

# National Welfare Rights Network Inc.

## Annual Report

July 2004 to June 2005

Prepared for 2005 Annual General Meeting

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# 1.0 National Welfare Rights Network (NWRN) committee

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President:	Michael Raper, Director, Welfare Rights Centre, Sydney
Vice President:	Mark Leahy, Manager, Welfare Rights Centre, South Australia
Secretary/National Liaison Officer:	Genevieve Bolton, Supervising Solicitor, Welfare Rights and Legal Centre, ACT
Treasurer:	Peter Horbury, Coordinator, Welfare Rights Unit, Melbourne
Committee Member:	Kate Beaumont, Executive Officer, Welfare Rights & Advocacy Service, Perth
Committee Member:	Sam Purcell, Welfare Rights Advocate, Welfare Rights Service, Geelong
Committee Member:	Gail Middleton, Coordinator, Welfare Rights Centre, Brisbane

## 2.0 President's Report

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### National Welfare Rights Network as national income support peak body

From our contribution and achievements in 2004 - 2005 and from the feedback we have received over the last few months, it is fair to say that the National Welfare Rights Network has now substantially achieved its aim of establishing itself as a strong, national peak body in the area of income support. At a time when the Commonwealth Government, with control of the numbers in the Senate, has launched the most consistent and far reaching attack on the "welfare rights" of its citizens since the introduction of the Social Security Act, it is critical that the NWRN is in a position to step up to the mark and give voice and meaning to the concept of "welfare rights" that is at the centre of our national network.

Over the last two years, the National Welfare Rights Network has worked hard at all levels to maximise the constitutional structures adopted in the lead up to our incorporation. In the last 12 months we have both consolidated and exploited the full potential of each level in our structure:

- the **Members** as the overarching policy determining body – through the annual conference and monthly meetings;
- the **Committee and Office Bearers** as the leadership and implementation body – through monthly meetings and representation of the Network and through the hard work of the National Liaison Officer; and
- the **Sub-Committees** as the policy analysis and policy driving bodies – through clear and specific terms of reference and regular, as needed, meetings.

These structures, whilst always able to be improved, appear to have served as well so far in

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getting the NWRN up and running, in providing support for the all important casework that all member Centres undertake and in giving us the policy push in our campaign areas of debt and marriage-like relationships. They have also underpinned the dexterity of the NWRN in confronting the enormous challenges of the Government's "welfare to work" agenda over the last 12 months.

### **“Welfare to work” – W2W**

In both:

- the post election / pre-Budget phase, as the implications of the looming “hostile Senate” gradually dawned upon us all, and in
- the post-Budget / pre-legislation phase, as the implications of the looming “docile Senate” increasingly dawned upon DEWR

the NWRN has utilised all the strategies at our disposal in an attempt to:

- expose – the implications of the Government's shift from pensions to Newstart Allowance for people with disabilities and parents whose youngest child has turned six along with all the unrealised differences between pensions and allowances;
- oppose – the harshness of the proposed measures and the perverse disincentives that they would introduce; and
- propose – alternatives to both the overall shift to the Newstart Allowance template and to a number of individual measures such as the proposed new compliance regime.

Given the particular knowledge and expertise of NWRN members, the Network has played a key role in exposing the many defects of the proposals. Whilst ACROSS and NATSEM have provided key analysis of the numbers likely to be affected and the overall weekly dollar impact, we have provided in-depth analysis of other aspects of the package that many other organisations have also relied on. In particular we have:

- played a driving role in the establishment and outcomes of the Breaches Review Taskforce which resulted in the announced end to the current regime;
- prepared a central paper analysing the fundamental flaws in the proposed compliance regime and proposing significant, workable alternatives that have in large measure been adopted in the Government's recent announced changes;
- exposed the deficiencies and limitations in the current “two year suspension of DSP in the event of finding work” provisions, leading to a much more comprehensive provision announced in the Budget;
- published a set of credible cameos that demonstrated the major holes in the proposed “savings” or “grandfathering” provisions for current PPS and DSP recipients;
- identified one of the major weaknesses in the “parent dole” provisions whereby many parents who would have activity requirements imposed upon them would not be able to fulfill them because of the disabilities of the child in their care, leading to the extension of the Carer Payment eligibility provisions and increased activity exemptions;
- exposed the many deficiencies in the proposed income test for both the “parent dole” and “disability dole” including the inferior free area, indexation and withdrawal rate provisions as well as the lack of any additional per child component to the “free area”;

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- published a detailed analysis of the impact of the allowance waiting periods, and in particular the Liquid Assets Waiting Period, which most people were shocked to find would be applied to both parents and people with disabilities under the Government's proposals and which will even "claw back" savings from much trumpeted Government allowances, rebates and bonuses.

## **Creating opportunities and debate**

With the Government having the numbers in the Senate and often reminding us that there was no longer any need to "negotiate" with the sector generally, it has been essential to work extremely **collaboratively** and to **create opportunities** wherever possible.

We have done this by **working closely** with ACOSS, and through ACOSS with many of the national church charities, Job Network and Open Employment Services providers, the Australian Federation of Disability Organisations (AFDO), the National Council of Single Mothers and their Children (NCSMC) and the newly formed Disability Participation Alliance (of which NWRN was a founding member). Many of these organisations and their members have relied on our work and likewise, we have benefitted from their contributions.

Equally, it has been necessary to **create opportunities** through seeking meetings with Ministers, political advisers, bureaucrats in DEWR and DHS, and Parliamentarians from all parties all over the country - over 25 in fact since the Budget announcements in May. Many of these meetings have been National Welfare Rights Network alone but equally, many have been as a member of joint meetings and delegations – a number organised by ACOSS and many others by NWRN.

It has also been necessary to expose flaws and propose solutions through the **media** in order to draw attention to the problems and create public debate. This has been a constant and challenging part of the campaign.

Attached to this report is a list of the media releases distributed throughout the year (along with a list of policy & research papers & submissions.) The list provides a good indication of the variety and extent of activity that this issue has demanded. In addition, we have responded to countless other welfare to work related issues in the media.

As indicated above, we have achieved some significant movement on a number of issues, although it is too soon to judge the full extent as the legislation has not even been finalised, let alone passed by the Parliament. However, on most of the fundamental problems with the proposed package, the Government has not yet been moved. Nevertheless, given what the Network stands for, as encapsulated in our very name, it has been important to give voice to the issues and energy to the alternatives – and the National Welfare Rights Network can be confident that it has at least done this.

## **Debt and MLR's**

At the same time, the NWRN has continued to pursue its other two major campaign issues – Social Security debts and Centrelink activities around marriage-like relationships. Each of these issues has been identified at consecutive national conferences and has been driven by a sub-committee undertaking most of the analysis and policy development work. Both campaigns have succeeded in elevating these issues as matters of priority in Centrelink's activities and both have produced positive outcomes for Social Security recipients. Most recently, the marriage-like relationships issue has become the subject of a Commonwealth Ombudsman "own motion" inquiry and a recent Centrelink report, which nominates the main drivers of Centrelink action on

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“marriage-like relationships”, clearly identifies the central role of the National Welfare Rights Network in this issue. To achieve these results, NWRN members have been involved in over 50 meetings with Centrelink throughout the year.

## **Casework & Social Security Reporter**

At all times, the experience of NWRN members in the casework they undertake and the credibility that this generates, underpins the vital policy and advocacy work of the Network. The NWRN provides both a supportive and professional environment for Welfare Rights advocates throughout Australia, in both small and large centres, and helps provide precedents, ideas, identification of trends and helpful materials both through the BBS and the website in the form of Factsheets and templates. In this context, I am extremely pleased that we have been able, with contributions from many throughout the Network, to resurrect the **Social Security Reporter**, in a new form as a quarterly online publication, from November 2005.

