that clients of member services are frequently provided with a service that does not meet the full extent of their legal need - for example, a legal advice rather than legal representation - because of insufficient resources. Constant juggling of scant resources and the provision of representation to the most disadvantaged can have a significant material impact for the client involved. Where representation is provided, the positive outcomes are very significant for the client.

The following case study from Welfare Rights & Advocacy Service (WA) is illustrative. The service had a client [REDACTED]. The client contacted the service after Centrelink cancelled their Disability Support Pension. They had received the DSP for a number of years before making the decision to attempt to return to work. They notified Centrelink within the required 14 days. They wanted Centrelink to 'pause their payments'.

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<sup>2</sup> "DSS Benefit and Payment Recipient Demographics - quarterly data" available at <https://data.gov.au/dataset/ds-dga-cff2ae8a-55e4-47db-a66d-e177fe0ac6a0/details>. Accessed 20 October 2023.

Centrelink should have suspended their payment (pursuant to s.93 of the *Social Security (Administration) Act 1999*).

A month later and with no notification to the client, Centrelink placed the client on income reporting. When the client did not report their income for 28 days, Centrelink cancelled the client's payment. Several months later, the client re-contacted Centrelink advising they had stopped working and asking for their pension to be restored. Centrelink informed them that their pension had been cancelled and that they were out of time to have the pension restored. They were told to lodge a new claim. Both the Authorised Review Officer (internal review) and the Administrative Appeals Tribunal (AAT) Tier 1 had decided that the decision was legally correct. The client then found Welfare Rights & Advocacy Service. The client was assisted to lodge a request for review at the General division of the AAT and prepared a Statement of Issues which argued the cancellation of the client's payment was legally incorrect. Welfare Rights & Advocacy Service represented the client at the AAT Conference.

Following the conference Centrelink's lawyer agreed that the client's payment had been cancelled unlawfully. Centrelink agreed to set aside the cancellation decision and restore the client's DSP from the date they recontacted Centrelink after ceasing work. The AAT made a decision giving effect to the agreement reached by the parties.

Unmet need is most pronounced in regional and remote Australia. Some regional and remote areas of Australia have no funded specialist on-the-ground services providing social security legal advice and assistance. This leaves people without access to accessible information, advice and advocacy on social security and family assistance issues.

The Northern Territory (NT) is a prime example: none of the non-profit legal services in the NT – neither Aboriginal Legal Services, Community Legal Centres nor the Legal Aid Commission – receives funding that is specifically designated to the purpose of providing social security legal help. There has been no needs assessment relating to social security legal need in the NT.

The Kimberley region is another example. Twice the size of Victoria, the region is thousands of kilometres from the closest community legal centres providing specialist social security legal advice and assistance. Whilst the Kimberley Community Legal Service (KCLS) is a generalist Community Legal Service, neither KCLS nor any of the other non-profit legal services in the Kimberley receive dedicated funding to provide social security legal help. Welfare Rights & Advocacy Service (based in Perth) provides outreach, community legal education with services on the ground in the region and prioritisation of warm referrals. However, current resourcing is manifestly inadequate to meet demand. There are a number of other remote areas within the catchment of Welfare Rights & Advocacy Service – including the Pilbara, Goldfields and Gascoyne regions. The true cost of providing such services in a state the size of Western Australia, is not adequately accounted for in the current NLAP Agreement.

Access to appeal rights is particularly problematic for Aboriginal people in these regions for a range of complex reasons, including having English as a second language, and deeply held fears of the system. Vulnerable cohorts struggle to meet claim requirements for key income support payments such as Disability Support Pension and Carer Payment and many people with significant disability, chronic health conditions and/or care responsibilities are effectively consigned to JobSeeker Payment indefinitely. Alternatively, Aboriginal people in these regions receive no payments resulting in less money coming into communities. The lack of remote visiting services by Service Australia, and push for clients to use online services where there is limited or intermittent connectivity compounds these issues. Without access to Social Security



legal services clients do not know they have review rights nor that they can access free legal social security assistance.

People in these cohorts are then inevitably subject to disproportionately high rates of mutual obligation suspensions and penalties. Given the lack of access to legal help it is not surprising that appeal rates for Aboriginal people in regional and remote areas are very low.

An example of the impact of on ground assistance from specialist social security services – Welfare Rights & Advocacy Service recently travelled ██████████ to meet with local services and provide community legal education sessions as well as to provide face to face services ██████████. One person who asked for assistance had been waiting more than 5 months for a carer payment claim to be processed. They had made several attempts to follow this up themselves and had given up. The intervention by Welfare Rights & Advocacy Service led to the claim being processed the next day and the client receiving a large arrears payment.

### **The need for specialist social security funding**

Social security law is second only to tax in its complexity but with a much more disadvantaged and vulnerable population affected by adverse decisions – decisions that can result in the person being left with no means of support and without the resources to challenge the decision where they believe it is incorrect. Clients can be left with large debts where they do not understand the reason for the debt and that debts can be challenged.

A number of other systemic factors make the availability of properly-funded social security legal advice even more important. These include:

- The impacts of automated decision-making in the Centrelink system, including automated production of letters which lack vital detail around the reasons for decision making and reduce an individual's understanding of their rights.
- Difficulty accessing Centrelink staff to get proper explanations for decision-making, again due to a reliance on automation.
- The push to online servicing, which excludes particularly vulnerable clients from meaningful engagement with Centrelink, including those with limited digital literacy or access, such as those in regional, remote, and very remote areas.
- The incredible complexity of social security legislation, and its related systems and bureaucracy.

Unlike most other areas of specialist community legal centre practice, there is no private sector equivalent where people can go for legal advice or representation whether on a pro bono basis or in the rare cases where they have the financial resources to pay for legal help. This means that our social security legal centres have limited options to refer people for help with their social security problem if they are at capacity, which is increasingly the case. Legal Aid Commissions vary from state to territory as to services offered in terms of social security advice but often what is available is minimal, for example, limited AAT representation.

The overwhelming demand for social security legal services is outlined above. Current NLAP funding arrangements have limited the capacity to maintain and expand social security law expertise within EJA's membership. In particular, standalone social security workers in generalist community legal centres often do not have the capacity to provide services that are

more intensive than advice and limited one-off assistance. Centres regularly note that there are clients who are traumatised by the point when they reach the appeals process, and therefore require representation. This can be compounded by the lengthy and drawn-out time frames for appeals, appeal fatigue, inherent power imbalances and the complexity of social security law.

EJA proposes that additional funding needs to be made available – either via NLAP, or through expansion of the direct funding pathway from the Department of Social Services (DSS) that currently exists for EJA as a peak organisation. Quarantining money within existing funding allocations via NLAP is not feasible. Generalist centres will understandably not be keen to see any reduction in funding to other under-resourced areas of their practice to accommodate an increase in social security legal assistance funding.

Social security is a priority area of law under the current NLAP Agreement, but as a Commonwealth area of law, is sometimes not seen as important from a state/territory perspective in the management of on-ground funding programs. This results in a differential funding baseline across state and territory jurisdictions with respect to a Commonwealth area of law.

### **Public interest role of social security legal services**

The Robodebt Royal Commission Report clearly recognises the key public interest role played by community legal centres in the social security space<sup>3</sup>, citing their work during the Royal Commission as an example of this, and calling for this function to be considered with respect to funding decisions.

We note that the work that specialist EJA member centres undertook during the operation of the Robodebt scheme was not funded. An example from Welfare Rights Centre (NSW) describing the work they did during the Scheme:

*Since January 2017, the Welfare Rights Centre has been publicly advocating on the impact of the Robodebt Scheme on its clients. We began by establishing systems to document robodebt case studies for the National Social Security Rights Network (NSSRN) and also providing briefings to journalists. In February of the same year, we presented to the NSW CLC sector's Quarterlies, offering an explanation of what robodebt entails and why we believed it was fundamentally flawed. By March 2017, we had developed reports in the CLASS to gain insights into the scale of robodebt inquiries, which we shared with CLCNSW and NSSRN, which formed the basis of evidence to the Robodebt Senate Inquiry in April 2017.*

*Our commitment persisted into 2018 when, in May, we provided feedback to the Department of Human Services (DHS) concerning the deficiencies in the Robodebt portal's operations. We further enhanced our efforts in June by revising our template letter of advice to clients regarding the legality of robodebt. In August 2018, we developed a client questionnaire to assess their suitability for participation in a tribunal test case.*

*During most of 2019, we engaged in interviews with media outlets, including The Guardian, 7:30, and Channel 9, to shed light on robodebt processes. In 2020 and 2021, we collaborated with the EJA and other member centres in developing communications and advice*

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<sup>3</sup> Commonwealth, Royal Commission into the Robodebt Scheme, *Final Report* (2023) vol 2, 378.



*regarding the robodebt settlement. In June 2022 when we prepared an affidavit and provided oral evidence at the Robodebt Royal Commission.*

Welfare Rights Centre estimates that this took hundreds of hours of staff work.

Another example of centres performing this public interest role is the recent changes in the family violence space with respect to social security. Social security lawyers and advocates identified an issue for women escaping family and domestic violence in their work with individual clients over a number of years. They recognised that without changes to the Social Security Guide, adverse decisions about these women being members of a couple for social security purposes would continue to be made. Centres worked with EJA to undertake detailed research, which led to recommendations and calls for law reform. This ultimately led to successful changes to the Social Security Guide to assess women in this situation as a single person and not a member of a couple with the associated rates of payment which allow for people to leave family and domestic violence relationships without the risk of a debt being raised. This proactive work by member centres was largely unfunded, but has had a significant systemic impact.

Further work of this nature is underway in relation to a range of issues – including automated decision-making in social security, and social security responses in a disaster-relief context. This work is not possible without adequately funded centres working directly with clients, and their collaboration with each other to identify systemic issues.