It is this casework experience that we have been able to draw on throughout the year to provide the fundamental ingredient to our policy work – **sound, informed and detailed analysis**. All our advocacy has stemmed from the evidence base of the casework that is undertaken on a daily basis throughout the Network. It is this, to which all members contribute, that gives us both our insight and our credibility.

## **Acknowledgements**

It is for this reason that I wish to commend all of those throughout the NWRN who undertake the all important **grassroots casework** that is, not only very important to so many of our clients, but which is also at the centre of our policy work.

I would also like to commend all of those member nominees who have served on the policy generating **sub-committees** throughout the year. Their work provides the substance without which our advocacy would be hollow.

On behalf of all the member organisations of the National Welfare Rights Network, I would also like to acknowledge the important and constant work of the **elected Committee**, which has not only met monthly to follow up on Member meetings and to ensure that all decisions are implemented, but has also dealt with numerous matters in between meetings and has often prepared policy recommendations back to members where the issue has warranted this. In particular, Peter Horbury has most competently taken on many additional tasks in relation to his Treasury position and Mark Leahy has often been called in at short notice to make back-up media comment.

Most importantly, I would like to pay a special tribute to **both Gerard Thomas**, the NWRN de facto Policy and Media Officer and secret weapon, **and to Genevieve Bolton**, the Network’s amazingly committed and energetic National Liaison Officer. Gerard has contributed an enormous amount of himself to all the NWRN policy issues on virtually a full-time basis (which his fellow caseworkers at WRC Sydney have generously facilitated) throughout the year. Genevieve, who has dedicated countless late nights, early mornings and long weekends to her NLO role, needs once again to be commended for service above and beyond the call of duty, without which the NWRN would function at a mere fraction of its current capacity.

Finally, I would like to place on record my sincere thanks to all these people who have contributed so much to the Network throughout the year and to the **Scully Fund**, our major funding source, for both generously providing us with the financial means to operate and allowing us the certainty and security of a three year commitment.

## **Michael Raper**

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# NWRN media releases and policy activities - 2004/2005

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## Media releases

- 26 July 2004, More than window dressing needed to address Centrelink debt traps
- 7 September 2004, ALP family package strikes at heart of debt problems
- 9 March 2005, A dog's breakfast – new report reveals failings in income and participation supports for young people and low income families
- 31 March 2005, Centrelink wrong on de facto relationships
- 5 May 2005 Experts discover major hole in Government's disability plans
- 11 May 2005, Budget of wrong choices gives people on welfare few choices
- 11 May 2005, Budget compliance measures have a sting in the tail for Centrelink clients
- 13 May 2005, Older and younger students sidelined by 'welfare to work' changes, Senate inquiry into student income support told

## Submissions and research papers

- Briefing paper for the Department of Family and Community Services and Centrelink on Marriage Like relationship issues
- Research report entitled: "A dogs breakfast - income support for young people and low income families"
- Submission to Senate Employment and Workplace Relations Inquiry into income support for students
- Submission to ASIC/ACC on Draft Debt Recovery Guidelines
- Submission to the AAT on the "Listing and Adjournment Practice Direction"
- Submission to Senate Legal Affairs Committee and Evidence to the Senate Inquiry into the Administrative Appeals Tribunal Amendment Bill, 2004
- Submission to the Administrative Review Council's Project on Information Gathering Powers
- Background Paper: Flaws in the current approach of suspension of Disability Support Pension

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## 3.0 Vice President's Report

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"Vice-Presidents are the forgotten men of history." (John Nance Garner)

"Vice-President who?" Title of biography of Elbridge Gerry

"The Vice Presidency is the most insignificant office that ever the invention of man contrived or his imagination conceived." - John Adams, 1st Vice President

"The Vice Presidency isn't worth a pitcher of warm spit." - John Nance Garner

"A little over a week ago, I took a rather unusual step for a vice president...I said something." - Spiro T. Agnew

"Look at all the Vice Presidents in history. Where are they? They were about as useful as a cow's fifth teat." - Harry S. Truman

The Vice-President's position is hard to define in that it doesn't really have an ongoing role or function - the President leads, the Secretary organizes, the Treasurer 'treasurers', but the Vice-President only really comes to life on odd occasions. It is a bit like the reserve power on the Starship *Enterprise* which is only called upon when the main power is out. So it's a bit hard to know what to report as, for most of the year, my participation and contribution has not been dissimilar from any ordinary member of the Committee - i.e., turning up to meetings and participating as best I can. That said, I have deputised on several occasions this year - putting my name to press releases and letters ably written by Gerard, speaking to newspapers and radio programs, as well as attending a Delegation earlier in the year. So, while not taking a pivotal position, I hope my contribution has been worth a little more than a "pitcher of warm spit." Perhaps my more obvious contribution has been in the realm of footy tipping and the weekly quiz, which is more like a ship's entertainment officer than a Vice-President.

Whatever my role, it's been good working with a great bunch of people in 2005 and I look forward to our continued association in 2006.

**Mark Leahy**

## 4.0 National Liaison Officer's Report

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The position is funded for one day per fortnight.

### Activities/tasks undertaken since last NWRN Conference

- Co-ordinated NWRN members' link ups, posted reminder messages, provided assistance with agenda and updated members contact list. Ongoing advice, support and assistance provided to NWRN members.
- Provided support to NWRN Management Committee meetings including taking minutes, implementing decisions and taking the lion's share of tasks requiring action/follow up post meeting

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- Liaison with NACLC on behalf of the Network. Limited amount of media work on marriage like relationships and the proposed AAT reforms was also undertaken in consultation with NWRN President.
  - Organised NWRN Canberra Conference: arranged venue, guest speakers, gala event preparations, program input, conference dinner and the other social events, co-ordinated 2004/05 Annual Report etc
  - Attended to incorporation requirements, for example, collating the 2003/04 Annual Report, liaison with NWRN Treasurer re audit requirements, registration of constitutional amendments, lodgment of relevant returns, dealt with AGM requirements and Registrar-General correspondence. Also provided comprehensive advice to Committee on PBI/DGR issues.
  - Organised 17/18 November 2004 Delegations. Delegates included Michael, Mark, Gerard, Carla and Genevieve. Meetings organized with Centrelink and FACS. Many phone calls, emails to confirm dates, times, locations, and attendees etc. Compiled agendas for the meetings after consultation with Network generally and the delegates. Ongoing liaison with Centrelink and FACS (often daily phone calls in the lead up to the meetings) to discuss and settle individual agenda items etc. Organised accommodation and airfares for delegates. Briefing material prepared and provided to each delegate. Prepared minutes and action lists post delegation. Reported to NWRN membership through link ups/ BBS messages etc on delegation outcomes. Co-ordinated post delegation follow up including arranging link ups and writing letters. Ongoing liaison undertaken with Centrelink and FACS post delegation.
  - Attended the ACROSS Congress held in Alice Springs in November.
  - Consulted with the Network and provided a submission to the Administrative Review Council's project on information gathering powers. (December 2004).
  - Organised March Delegations. 9 and 10 March 2005: Meetings organized with Senator Evans, DEWR: Peter Boxall, Secretary and Bob Correll and Graham Carters, Minister Hockey and Patricia Scott, Secretary, Department of Human Services, Minister Dutton, Bill Burmester, Deputy Secretary, DEST, Minister Andrews. Delegates: Michael, Gerard and Genevieve. Also organized a series of delegation meetings for 17/18 March with Centrelink, FACS, Susan Ley, Parliamentary Secretary, Children and Youth Affairs, Penny Wong. Delegates were Michael, Gerard, Carla, Julia and Genevieve. Again tasks undertaken similar to those listed above.
  - Member of the NWRN Budget Team for May 2005. Attended Budget briefing session and prepared a post Budget-briefing document with Julia. In consultation with the Committee organized special members Post Budget Link up to discuss the proposed changes and Network lobbying developments and opportunities. Thankfully, Michael prepared the agenda and chaired this meeting.
  - Organised a meeting with Jeff Whalan, CEO, Centrelink and attended the meeting along with Michael, Gerard and Julia. Liaison with Centrelink and delegations regarding the agenda. Some follow up post this meeting was also undertaken.
  - As part of the NWRN's Welfare to Work campaign organized meetings with politicians and officers from DEWR and DHS. Meetings organized with Senator Joyce, Senator Wong,