EJA would further point to the contribution that the work of member centres makes to the development of guidance on the interpretation of social security law as in the public interest. Current NLAP funding arrangements have limited capacity for centres to represent appellants at the General Division of the Administrative Appeals Tribunal (AAT). This has limited the development of social security jurisprudence and makes future injustices on the scale of Robodebt less likely to be exposed. At the same time, expertise among decision-makers is also being diluted through under-resourcing of Services Australia internal review processing.

We note [EJA's submission](#) to the Attorney General's Department regarding the Administrative Review Reform Issues Paper, and our ongoing input to targeted consultation regarding the New Federal Administrative Review Body. Throughout these submissions, we have consistently called for this body to be structured in a way that allows for:

- Recognition of the profound impacts that tribunal decisions can have on individuals, as Applicant or Respondent, given the powers of the tribunal and the nature of its jurisdiction
- Ensuring accessibility, particularly for people among vulnerable cohorts and especially for cohorts with disproportionately low rates of appeal to the AAT under the current arrangements, with a focus on addressing barriers for Aboriginal and Torres Strait Islander People
- Ensuring transparency of decision-making and of practices and procedures
- Monitoring to ensure consistency and rigor in decision-making
- Monitoring to ensure absence of actual or perceived bias, and absence of political influence on the interpretation of legislation or the exercise of discretion, and processes to ensure that any bias is identified and addressed.

Underpinning these submissions is the need for funding to social security legal services that is sufficient to enable representation of vulnerable clients in this forum. For many people they will be unable to seek review of a decision at all without legal representation.

EJA further notes the impact that AAT representation by a specialist social security lawyer or advocate can have for a client. Welfare Rights Centre (NSW) has a success rate when representing clients of 70% at AAT1 and 80% at AAT2. This result is arguably highly unlikely to be achieved if a client is self-representing, if they even reach that stage of the review process. The following case study example is from Welfare Rights & Advocacy Service:

*Client approached Welfare Rights & Advocacy Service (WRAS) with family assistance debts totalling over [REDACTED]. WRAS were able to have one debt written off as being statute barred. At the tribunal hearing the member was entirely unsympathetic to the client's extremely difficult past [REDACTED]. [REDACTED]. The member asked the client to agree that the debts should be repaid. WRAS submitted that the question was inappropriate as this is not part of the legislative requirement for a debt to be waived. A WRAS lawyer went through the client's special circumstances and submitted that the Tribunal was obliged to apply the relevant section of the Social Security Act to the facts. The Tribunal decided that all the client's debts should be waived. Following the hearing, the client told the lawyer representing her that she would not have proceeded without WRAS' representation.*

Social security legal services need to be appropriately funded to provide duty lawyer services in the new Tribunal. At the same time, the Tribunal needs to be appropriately funded to provide the co-ordination needed to facilitate the delivery of such services. If there is to be an increased reliance on alternative dispute resolution processes within the new Tribunal, it is important that legal services are properly resourced to provide assistance and representation in these matters.

### **What does adequate funding for social security legal services look like?**

As set out throughout this submission, social security legal services delivered by community legal centres are severely under resourced under the current NLAP Agreement. This under resourcing has a direct impact on service delivery, and outcomes for vulnerable clients.

We note that EJA's submission regarding a designated funding stream for social security legal assistance is intended to refer to funding to flow not only to statewide specialists, but to build capacity in this area of law in generalist centres in order to adequately address unmet need.

EJA has set out below information on specific funding asks for our state-wide specialist member centres based on their own calculations of what they require to address current legal need.

Overall, adequate funding for a statewide specialist service needs to take into account the size of the population, levels of disadvantage, the geographic area covered, and the true cost of providing services within this area.

We note also that some EJA members, such as Canberra Community Law, have made their own submissions to the Review including further information about their required level of funding.

## Specialist Statewide Social Security Legal Service Model and Costing

### *Social Security Rights Victoria (SSRV) and Welfare Rights Centre New South Wales (WRC NSW)*

Two statewide community legal centres specialising in social security law currently operate in the two largest states by population in Australia –SSRV and WRC NSW. Although each organisation has developed, is funded, and operates independently, both understand their specialist role to broadly include:

- delivery of specialist legal assistance to vulnerable and disadvantaged people in their state (information and referral, advice, limited task work, casework and representation, community legal education – mostly by telephone or online);
- sharing their expertise and experience to build the confidence and capability of other legal and social services professionals who are assisting their clients with social security problems(through secondary consultation, collaborative and integrated service delivery, professional development and resources, placements, partnerships and volunteer/pro bono arrangements);
- based on evidence from client and stakeholder experience and service delivery, identifying policy and systems issues relating to social security law and its administration, informing decision makers of the issues and proposing solutions;
- proposing and piloting innovative approaches to addressing social security legal need.

There is limited social security law expertise within the Australian legal assistance sector and less in the private legal sector. Some legal aid commissions do some work in this area. Statewide specialist social security community legal centres play a very important role in ensuring that this expertise is developed, maintained and shared for the benefit of vulnerable people, those who support them and those who make and administer social security law and policy.