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Senator Siewert, Senator Bartlett, Judi Moylan, MP, Minister Hockey, Senator Nash. Endless phone calls and emails seeking meetings and discussing the proposed agendas. Ongoing liaison with Michael and Gerard regarding meeting agendas, travel/ accommodation arrangements etc. Attendance at meetings held in Canberra as part of the NWRN delegation.

- Preparations for the Centrelink biannual meeting scheduled for 30 September 2005 underway. FACS agenda and meetings for 23 November and 24 November have now been finalized.
- Convened the Administrative Review Sub-committee.

### **Acknowledgments**

My sincere thanks:

To Michael and Gerard for providing amazing support to me in this role during the year.

To all NWRN members who participated in the delegations during this reporting period but particularly to Carla, for her outstanding debt campaign work and to Julia for her magnificent work in highlighting the problems around Centrelink's marriage like relationship practices, processes and assessments.

Finally, to my WRLC colleagues for their generosity and ongoing support of the NLO role.

### **Genevieve Bolton**

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## 5.0 CENTRE REPORTS

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### 5.1 Townsville - Community Legal Service Inc

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#### 1. Staff

Bill Mitchell	Principal Solicitor and Registered Migration Agent
Anne Lewis	Co-ordinator
Jess Cruise	Solicitor
Saskia ten Dam	Financial Counsellor
Warren Rowles	Financial Counsellor
Lauren Rae	Administrative Assistant

#### 2. Casework Trends

##### Overpayments

- pension income and asset testing
- allowance/benefit income and asset testing
- asset valuation issues
- trusts and private companies reviews
- MLR
- Workload and student definitions
- Partner income

##### DSP

- 20 points
- CITW
- Doc, Diag, Treat, Stab...

##### Carer Payment

- CDAT/ADAT issues

##### Prosecution

- Parenting payment single
- Abstudy
- Newstart Allowance
- Youth Allowance

##### Jobnetwork

- complaints
- change providers

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- NEIS

#### **Migration**

- Qualification/Eligibility
- Reciprocity of payments

### **3. Policy work/issues**

- CDAT/ADAT/ DSP/ Carer inflexibility
- Compensation/Act of Grace
- Retrospectively eg hardship rules
- Reciprocal Agreements – gaps – Tokelau, Cook Islands etc

### **4. Projects/publications**

Nil

### **5. Future Directions – the next 12 months**

#### **(a) opportunities/plans for the Centre/Service**

##### **Work Directions (Big Ticket):**

- Family law
- Welfare rights
- Migration law
- Consumer and bankruptcy
- Prisons
- Age based Services
- Health rights and Guardianship
- Environmental

#### **(b) threats to the Centre/service**

### **Funding**

Workload

Welfare to work

Political climate.

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## 5.2 Brisbane - Welfare Rights Centre Inc.

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### 1. Staff

- Gail Middleton Co-ordinator
- John Stannard Principal Solicitor
- Patrick Cranitch Social Security Solicitor
- Carla Wilson Social Security Caseworker
- Larry Laikind Disability Discrimination Solicitor (.6)
- Nadia Pakhomov Finance Administrator (.4)
- Julie Thompson Office Administrator
- Margaret Kefer Office Administration (.2 plus relief)

### 2. Casework trends

The centre specialises in Social Security and Disability Discrimination law. 90% of the centres client activities are related to Social Security. The most common issues are:

- Centrelink Debt,
- Eligibility for the DSP,
- Allegations of MLR

#### Trends:

However there has been a significant growth in **MLR** matters from 3% of our eligibility issue in the 2003/2004 year up to 8% in the last financial year.

**Asset and Income** tests are also growing in terms of impacting on our client's rate and payability. These issues have grown as follows:

	2003/04	2004/05
• Asset Test	4%	6%
• Income Test	9%	16%

### 3. Policy work/issues

Most of our policy work comes through staff participation in the NWRN sub committees. Particular emphasis has been on Marriage Like Relationships and Centrelink Debts.

The Welfare to Work Reforms and developing networks with the student unions around study loads and student debts has also been some of the policy issues that Brisbane has been working on.

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## 4. Projects/publications

Developing a Disability Support Pension kit so that clients under review or concerned about their eligibility has been on our agenda for some time. Proposed changes through Welfare to Work reforms has meant this project has been put off until the 2005/06 year.

## 5. Future directions – the next 12 months

### (a) opportunities/plans for the Centre/Service

1. Slight increase to funding from State Government sources has allowed us to meet operation costs and engage more admin support (one day a week).
2. We are also looking at entering into a relationship with a trade union, which will bring in some more ongoing funding. These resources will be used to support some of the centres publications and web site.
3. We plan to have our data management system in place by early 2006. This is a software system that catalogues (hard) resources, web-based information and events documents on a person's computer. Eventually all our documented resources will be on our web site and we intend to give NWRN and QAILS members access codes to recall this material if required.
4. There has been a slight restructure in the management of the centre which has led to the coordinator no longer doing casework.
5. Identifying work priorities and reviewing casework guidelines in order to meet the needs of the most vulnerable.

### (b) threats to the Centre/service

1. Dealing with the unmet demands on the service. As welfare, tax and income security is blended into one legislative/ideological tangle, our client group is shifting towards the middle income bracket as it is these clients who are able to wait for support rather than being in "crisis". Match this with the fact that our funding prevents us from being available to meet the needs of those in "crisis" we easily slip into providing services to those that can wait for the attention they need from us. As a result, our communities most vulnerable and isolated people are becoming more and more excluded from our service and so we are working with our management committee to question:
  - How do we provide services to the most disadvantaged in our community?
  - Should services to the "middle class" welfare recipient be limited?
  - What is "middle class"?
2. Retaining staff as parity in wages between government and community expands.
3. Working within the current political climate where survival of the fittest reigns supreme.

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## 5.3 Sydney - Welfare Rights Centre

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### 1. Staff

- Dianne Anagnos Solicitor
- Melissa Coad Education & Community Liaison Officer
- Lua De Burgh Administrative Secretary
- Jackie Finlay Principal Solicitor
- Linda Forbes Casework Coordinator
- Catalina Loyola Administrator
- Amie Meers Handbook Researcher
- Michael Raper Director
- Danny Shaw Publications Officer
- Gerard Thomas Policy and Media Officer
- Sam Trinity Financial Administrator (P/T)

### 2. Casework trends

#### 2.1 Caseworkservice

The Welfare Rights Centre provides a casework service to people with Social Security and Family Assistance problems and to agencies assisting people with Social Security problems. The Centre provides telephone advice and assistance between 9 am and 5 pm Monday to Friday with phones staffed by volunteers, under the supervision of a caseworker. 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.

#### 2.2 Number of clients

From July 2004 to June 2005 the Centre provided advice to or advocacy for 3,365 clients. We opened 768 new cases in the period and undertook ongoing advocacy on 1,208 cases. This assistance included representation of clients in internal Centrelink reviews, the Social Security Appeals Tribunal, the Administrative Appeals Tribunal and the Federal Court. Of cases closed over the period, 42 involved formal Tribunal or Federal Court representation.

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

- Disability Support Pension 19.4%
- Newstart Allowance 18.3%
- Parenting Payment (single) 13.2%
- Age Pension 10.6%
- Youth Allowance 6.7%

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## **2.3 Debt issues**

The most common and resource-intensive issue for the Centre continues to be related to the raising and recovery of Social Security debts - particularly where the client is at risk of criminal prosecution in respect of their debt. We saw an increasing number of clients who were being prosecuted for Social Security fraud, often where their debts were just over \$5,000 and where there appeared to be no intent by the person to commit fraud.

The Centre has seen an increasing number of clients who need assistance as Centrelink has cancelled their Parenting Payment Single (or single rate of another Social Security payment) and raised a large debt on the basis that Centrelink considers them to be a "member of a couple" and to have been so for some time. It is not uncommon for these debts to be between \$50,000 to \$80,000 and to take at least one week of a caseworker's time for the matter to be finalised. Many of these clients are threatened by Centrelink with prosecution action.

## **2.4 New Zealand issues**

The Centre assisted a significant number of New Zealand citizens living in Australia who have been denied Social Security income support under the rules that have been in place since early 2001. In some particularly desperate cases we have submitted to the Department of Finance and Administration that periodical payments be made as an act of grace. These requests are of varying success but at least serve to ensure that the issue is highlighted.

## **2.5 Breaches**

In what can be interpreted as a success of NWRN previous policy advocacy, the Centre had to deal with very few people with breaches during 2004-2005.

## **3. Policy work/issues**

Throughout the year the Centre aimed to achieve its policy goals primarily by working with and through the NWRN by focusing on the following key issues.

### **3.1 Liaison with the community and politicians**

Ongoing collaboration with a wide range of community organisations continued throughout the year, with close and continuing contacts with ACOSS. The Centre, through the Policy & Media Officer, continues to play the formal role of a policy adviser (one of three) to ACOSS on Social Security policy.

During the 2004-2005 year, we participated in 42 meetings with Centrelink on a wide range of issues. In addition, the Centre participated as part of the NWRN delegations in two biennial meetings with Centrelink and the Department of Family and Community Services (DFACS) as well as in pre and post Federal Budget and delegations link ups. We also participated in meetings with the Department of Employment and Workplace Relations (DEWR) and the Department of Education Science and Training (DEST), following the changes to Government policy responsibilities announced in October 2004. The Centre also constantly exchanged views on policy matters with a wide range of other organisations, including the Commonwealth Ombudsman and the Australian National Audit Office.

The Centre also represented the NWRN on Centrelink's Participation Reference Group (formerly the Australians Working Together reference group), and the Internal Review of Appeals working group established by Centrelink, participated in the Breaching Review Taskforce on behalf of

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NWRN and was also provided the convenor of the NSW Centrelink Multicultural Advisory Committee.

The **Welfare to Work** agenda of the Federal Government became a significant focus of the Centre's activities over the year and we participated in a total of 22 discussions and meetings with a range of stakeholders, ranging from community welfare organisations, church groups, politicians and policy agencies such as DEWR.

The main focus of our policy work over the period has been Centrelink debts, marriage-like relationships and the Welfare to Work changes.

### **3.2 Australians Working Together Legislation**

The Centre continues to monitor the impacts of the Australians Working Together Legislation, in particular, the changes to the breaching regime. The Centre represented the NWRN on the Breaches Review Taskforce which handed down its report to the Minister for Employment and Workplace Relations in December 2004.

### **3.3 People with a psychiatric disability**

A Senate Select Committee on Mental Health was established to inquire into the provision of mental health services in Australia. The Centre prepared a submission to the Senate Select Committee on Mental Health regarding access and service issues in dealing with people who are mentally ill.

### **3.4 Centrelink investigations into “marriage-like relationships”**

In 2004, the Centre's caseworkers noticed a significant increase in the number of clients who were experiencing problems with Centrelink over allegations of being in a “marriage-like relationship” (MLR). In response to this we raised our concerns about these issues with the NWRN and through NWRN with Centrelink, DFACS and the Commonwealth Ombudsman.

The increased number of cases often involved older people and carers who, whilst not “living together” nevertheless share rent and provide companionship and support, and are therefore deemed by Centrelink to be in a MLR. We also noticed that Centrelink was making rash decisions about separated couples with children. Increasingly, we found that where the non-resident parent (usually the father) tries to maintain an ongoing relationship with the children, Centrelink takes this as a sign of an ongoing de-facto relationship between the two adults and cuts the payment of one or both parents.

### **3.5 Submissions and policy papers**

Aside from a battery of papers relating to “welfare reform” & “welfare to work”, in the last year the Centre produced the following policy and research papers and submissions, many of which were on behalf of NWRN:

- Briefing paper about marriage-like relationship issues for the DFACS and Centrelink meetings;
- Research paper entitled “A dogs breakfast- income support for young people and low income families”;
- Submission to Senate Employment and Workplace Relations inquiry into income support for students;
- Submission to Senate Select Committee inquiry into mental health;

- Submission to Australian Securities & Investment Commission and Australian Competition and Consumer Commission on Draft Debt Recovery Guidelines;
- Submission to the Administrative Appeals Tribunal on the “Listing and Adjournment Practice Direction”;
- Submission to Senate Legal Affairs Committee and evidence to Senate inquiry on amendment bill to the Administrative Appeals Tribunal Act; and
- Background paper: Flaws in the current approach of suspension of Disability Support Pension.

### 3.6 Media

On behalf of NWRN the Centre produced and distributed eight media releases in the year 2004-2005. These are listed below.

- 26 July 2004, *More than window dressing needed to address Centrelink debt traps*;
- 7 September 2004, *ALP family package strikes at heart of debt problem*;
- 9 March 2005, *“A dogs breakfast” – new report reveals failings in income and participation supports for young people and low income families*;
- 31 March 2005, *Centrelink wrong on de-facto relationships*;
- 5 May 2005, *Experts discover major hole in Govt’s disability plans*;
- 11 May 2005, *Budget of wrong choices gives people on welfare few choices*;
- 12 May 2005, *Budget compliance measures have a sting in the tail for Centrelink clients; and*
- 13 May 2005, *Older and younger students sidelined by “welfare to work” changes, Senate inquiry into student income support told*

## 4. Projects/publications

### 4.1 Publications

In 2004- 2005 the Centre continued to produce and maintain the following publications:

- “**rights** review” our quarterly newsletter;
- “The Independent Social Security Handbook”: The ONLINE EDITION was updated four times during 2004-2005 to take into account changes to Social Security law and policy. The ONLINE EDITION continues to be available free to community workers in NSW, Western Australia and South Australia;
- Factsheets and brochures: We updated all Factsheets in 2004-2005 and had two of these translated into five languages other than English (the languages are Spanish, Mandarin, Serbian, Arabic and Vietnamese); and
- Website: The Centre substantially upgraded the website in 2004-2005, on behalf of the NWRN.