### *Minimum baseline funding*

In order to continue to effectively perform this role, statewide specialist social security legal centres require sufficient and sustainable core/baseline funding and funding certainty. This is not currently the case.<sup>4</sup> The following is a proposal for minimum baseline and further funding to support SSRV and WRC NSW to:

- operate modern, viable and sustainable organisations that provide effective governance, management, operations and administrative support, systems, technology, etc that meet legislative and ethical requirements and funder/client/community and other stakeholder expectations;
- attract and retain quality paid staff and volunteer/pro bono resources;
- build, maintain and share specialist social security law knowledge, experience and expertise;

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<sup>4</sup> For example, SSRV currently receives less than \$358,000 in Commonwealth (\$305,561) and State (\$52,331) government baseline funding. This means in effect that the National Legal Assistance Partnership funds only up to the equivalent of one specialist social security lawyer in the Victorian community legal centre sector. WRC currently receives \$688,895 in Commonwealth (\$309,683 + Family Law/Family violence \$112,732) and State (266,461) government base line funding, which funds the equivalent of five staff members, only two of which perform full-time casework.

- deliver a range of statewide specialist legal and related assistance – to the right people, at the right time, in the right way; and
- leverage their expertise and evidence from their practice to be responsive, to innovate and to inform fairer laws and processes.<sup>5</sup>

We consider that there is a case for proportionate additional resourcing for WRC NSW given the additional population of that state. According to the Department of Social Services, there are 1.56m people in NSW and 1.1m people in Victoria who are in receipt of social security payments. This would imply an around 30% uplift for NSW.

### Extended service reach and integrated service delivery

Beyond minimum baseline services, a ‘hub and spoke’ model of service delivery (a form of specialist-generalist partnership) can enhance service reach, particularly for regional and remote areas. The specialist centre can operate as a hub and provide outreach to regional and remote areas via partnerships with relevant generalist community legal services. Specialist staff could be located in, work for or be seconded to the regional centre, deliver specialist services and work to skill up staff and local partners. This model enhances the benefits of collaboration to ensure an effective and accessible service response.

Integrated services can support wrap-around, holistic service delivery by drawing on skills and capability of non-legal professional staff to support a client’s broader issues are effectively dealt with along with legal issues. Centring this in the service model enhances legal service delivery by making it more responsive and effective to those with the greatest levels of disadvantage or vulnerability.

### Indicative Detailed Costings, Services and Outcomes/Outputs

Please note:

1. The following is an indicative service model and outputs. Each organisation has done and will develop operations and service delivery relevant to context, priorities, demands and emerging issues/priority cohorts. Ideally, improvements to Centrelink accessibility and reforms to government administrative decision-making processes in the medium term will mean that over time both organisations are able to increasingly shift service delivery resources towards casework and representation.
2. The model and costing for Baseline Funding and for Integrated Services is a set amount that is increased by 5% each year of the funding agreement to account for increases in wages and operating costs. The model and costing for the Specialist Partnerships/Hub and Spoke Model envisages that this service approach will develop incrementally over at least the first three years of the funding agreement and then have a percentage increase built in to cover wage and operational cost increases.
3. We are proposing that WRC NSW would be funded at baseline model plus 30% to adjust for relative population size and number of social security payment recipients in New South Wales compared to Victoria.

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<sup>5</sup> Both SSRV and WRC NSW are members of Economic Justice Australia, as well as state and national CLC peak bodies, and can share insights to support improvement and reform in the social services and broader legal sector.