### 4.2 Community education

In 2004-2005, the Centre continued its community education program with the aim of targeting the most disadvantaged groups. The Centre held over 50 training seminars for community organisations, including youth centres, Migrant Resource Centres, women’s refuges,

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accommodation services, youth and migrant interagency meetings, financial counsellors and TAFE colleges.

## **5. Future Directions – the next 12 months**

### **5.1 Opportunities/plans for the Centre/Service**

There are four issues that we anticipate will require new or additional activity over the next 12 months:

- **SSR** – which is to be published again – quarterly online - from November 2005;
- **ISSH ONLINE EDITION** - where we will work to have free access extended to Queensland and Victoria;
- **W2W legislation** – will require considerable “negotiation” with various branches of DEWR concerning the Guide after its passage, anticipated in October 2005; and
- **prosecutions** – where we anticipate participating in an ARC research project.

### **5.2 Threats to the Centre/service**

The Review of CLC's in NSW is reaching finalisation with the final chapter of the report – on funding – likely to be completed in October 2005. Whilst we do not anticipate any threats to the Welfare Rights Centre through forced amalgamations or the like, there is a possibility that new funding arrangements may be suggested and that these could strike at the heart of the Centre's history of capacity to raise over 50% of its resources from sources outside of the Legal Aid Commission / CLSP funding. To seek to reduce CLSP funding to any Centre that generates additional revenue would be either amazingly shortsighted or callously sinister so it will necessary to watch the outcomes of the Review Report carefully.

## **5.4 Illawarra Legal Centre**

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### **1. Staff**

The project funds a caseworker position for 9 days a fortnight.

From November 2004 Julia Priest worked 2.5 days a week and Jillian Chapman worked 2 days a week. From August 2005 for 13 months, Julia will be relieving as the Centre Coordinator and Sue Leppan commenced in Welfare Rights. Sue is working 1.5 days a week and Jillian is 3 days per week

### **2. Casework Trends**

An analysis of CLSIS shows that casework has increased markedly. There was an increase in advices of 27% and an increase of cases opened of 38%.

Debts, including Family Tax Benefit, continue to make up a large percentage of our workload. The project has made a number of representations at the Social Security Appeals Tribunal with successful outcomes.

Once again we have seen an increasing trend where people have contacted us as they are currently under investigation for being in a marriage like relationship or have been notified of

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debts as a result of such a decision. The project has successfully represented a number of people. Many of these clients have been elderly or victims of domestic violence. Debts frequently incorporate FTB non-lodger issues.

### **3. Policy work/issues**

Marriages like relationship cases are resource intensive. The project has aimed to address the systemic problem of these marriage like relationship cases by employing Liz on a short-term contract position to lodge a complaint with the Commonwealth Ombudsman and develop a marriage like relationship booklet. The Commonwealth Ombudsman complaint was made on behalf of 3 clients and numerous case studies of other clients who did not wish to be named in the complaint. We were pleased with the decision of the Commonwealth Ombudsman to conduct an own motion investigation into this area.

Still concerned about the lack of crisis payment for ABSTUDY recipients.

We worked in co-operation with two other non-government organizations to highlight the impact of the proposed welfare to work changes. We designed a petition, held a public forum and generated local media coverage.

Julia attended the NWRN delegation in March 2005.

### **4. Projects/publications**

The 'Centrelink and relationships' booklet was produced and made available to the network as a PDF document. It was launched by Jennie George MP and attracted good media coverage.

### **5. Future Directions – the next 12 months**

#### **(a) opportunities/plans for the Centre/Service**

To work in collaboration with child support solicitor to look at common concerns around child support and FTB.

Improve relationships with ATSI community.

#### **(b) threats to the Centre/service**

Loss of funding for TIS interpreters will have a huge impact on our ability to meet the needs of our local community. Welfare Rights needs to receive funding to allow for payment of interpreters.

Ongoing issues with a lack of services to assist people who have a mental illness. This makes it difficult to take instructions.

### **6. Other news to tell?**

With ILC funding a dedicated CLE worker two days a week there have been innovative workshops. A Legal Theatre workshop designed for the African community incorporated welfare rights, tenancy and credit and debt issues and has been nominated for an award by the Office of Fair Trading. The Centre has forged links with the Muslim and Vietnamese communities.

Our CLE has increased markedly in the past 12 months.

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## 5.5 Canberra - Welfare Rights and Legal Centre Limited (ACT)

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### 1. Staff

- Genevieve Bolton Supervising Solicitor (Day Time Service)/ National Liaison Officer, NWRN 1 day per fortnight
- Alison Creet Admin Assistance (Thursday mornings)
- Helen Dalley DDLS Solicitor (3 days) and WRLC Solicitor (1 day)
- Jeffrey Dalton Caseworker
- Yen Musgrove Librarian (Part Time)
- Liz O'Brien Administrator – 3 days/NACLCL Convener 2 days
- Annabel Pengilley Caseworker
- Sarah Rososinski Solicitor (3 days)
- Pat Van Steenwyk Night Time Legal Advice Service, Supervising Solicitor, Tuesday nights (Generalist Law advice only service. Also includes an employment law service).
- Anna White Clinical Legal Education Co-ordinator/Solicitor
- Pat Wilkinson Admin Assistance (Part Time)
- Anne Yuille Advice Line Co-ordinator/Caseworker

The Centre's daytime service practises in the following areas of law:

- Public Housing
- Private Tenancy (lowincome earners)
- Social Security
- Disability Discrimination

The Social Security component of the Centre's work is shared between all solicitors and caseworkers.

### 2. Casework Trends

- Social Security debts
- Marriage like Relationship Issues
- Payment cancellations
- FTB issues – disputes around FTB supplement, debts, shared care, maintenance arrears
- Prosecutions issues
- Portability/ Residential qualification issues

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### 3. Policy work/issues

Genevieve was NLO for the Network this year and was also on the Administrative Review and Family Tax Benefit Subcommittees.

At a local level, the Centre undertook law reform/policy work around the Human Rights Commission Bills, Residential Tenancies Act amendments and the introduction of occupancy agreements in the ACT.

### 4. Projects/publications

The Centre launched its Housing Fact Sheets in April this year. Win TV attended and did some coverage for local news. The launch was followed by a 2-hour workshop for about 25 community workers on housing law and the issues covered by the Fact Sheets. Feedback was very positive.

We have also been actively involved in the establishment of a Pro Bono Clearing House in the ACT. We are represented on its Management Committee.

Throughout the year, we have also held a series of workshops/seminars on social security law, public housing law and disability discrimination law.

The Centre is organising a forum for Anti-Poverty Week.

### 5. Future Directions – the next 12 months

#### (a) Opportunities/plans for the Centre/Service

The Centre is looking to develop its clinical law student program further in the coming year.

#### (b) Threats to the Centre/Services

Welfare to Work reform package

Trying to achieve a good balance between casework, CLE and law reform work continues to be challenging.

### 6. Other news to tell

Claire Carroll has returned (all the way from Hong Kong) to do a 3-month locum for us.

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## 5.6 Melbourne - Welfare Rights Unit

### 1. Staff

- |                        |                    |
|------------------------|--------------------|
| • Dale Nelson          | CLE                |
| • Gayathri Paramasivam | Solicitor          |
| • Sally Allman         | Caseworker         |
| • Saleem Bittar        | Locum and Research |
| • Peter Horbury        | Co-ordinator       |

### 2. Caseworker trends

- Increase in DSP related stuff
- Reduction in 'activity' related issues

- FTB issues
- Pensioner assets
- Fringe issues (not direct social security matters) as well

### 3. Policy work/issues

Closure of two local Centrelink offices and moving them to a combined and inaccessible site. Fitzroy and Richmond are closing and 'Victoria Gardens' is opening.

### 4. Projects/publications

- Postcard Project (with Sam)
- Red Tape

### 5. Future Directions – the next 12 months

#### (a) opportunities/plans for the Centre/Service

A new raft of volunteers will be coming 'on line' early next year

#### (b) threats to the Centre/Service

Nothing explicit

## 5.7 Launceston - Community Legal Centre

### 1. Staff:

- |                    |  |
|--------------------|--|
| • John Crooks      | Welfare Rights Advocate (co-manager)             |
| • Debbie Butler    | Employment / Industrial Advocate (co-manager)    |
| • Judith Blades    | Disability Discrimination Solicitor (co-manager) |
| • Emma Smith       | Administrator                                    |
| • Anya Stocks      | General Solicitor (P/T)                          |
| • Marie O'Sullivan | Finance/Compliance (P/T)                         |

### 2. Casework trends

A high client demand for direct assistance and representation has resulted in 17 clients represented at the SSAT, 38 clients at AAT conferences and 3 at AAT hearings. These covered a wide range of issues and most AAT matters were settled through the negotiation process.

Between 1 July 04 - 30 June 05 opened 80 and closed 96 files. Debts waived amounted to \$92,354.05

- Prosecution is the main concern at present causing an increase of casework.
- A large reduction in FTB debts.
- DSP clients incapacity assessments and HSA issues.

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### 3. Policy work/issues

Through the media did interviews regarding Centrelink's letter in relation to prosecution / investigation.

### 4. Projects/publications

Promotion of Welfare Rights in general to Centrelink customers in northern Tasmania and the use of WR website.

### 5. Future directions – the next 12 months

#### (a) opportunities/plans for the Centre/service

- Cut back on casework.
- Increase in CLE work.
- Promotion of Welfare Rights website to Tasmanians.

#### (b) threats to the Centre/service

- Lack of funding.
- Lack of volunteer workers.
- Influx of casework.

### 6. Other news to tell?

#### Meetings:

Throughout this year meetings have been held with various Centrelink staff on a variety of topics including legal Services staff, AROs, privacy officer, complaints manager for Tasmania and the compliance team leader.

#### Outreach services:

Centrelink Managers on the NW Coast (Devonport and Burnie) continue to provide us with an office to conduct interviews to assist customers. Being able to discuss the issue directly with the ODM or ARO in many cases has continued to prove an effective approach in resolving matters at an early stage. This has also led to good relationships with Centrelink office staff in general, who now refer customers for assistance.

## 5.8 Hobart - Welfare Rights Advocacy Service

It has been a very busy year for the Welfare Rights Advocacy Service. Over 41 hearings were conducted in the Social Security Appeals Tribunal and more than 48 conferences were scheduled at the Administrative Appeals Tribunal. Many of these AAT conferences were able to be successfully settled, although three matters were eventually heard by the AAT.

Much of the Welfare Rights Advocacy Service is spent on matters of overpayment with clients remaining bewildered at the bureaucracy that is Centrelink. Due to the increasing workload of the portfolio, those clients who are capable of representing themselves are asked to so through

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the internal Centrelink reviews, before we step in to assist at the Social Security Appeals Tribunal and then at the Administrative Appeals Tribunal. A Centrelink crackdown on marriage like relationships over the last year has seen a number of substantial debts raised against clients, and at the time of writing many of these hearings are pending at the Administrative Appeals Tribunal.

The service continues to enjoy a good relationship with Centrelink staff in particular the legal Services unit. The close working relationship has seen some excellent outcomes achieved for our clients.

The Geeves matter which the Government has appealed to the High Court, has been adjourned pending the outcome of a Senate vote on a disallowable instrument. The Government has agreed to pay all HCLS costs associated with this matter including the briefing of Peter Tree, SC for the Full Court of the Federal Court and the High Court hearings.

On a more somber note, it is with some reluctance that the HCLS accepted the resignation of Greg Sando who provided an excellent service to clients in his time with the HCLS. Following Greg Sando's move to Melbourne in June 2005 he was replaced by Benedict Bartl who has been employed by the HCLS since September 2004. While Georgina Munday was appointed in August 2005 to assist with the increased workload.

## 5.9 Geelong - Welfare Rights Service

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### Staff:

- Sam Purcell Advocate, 36 hours per week.
- Grace Forrest Administrative Support, 4 hours per week.

### Casework trends:

Marriage Like Relationship cases, often with accompanying large debts and prosecution threats have continued to be a very large proportion of casework this year. These are so far almost all being won at SSAT level, but we have had many secretary appeals, often on somewhat spurious grounds. These cases are very concerning in so many respects, which is being addressed on a number of levels both within our Network and beyond, however for us one of the major concerns is the long periods of time clients are being forced to live with no income support at all, or vastly reduced rates, while they wait the outcome of appeals against decisions to apply a non-existent partner's income to their entitlement.

Debts of all types remain a major focus also. We have seen many people this year with large debts, who have intellectual disabilities. Typically, they are working part time and receiving Disability Support Pension and lack the capacity to really effectively manage their affairs and deal with notification requirements etc. Often there is no logical nominee in the wings, as many clients' families are either unreliable or have similar disabilities themselves.

We have done more SSAT hearings this year than in previous years as ARO decisions seem to be more cautious and conservative than having been the case in the past. This adds to workload as cases drag on for months longer than perhaps is necessary.

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The other obvious casework trend is the incredible frustration in dealing with the new-ish debt recovery system. It is almost impossible to forge relationships with staff and have found many staff very difficult to negotiate with and unreliable in following up on agreements eked out from long, drawn out conversations. It has been our experience that tenacity and forcing staff to deal with us in writing rather than their preferred telephone method has eventually yielded better results for the clients but it takes so much longer to achieve anything than it used to when we were dealing with local or Area staff.

Trying to reduce casework numbers is an ongoing challenge in an increasingly bewildering social security environment, with so many truly disadvantaged clients. It is our practice here, in theory at least to provide advice and self-help information to any client who is able to manage their own matter. Most people we see cannot do this for an array of reasons, most commonly language difficulties, mental illness, intellectual disability, chronic or terminal illness and the effects of alcohol and drugs. There is still a large unknown and untapped population in our catchment area which we don't provide a direct service to, and which, if our existence were fully known, we would have no hope of being able to assist with our present structure and resources. We manage this at present by working in tandem with workers in smaller towns and communities and providing casework assistance either via their worker or by telephone. Public transport is a major impediment to people from some parts of our catchment gaining access to our service.

Our local Centrelink Liaison Network continues to thrive and its active and vocal community membership meets quarterly with managers and staff from the 2 local Centrelink offices to thrash out issues, keep abreast of changes and to network. The knowledge and research within our NWRN, so generously shared, has been invaluable for the members of this group.

### **Future directions**

A relationship is being formed with the local TAFE Welfare Studies course and they have now incorporated a Welfare Rights tutorial into their Welfare Law subject, which has created some interest from students keen on doing field placements with Welfare Rights. Our first student is due to commence in October. It has been some time since we've had a student. Again, this is a resource issue, however we anticipate some good outcomes from working with these future 'on the ground' workers.

The Geelong Community Legal Service also has a student clinic of final year Law Students from Deakin University, which I hope to tap into in future as a Welfare Rights resource.

We have also been fortunate enough to secure recurrent funding for a new Community Development position at GCLS, one task of which is assisting all program areas within the service to develop and improve our existing community legal education programs and resources. Given the high level of demand for this service from myself as a sole worker, in addition to a high caseload and the inevitable numerous other responsibilities; this new position is warmly received!