Minimum Baseline Funding	Costs	Services	Outcomes/Outputs
<p>Year 1 – <b>\$1,980,000</b> (\$180,000 per position x 11 positions)</p> <p>Subsequent years – previous year + 5%</p>	<p><b>Staffing Costs</b></p> <p><b>Wages and Oncosts</b> (WorkCover, Superannuation, Annual, Personal, Long Service and other leave entitlements, backfill to cover leave)</p> <ul style="list-style-type: none"> <li>Chief Executive Officer and operations – 4.5 staff</li> <li>Legal practice – Principal Lawyer and 4 staff</li> <li>Community engagement and partnerships, policy/advocacy – 2.5 staff.</li> </ul> <p><b>Professional Registration, Professional Development, Recruitment and Onboarding</b> (EAP, external supervision, industrial and other industrial services where not provided through membership of peak bodies)</p> <p><b>Operating Costs</b></p> <ul style="list-style-type: none"> <li>Rent and other premises costs</li> <li>Utilities</li> <li>Insurances</li> <li>Communications – telephones, internet, website</li> <li>Staff amenities</li> <li>Furniture and equipment</li> <li>Software and web services</li> <li>Legal Practice Management software – fees, support and administration*</li> </ul>	<p><b>State-wide, specialist social security legal centres providing the following services:</b></p> <p><b>Information, Referral and Intake</b></p> <ul style="list-style-type: none"> <li>Legal Information Line/ Reception 5 days per week</li> <li>Triage into SSRV services</li> <li>Provide information, referral to other relevant services</li> </ul> <p><b>Community and Legal Worker Help Line</b></p> <ul style="list-style-type: none"> <li>Secondary consultation, warm referrals and collaborative client assistance 5 days per week</li> <li>Over time helps to build sector capacity and to resolve Centrelink issues with the need to consult.</li> </ul> <p><b>Legal Advice and Task Clinics</b></p> <ul style="list-style-type: none"> <li>20-25 appointments per week</li> <li>one-off legal advice and legal task (limited advice and further assistance) services such as direct advocacy to Centrelink, preparation of FOI requests, short “letters of support” to the AAT</li> </ul> <p><b>Casework and Representation</b></p> <ul style="list-style-type: none"> <li>More intensive casework and representation services provided to priority clients/ matters (including assistance such as review and advise on FOI documents, preparation of submissions for ARO and AAT, representation</li> </ul>	<p><b>Outcome</b></p> <ol style="list-style-type: none"> <li>Capable and sustainable statewide specialist community legal centre able to respond to the legal needs of people experiencing disadvantage.</li> <li>People experiencing disadvantage have increased access to justice.</li> </ol> <p><b>Outputs</b></p> <p>1,000 information and referral services per annum</p> <p>400 Worker Help Line Services per annum</p> <p>900 legal advice only and legal task services (review and draft documents, negotiate with other party, provide further advice, etc.) per annum</p> <p>50-90 court/tribunal or other representation services per annum, including cases with strategic value/public interest</p> <p><b>Outcome</b></p> <ol style="list-style-type: none"> <li>Community members and service providers have increased capability to understand and address legal issues.</li> </ol>



Minimum Baseline Funding	Costs	Services	Outcomes/Outputs
	<ul style="list-style-type: none"> <li>• Stationery and printing</li> <li>• Board and strategic planning expenses</li> <li>• Peak body membership fees</li> </ul> <p><b>Program Costs</b></p> <ul style="list-style-type: none"> <li>• Service, promotional and educational costs</li> <li>• Design and printing</li> <li>• Travel</li> </ul> <p><b>Contracted Services</b></p> <ul style="list-style-type: none"> <li>• Website development and maintenance</li> <li>• ICT maintenance and support</li> <li>• Bookkeeping, accounting and audit</li> <li>• Evaluation</li> <li>• Other specialist services as required – legal, human resources/industrial relations, cultural competency, planning</li> </ul>	<p>in ARO, AAT and Federal Court of Australia appeals)</p> <p><b>Engagement, Community Legal Education and Capacity Building</b></p> <ul style="list-style-type: none"> <li>• Focus on professional development to other professionals assisting clients with social security problems</li> <li>• Written and online information – supporting problem identification and appropriate responses</li> <li>• Online self-help resources (eg DSP Help)</li> <li>• Promotions, communications and social media</li> <li>• Stakeholder engagement</li> <li>• Facilitated communities of practice</li> </ul> <p><b>Legal Policy and System Advocacy</b></p> <ul style="list-style-type: none"> <li>• Draw insights from advice and casework to inform policy an advocacy activities, including submissions, reports, briefings etc</li> <li>• Design and implement systems for collecting data and identifying examples of systemic issues in casework</li> <li>• Engagement with Economic Justice Australia and other partners on systemic advocacy, including through research, engagement, media and representations.</li> </ul> <p><b>Access and manage additional resources to extend and enhance services and operations</b></p>	<p><b>Outputs</b></p> <p>10 community legal education workshops</p> <p>Maintenance and development of fact sheets, online resources, etc</p> <p>Stakeholder engagement Promotions, communications, social media</p> <p>Facilitated communities of practice</p> <p><b>Outcome</b></p> <p>4. Decision makers address systemic issues.</p> <p><b>Outputs</b></p> <p>5+ substantive activities (contributions to submissions, appearances at inquiries, media articles) informed by evidence from client experience, undertaken independently and collaboratively, including contributing to Economic Justice Australia led initiatives.</p> <p>Leveraging other funding and resources to provide additional client and community services, to target specific cohorts and issues, to pilot innovative approaches and solutions.</p> <p>Undertaken to promote services and progress all aspects of service delivery and operations. Awareness of and contribution to sector issues and initiatives.</p>



Minimum Baseline Funding	Costs	Services	Outcomes/Outputs
		<ul style="list-style-type: none"> <li>projects funded government and philanthropic from other sources (eg Victorian Legal Services Board grant)</li> <li>volunteer programs</li> <li>pro bono support</li> <li>student programs</li> </ul> <p><b>Sector Engagement and Collaboration</b></p>	

Specialist Partnerships/ 'Hub and Spoke' Model	Costs	Services	Outcomes/Outputs
<p>Year 1 - <b>\$450,000</b> (2.5 positions x \$180,000 per position)</p> <p>Year 2 - <b>\$945,000</b> (4 positions x \$180,000 + 5%)</p> <p>Year 3+ - <b>\$992,250</b> (5 positions x \$198,450) Plus 5% for each subsequent year</p> <p><i>Proposed staged approach to recognise relationship development process</i></p>	<p>Year 1</p> <ul style="list-style-type: none"> <li>2 x Community Lawyers</li> <li>0.5 Paralegal /Administrative Support</li> <li>Employee oncosts</li> <li>Contribution to operation and program costs</li> <li>Increased provision for travel, accommodation, partner organisation expenses</li> </ul> <p>Year 2</p> <ul style="list-style-type: none"> <li>3 Community Lawyers</li> <li>1 Paralegal/Administrative Support</li> </ul> <p>Years 3+</p> <ul style="list-style-type: none"> <li>4 Community Lawyers</li> <li>1 Paralegal/Administrative Support</li> </ul>	<p>Services delivered in partnership with/located with other Victorian and New South Wales community legal centres.</p> <p>Each community lawyer is regularly located in/seconded to/employed by other community legal centres, including in rural and regional areas:</p> <ul style="list-style-type: none"> <li>deliver specialist social security legal services to clients identified by that organisation</li> <li>resource staff of that CLC to strengthen capability to identify and respond appropriately to social security legal issues including through secondary consultation and casework support</li> <li>provide professional development and resources (including casework support and communities of practice)</li> <li>collaborate to deliver engagement,</li> </ul>	<p>Outcomes:</p> <ul style="list-style-type: none"> <li>People experiencing disadvantage have increased access to justice near to where they live.</li> <li>Community members and service providers have increased capability to understand and address legal issues.</li> </ul> <p>Outputs will include</p> <ul style="list-style-type: none"> <li>legal advice, tasks and representation services</li> <li>secondary consultation and casework support</li> <li>delivery of professional development and community legal education</li> <li>collaboration on joint activities.</li> </ul>

Specialist Partnerships/ 'Hub and Spoke' Model	Costs	Services	Outcomes/Outputs
		<p>community legal education, work on joint initiatives – projects and systemic advocacy, as relevant.</p> <p>May be time limited or ongoing. Ideally, understanding of social security legal need would be strengthened and the CLC capability and confidence would be built to the stage where social security legal service provision becomes part of the centres business and usual. Build in capacity to shift resources as required, including to respond to disasters and other emerging issues.</p> <p>Part of community lawyer time may be spent in central office. Management, professional supervision, paralegal/ administrative support provided.</p>	<p>Specific approaches, activities and numbers will be dependent on and designed in collaboration with the partner organisations/ taking into account factors such as location, partner organisation operation and preferences, priority clients, etc.</p>

Integrated Services	Costs	Services	Outcomes/Outputs
<p>Year 1 – <b>\$180,000</b> (1 positions x \$180,000 per position)</p> <p>Year 2 – <b>\$189,000</b> (1 position x \$180,000 + 5%)</p> <p>Year 3+ – <b>\$198,450</b> (1 position x \$189,00 + 5%) Plus 5% for each subsequent year</p>	<ul style="list-style-type: none"> <li>• 1 FTE Financial Counsellor/ Social Worker/Case Worker</li> <li>• Employee oncosts</li> <li>• Contribution to operation and program costs</li> </ul>	<p>Based on strong evidence of the benefit of holistic/integrated services provision in conjunction with legal services:</p> <ul style="list-style-type: none"> <li>• offer one-off and ongoing assistance to support clients to address social security and related issues (finances and debt, housing, health , etc)</li> <li>• establish links with other services to strengthen and extend referral pathways and collaborative service provision</li> </ul>	<p><b>Outcome</b></p> <ul style="list-style-type: none"> <li>• The organisation and its stakeholders have increased capability to provide integrated responses to the needs of people experiencing disadvantage.</li> </ul>

			50+ people who have also received legal assistance are provided with once-off or extended assistance per annum
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**Welfare Rights & Advocacy Service (WA)**

Welfare Rights & Advocacy Service (WRAS) is the statewide specialist social security legal assistance service for Western Australia, the largest geographic catchment in the country. This represents 10% of the national population with a higher proportion of Aboriginal and Torres Strait Islander people than the national average.

WRAS is the largest provider of Social Security legal assistance in the state but currently Commonwealth NLAP funding accounts for just 40% of the WRAS NLAP budget at \$277,763 per annum which is not commensurate with the priority of this area of law. Legal Aid WA provide minimal assistance in this area of law currently and historically.

The focus of additional funding is to increase service provision in this priority area of law across the entire state including significant areas of regional, rural remote and very remote communities which are highly disadvantaged and underserved – there is a need to properly recognise the costs of delivering services across such a vast area. It is difficult to gauge the amount of unmet need but with additional resources WRAS could provide specialist assistance to areas previously not provided any or very limited service in this area of law.