Sam Purcell

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## 5.10 Adelaide - Welfare Rights Centre

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### 1. Staff

- Mark Leahy                      Manager (9 days per fortnight)
- David Pezzanite              Volunteer Co-ordinator (4 days per week)
- Margaret Riley                AAT Co-ordinator (2 days per week)
- Helen McWilliams            Administrative Assistant (2 days per week)
- Bill Manallack                Fundraising Project Officer (1 day per week) \* funded by a grant from Community Benefit SA
- Jo Harmer                      Youth Development Worker (2 days per week) \* funded through a grant from the Office of Youth.

### 2. Casework trends

- Debts – We have seen quite a few large debts this year, with plenty covering periods longer than 3-4 years, and our largest being a whopping \$93,000 overpayment of PPS for an alleged MLR (That one's still being reviewed). Overall at the SSAT and AAT we have managed to have approximately \$265,000 worth of debts waived – not to mention numerous payments granted, breaches lifted and other wrong-doings corrected that can't be quantified.
- Opal miners – Centrelink has cracked down on people engaged in opal mining activities in Coober Pedy and the surrounding areas. They have decided that people involved should not be considered unemployed, meaning that any of those individuals receiving Newstart were ineligible. This has been done even though the advice given by the local office over the years was that each individual's activity needed to be assessed on a case by case basis. We have a handful of clients, each with \$50,000 debts (or above) on our books. We were successful with the first case at the SSAT, Centrelink appealed but withdrew at the last minute before an AAT hearing. We'll have to wait and see how the rest go.
- MLR debts and cancellation – many overturned at ARO or SSAT level due to insufficient evidence. Unfortunately this has still been a large chunk of our casework time due to the time consuming nature of these cases.
- Murray River fishers – WRCSA assisted fishers who were offered (forced to take...) an ex-gratia payment by the SA Government to not renew licenses, having the payment granted section 8(11) exemption from the income test. This enabled fishers to obtain income support whilst attempting to re-enter the workforce.
- Prosecutions - the Centre has had increasing numbers of clients contacting us where prosecution action is being threatened or taken. We have quite a few cases ready to go to SSAT, but are awaiting the outcome of Centrelink investigation for prosecution action. We continue to refer these clients to the Legal Services Commission during this process.

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- DSP claim rejections – many cases won at the SSAT. Mostly due to insufficient medical evidence or conflicting reports from HSA doctors. Usually sorted out quite easily by contacting the treating doctor and outlining the DSP criteria as well as the need for a thorough report.
  - CDDA/Act of Grace – WRCSA has had numerous claims granted over the last 12 months (a lot of which were probably sent for consideration further back than 12 months...). Many of these were for arrears of payments that should have been granted but for a Centrelink error.

### **3. Projects/publications**

We received a grant from Community Benefit SA (Pokies' money) to employ a fundraising officer for a year. This was a highly successful project, with Bill, who used to work for the *Big Issue* in Victoria, bringing in \$65 000 for the Centre. This has enabled us, among other things, to undertake volunteer training; purchase a new telephone system; upgrade our computers and buy new furniture, including an espresso machine and toaster for office breakfasts!

Bill also managed to obtain a grant to employ a Youth Development Officer for a year, enabling us to make links with community agencies servicing young people. Jo has also supervised a number of telephone shifts per week.

### **4. Future directions – the next 12 months**

#### **(a) opportunities/plans for the Centre/Service**

Now we have the Service Standards process out of the way, we hope to concentrate more on lobbying and law reform next year. We also hope to build upon the work that Bill has done and keep lobbying for State funding.

Margaret has obtained work at the Legal Services Commission for three days a week, necessitating a drop in her hours here. At the end of the year, she will have had enough supervised work with a lawyer for her to obtain her Practising Certificate, so we hope she will return to us three days a week from then on.

#### **(b) threats to the Centre/service**

Lack of State funding means we are still hard-pressed to maintain our service to the level that we would like. Core funding simply isn't enough and, while we have been successful in getting grants, they fund extra projects, not the core service and so the problem of under-funding still remains. Until we can either get State funding or extra money from the Commonwealth, we will continue with our juggling act.

### **6. Other news to tell?**

We've had the warmest winter on record this year.

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## 5.11 Perth - Welfare Rights & Advocacy Service

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### 1. Staff

- Kate Beaumont Executive Officer/Welfare Advocate (F/T)
- Catherine Eagle Solicitor (P/T)
- Chris Belcher Welfare Advocate (P/T)
- Marilyn Marvelli Welfare Advocate (P/T)
- Jeanie Bryant Welfare/Tenant Advocate- Service WA Drug Court(F/T)
- Paul Harrison Tenant Advocate (P/T)
- Lisa Swallow Administrative Officer(P/T)

### 2. Casework trends

Welfare Rights assistance provided by our Centre over 2004/2005 financial year includes:

- Total Number of advices: 413
- Face to Face: 36
- Telephone: 355
- Mail: 15
- Email: 7
- Opened cases: 163
- Closed cases: 151

The key issues for the centre continue to be marriage like relationships, overpayments and prosecution matters with many having an interrelationship between all three issues. A significant proportion of the marriage like relationship matters presenting have had large debts raised by Centrelink and also therefore clients were at some risk of prosecution. The approaches used by Centrelink in investigating and making decisions in relation to marriage like relationships has not improved over the last twelve months and in a number of instances the decision maker has looked at only one or two of the factors in Section 4 when making an adverse decision. Apart from debts in relation to MLRs there continues to be a number of Youth Allowance students (over 21 years of age) who have had debts raised as they have been unable to continue studies due to mental illness and Centrelink have been unwilling to look at waiver due to special circumstances and referred them for prosecution action.

There were a number of matters which related to residency and returning residents. Within these matters there have been a number of New Zealanders who do not have permanent residence and had not been given proper advice when they had previous contact with Centrelink and told to come back in two years to claim payments with no information provided about seeking permanent residence. The age range of these clients has varied from young people through to sole parents who have separated following their arrival in Australia and have been left with no means of

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support due to their residential status. There have also been a number of returning residents (Age Pension age) who have lived overseas for a number of years who have had difficulty accessing entitlements and or had debts raised due to their residence and are impeded from their payments being portable due to the returning resident rules.

Intermittently throughout the year we have continued to have contacts in relation to participation issues for both Parenting Payment Single and Newstart Allowance and numerous complaints about Job Network assistance and Personal Adviser interviews. Following the election we have had numerous contacts from those already on DSP fearful they would lose entitlement as part of the Government's agenda.

Toward the end of the year we became aware of issues relating to the use of interpreters by Centrelink and a discouragement of clients being provided with interpreters even when such assistance was requested by the client. Also in one instance a CALD client had a prosecution interview without use of interpreters and from the transcript of interview it should have been clear to the interviewing officer from the client's responses that she did not understand much of what occurred in the interview. A TIS Interpreter also advised he regularly interprets for Centrelink and had attended a forum arranged by Centrelink in which they were told that clients were to be discouraged from the use of interpreters due to the associated costs. Our agency has particular concerns about such practices.

### **3. Policy work/issues**

Payment pending review of decision has also been an issue where Centrelink has been resistant to exercising the delegation available to them within the Social Security Administration Act. On a couple of occasions Centrelink required the client to lodge a new application and proof of identity and residency rather than restoring the payment pending the outcome of review. At a local level the issues surrounding Payment pending review was discussed at our regular Centrelink Community Consultative Committee which resulted in Centrelink addressing most of our concerns at the scheduled meeting as they were on notice of our complaint. As a result of the issues raised Centrelink completed some systems enhancements/codes to permit payment to be restored pending the outcome of review.