In the past remote servicing by Centrelink uncovered within many communities individuals and families not receiving payments or on the wrong payments or those with significant levels of Centrelink debt who were repaying debts that they did not understand. Whenever WRAS undertakes outreach visits they uncover unmet need but then having raised awareness of their services this leads to increased demand which cannot fully meet. The WRAS team collaborate with services on the ground in remote and regional areas but whenever they do CLE with them it creates an awareness of legal issues that their clients are likely to have which in turn creates further demand.

Additional resources should be provided in relation to representation at the ART across all levels. WRAS are able to currently provide representation services using some additional time limited ad hoc state funding over the last three years and by constantly juggling their service delivery. There needs to be a proper needs assessment conducted which informs transparent funding decisions, which are informed by the need to consider population, size of jurisdiction, cost of providing service, levels of disadvantage, area to be covered from a geographic standpoint.

WRAS has assessed that to adequately fund servicing the entirety of their geographic region, they would require a minimum of doubling of their current NLAP funding – which currently sits at \$688,371 for 2023-2024. This is comprised of Commonwealth NLAP baseline, State NLAP baseline and a State funding boost of \$171,729 (noting this is provided for both Social Security and Tenancy law).

**Resourcing effective models of service delivery**

EJA submits that effectively meeting social security legal need requires funding a range of proven models of services delivery. We endorse the comment in CLCA’s submission to this

review that unmet need includes not only those individuals turned away from a service due to lack of capacity, but those provided with “minimal services rather than the higher levels of support they need to address their needs holistically”<sup>6</sup>.

An example of this in a social security service setting would be a client provided with a one-off advice, rather than representation due to the resourcing constraints of the centre. During the early operation of the Robodebt Scheme, the lack of capacity to run cases thwarted what could have been an effective check on the scheme, and created precedent cases. Revised funding arrangements must include adequate funding for ongoing representation services for clients in vulnerable cohorts who cannot effectively access their appeal rights without legal representation.

Another factor is that clients do not know that services exist, or how to get help, let alone that they have appeal rights. Models that allow for community legal education – particularly to the community sector who support many of these vulnerable people – as well as collaborative work between centres to work strategically and systemically are vital. In addition to adequate funding for representation, EJA calls for increased funding to support models that spread social security expertise and problem-solving capacity across the CLC sector, and support the early identification and resolution of social security legal issues. Alongside this, specialist services also need to be adequately resourced to have capacity to accept referrals from other services, recognising that the complexity of social security law means expert assistance is required.

Below, we have set out a small number of examples of some service models that are currently working effectively, and could have greater impact if properly resourced. This is not to suggest these are the only effective service models in the social security area, or that all centres should be implementing all of these models. These decisions are subject to variances in service availability across a region, geographic variables and differences in client cohorts. Our overarching submission is that effective services models need to be properly resourced to realise their full potential for individual client outcomes, and systemic work.

These include models which:

- Enable an adequate level of assistance to meet a client’s legal needs given a holistic assessment of their vulnerability, level of capacity and legal issue. This assistance should be available at the earliest opportunity to a client when their legal issue arises, to resolve it in a timely fashion and prevent it becoming more complex and protracted.
- Allow for training and community legal education to community workers to assist with social security access issues, and identify and appropriately refer social security legal issues. Such funding must include provision for centres to respond to the increased number of matters referred to them for assistance when CLE takes place, and community workers appropriately identify matters for referral.
- Allow for collaborative service models such as communities of practice to increase capacity to work across centres to identify and respond to systemic issues and provide timely feedback on the implementation of new law and policies in practice.

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<sup>6</sup> Community Legal Centres Australia. (2023, October). *Submission to the Independent Review of the National Legal Assistance Partnership*.



### **'Worker helplines'**

It is vital that the community sector is trained and supported to help the considerable number of individuals contacting EJA member centres with Centrelink access issues, rather than legal issues. For example, Welfare Rights Centre NSW estimates that approximately one third of the people contacting them have a Centrelink access issue rather than a legal problem. Access issues include Centrelink not answering calls despite many attempts, people not understanding requests for information, problems with MyGov, delays in making decisions, verbal indication of a debt but no debt notice, etc. As many of these clients are very vulnerable, centres end up trying to help them, which can be extremely time consuming and as legal centres should not be their core work. Dealing with access issues also takes away from the time centres can spend spending on representation and more intensive assistance to clients.

One example of a response to this issue is the 'worker helplines' currently run by Social Security Rights Victoria. This is a statewide service available to community workers in Victoria aiming to provide reliable and relevant information to community workers – including social workers, health care workers, community legal centres and housing organisations – to assist them with their clients experiencing social security problems.

In medium term surveys of professionals who had used the Worker Help Line:

- 100% rated the service provided by SSRV as 'very helpful' or 'excellent'
- 92% stated that the service from SSRV provided 'some difference' or 'substantial difference' to the service they were able to give their client
- 92% stated that having access to the Worker Help Line assistance made 'some difference' or 'substantial difference' to their client's understanding of their Centrelink issue and the options for action
- 80% identified that having the Worker Help Line assistance made 'some difference' or 'substantial difference' to their confidence and capability in identifying their client has a social security issue
- 92% said that having the assistance provided by SSRV made 'some difference' or 'substantial difference' to them feeling confident and capable to assist a person with a social security issue
- 100% said they would use SSRV again if needed.

**The Disability Support Pension Community of Practice** currently convened by Welfare Rights Centre NSW

The pilot DSP Community of Practice provides a forum for community workers to work collaboratively as peers to undertake real-world application of their training through discussion of their clients' cases and development of appropriate support strategies under the supervision of an expert social security solicitor. To date, four monthly meetings have been held with twelve participants. The Welfare Rights Centre receives consistently positive feedback, with 96% of participants stating that they feel able to apply the knowledge they have learned and 92% reporting they feel more capable of helping people with a Centrelink problem.

### **'Hub and Spoke Model'**

EJA's members have repeatedly told us that there is power in the collective network of centres in terms of working together to spot issues, engage in collaborative problem solving, and spread and share their expertise. Particularly in the case of our members who are standalone solicitors in generalist CLCs undertaking social security legal work, there is enormous value in structured mechanisms of collaboration to build expertise and provide high quality services to clients.

EJA proposes that the informal arrangements currently in place in this regard should be formalised and adequately resourced to ensure maximum return on investment of funding, and the best possible service delivery to clients experiencing social security issues.

Providing adequate resourcing for a 'hub and spoke model' in jurisdictions where this makes sense, and centres opt in to participate – with the 'hubs' being centres that have specialist social security law expertise, and the 'spokes' being lawyers and advocates in generalist centres – is a commitment to building capacity, and ensuring the sector is more effectively equipped to meet the legal need described above. We note that this model has been partially rolled out in some states, but not fully funded. For example, Social Security Rights Victoria (SSRV) has trialed a couple of different approaches to this model and advocated for resources to develop it. Different iterations of the model could be adapted to requirements of different organisations.

A 'hub and spoke' model would build capacity and expertise across the sector, and provide options for specialist centres to refer clients to where they have conflicts of interest or are at capacity. More 'spokes' and properly funded 'hubs' would allow specialist centres to refer out appropriately as well as to accept referrals where appropriate.

### **Additional funding considerations**

#### **Workforce considerations**

EJA makes reference to the submission to the NLAP Review provided by Community Legal Centres Australia (CLCA). We endorse CLCA's submission about the need to build a resilient and skilled workforce, capable of meeting complex needs, and see this as particularly relevant to EJA's member centres. CLCs generally face issues with the attraction and retention of staff, given the remuneration disparities between CLCs and Legal Aid Commissions described by CLCA. This is further exacerbated for centres seeking to attract, train and retain specialist skills and knowledge in an area as complex as social security law, and even more so in areas outside of metropolitan cities. Many members centres report investing significant resources in training and supervising solicitors to acquire the necessary expertise to advise and represent clients in social security matters, only to lose them after a year or two to Legal Aid because the salaries offered are higher. This represents a massive waste of resources and places enormous pressures on remaining staff who then have to train and support new solicitors. It is also an issue for centres who are reliant on project and limited term funding in trying to build their workforce.

#### **RRRR locations**

EJA makes reference to the submission to the NLAP Review provided by the National Regional, Rural, Remote and Very Remote Community Legal Network (4Rs Network). This submission illustrates clearly what EJA hears from our members, that the challenges of building and retaining an adequately skilled workforce to deliver social security legal services are even more acutely experienced in RRRR areas. Increased costs of living, including access to affordable housing for staff, add complexity to centres' ability to attract and retain staff and must be considered in funding allocations. The CLCA submission also speaks to this issue.



In addition to building the workforce needed to deliver social security legal services that meet need, the location of centres in RRRR locations (or for metropolitan-based centres who provide services to RRRR locations) incur substantially higher costs to provide services to the populations they cover. At present for example, centres such as Welfare Rights & Advocacy Service (based in Perth) conduct CLE and outreach visits to RRRR locations in their catchment. These visits come at a substantial financial cost and also often result in increased demand for their services which they are unable to meet within existing funding. Adequate services to RRRR areas need to take account of both the real cost of delivering services in these regions, as well as the flow-on effects of conducting CLE on demand for individual services.

The 4Rs Network submission calls for a needs-based funding model which would take account of the estimated actual costs of delivering services in regional, rural, remote and very remote areas. EJA supports this submission with respect to the provision of specialist social security legal services. We note that the underrepresentation of vulnerable cohorts, including First Nations People, in rates of appeal on adverse social security decisions is a direct result of centres not being resourced sufficiently to carry out regular and consistent outreach to communities in RRRR areas. There is a clear role for statewide specialist centres in assisting to address this gap, and the hub and spoke model described above can assist with this.

### **Conclusion**

EJA appreciates the opportunity to engage with the Review and make this submission on behalf of our members. EJA consents to this submission being published on the website for the Review, and being referenced and quoted in the final report of the Review.

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