With the centralisation of debt recovery within Centrelink our agency assisted with training of new Debt Recovery staff in the new Debt Teams. Additionally as issues arose at a local level our agency raised our concerns with Centrelink directly and as a result there were some improvements. Other concerns around centralised processing of particular segments of work have also been raised with Centrelink.

Staff of Welfare Rights & Advocacy Service participate in a number of the NWRN Sub Committees which address specific policy/law reform issues and include: MLR Sub Committee, FTB Sub Committee, Youth Sub Committee and though not law reform the CLE Sub Committee. At a local level staff of the agency are involved on a regular basis with the local Centrelink Community Consultative Meeting, Linking Offenders to Services Meeting, local Welfare Rights Sub Committee and other forums as they arise.

The agency conducted 21 Community Legal Education activities throughout the year which included sessions conducted at: Bandyup Women's Prison, Boronia Women's Prison, Women's Law Centre, Kimberley Community Legal Centre in Kununnurra, Kununurra Crisis Centre, Department for Community Development, Financial Counsellors Resource Project, Broome Legal

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Aid, Perth Legal Aid Workers, numerous for Centrelink, TAFE students, Curtin Department of Social Work and Social Policy, Ruah Women's Outreach Project, CLC Association of WA State Conference, ARAFMI, and Balga Senior High School Young Mum's Project.

#### **4. Projects/publications**

Prosecution and Women in Prisons Project – Over the last year the agency has employed a lawyer three days per week funded through the Public Purposes Trust of the Law Society of Western Australia and our funding has been continued in the current year. The project is in collaboration with Women's Law Centre where another lawyer works one day per week with our project specifically in the women's prisons in Perth. Catherine Eagle provides advice and assistance to clients contacting in relation to Centrelink prosecution matters but does not represent in court due to time constraints. Catherine Eagle has also completed a number of Community Legal Education activities in relation to prosecution matters with solicitors and other Legal Aid WA staff and students at Murdoch University during the year, as well as sessions with women prisoners relating to avoiding future problems with Centrelink. Catherine Eagle has been a great assistance to paralegals that work in the centre who have been able to provide additional casework assistance in challenging debts administratively where the client is at risk of prosecution for social security offences.

#### **5. Future directions – the next 12 months**

##### **(a) opportunities/plans for the Centre/Service**

Attempting to secure some additional funding from Lottery West in relation to our building as rising damp is overtaking our building.

##### **(b) threats to the Centre/service**

Funding for our position from the Department of Justice to provide welfare and tenancy assistance to clients of the Drug Court of Western Australia is due to run out at the end of February 2006 and there is no likelihood at this stage of that assistance continuing.

## **5.12 Sussex Street Community Law Service Inc**

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Address: 29 Sussex Street EAST VICTORIA PARK WA 6101

Mailing Address: Locked Bag 2 EAST VICTORIA PARK WA 6981

Telephone: 09 – 9470 2676

09 – 9470 4988 (silent number – not for clients)

Facsimile: 09 – 9470 1805

Email: sscls@sscls.asn.au

### **1. Staff**

There is one worker employed as a Welfare Rights Advocate, Teresa Szunejko, who has been employed since August 2004. From April 2005 the Legal Practice Board WA has accepted the

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position, as enhanced by Family and Civil law matters, and as supervised by the Legal Practice Manager and Senior as complying with the requirements for a Restricted Practice Year.

The position is staffed for 30 hours a week.

The Welfare Rights service has had the assistance of a long-term volunteer, Bob Huey, who early this year decided to pursue further (paid) endeavours.

## **2. Casework trends**

From the CLSIS database, the Welfare Rights service has provided 654 advices, with 34 cases opened during the period 1 July 2004 – 30 June 2005. During the same period 33 cases were closed.

The main casework trends have been clients seeking assistance with overpayments. The majority of which are dependent on Centrelink determinations of the existence of a marriage-like relationship.

Sussex Street CLC has implemented a system of providing grants of assistance to clients. One-off advice or information is allocated Level 1 assistance. Further assistance is provided in the following categories:

\*Level 2 assistance: Minor assistance of up to 3 hours including writing letters and making/receiving telephone calls, minor negotiation provided by a solicitor or paralegal.

\*Level 3 assistance: Assistance of up to 5 hours including the preparation of documents for court proceedings, advice regarding self representation and advocacy and minor negotiation provided by a solicitor or paralegal who is not on the record.

\*Level 4 assistance: Ongoing assistance with full representation provided by a solicitor or paralegal who is on the record.

Generally, as soon as a client comes in with a welfare rights issue and there is capacity in the service to take the matter on, they would be allocated with Level 2 assistance to allow for a review of any documents, requesting and reviewing the Freedom of Information documents and providing a further opinion.

From there, further assistance is granted in consultation with the Legal Practice Manager, and according to the merits of the matter.

## **3. Policy work/issues**

### **4. Projects/publications**

Sussex Street CLS is publishing the revised edition of the Law Handbook, with an updated chapter on Welfare Rights.

One project is to provide a chapter for the WA Lawyers Manual co-ordinated by SCALES on Centrelink overpayments.

### **5. Future Directions – the next 12 months**

(a) opportunities/plans for the Centre/Service

Sussex Street CLC is in the process of reviewing its operations and policies. This should provide some further structure to the welfare rights service.

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An EBA is in the process of being negotiated by staff at Sussex Street CLC.

The Welfare Rights Sub-Committee has continued to meet, with guest speakers on various issues.

(b) threats to the Centre/service

## 5.13 Fremantle - Community Legal Centre

Please note the new name for our Centre is *Fremantle Community Legal Centre*, (formerly known as *CLAC*).

The present Report relates to the activities undertaken by the Welfare Rights Advocate for the past year.

### 1. Staff

- Centre Co-ordinator
- Administrative Assistant
- Principal Solicitor
- Part-time Solicitor, ( Family Law )
- Part-Time Solicitor, Family Law & General )
- Part-time Solicitor, Restraining Orders
- Tenancy Advocate
- Welfare Rights Advocate
- Financial Counsellors ( 2x Job sharing )

### 2. Casework trends

Due to the high clients' demand for direct assistance, casework has been a major focus of activity in the past year. Presented problems were many and varied. Debts and more debts have been the frequent theme. Overpayments of all kinds constituted more than half of all matters dealt with. By payment type FTB and PPP debts topped the list followed by Student debts. DSP debts and Complex Assessment cases were also significant. Fewer NSA debts have been noted this year.

#### FTB

Many FTB debts occurred through reconciliation of estimated and actual income. Others were caused by maintenance income arrears and a few were triggered by ex partner not lodging their tax return or *non-lodger debts*. A few of the maintenance debts were resolved at ARO level due to administrative errors. However, we generally found harder to have FTB debts waived this year. No luck in meeting the criteria for *Severe Financial Hardship*. Even cases of special

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circumstances have been difficult to get decisions overturned under s101.

### **PPP**

An increase of Parenting Payment Partner debts has been noted this year. Debts were mostly caused by increases or changes of partner's income not reported or not coded. Some were resolved through the internal review process and a couple settled at AAT. Meeting the test of '*not knowingly failing to comply*', or '*money received in good faith*' has been difficult. Particularly, in cases where the couples separated and they blamed each other for the debt or the wife did not know her ex husband's gross earnings.

### **Student Debts**

The majority of Abstudy, Austudy and Youth Allowance debts presented have been due to students failing to meet the full time criteria. Debts sizes ranged from \$2,450 to \$10,980. Some of these cases have been successfully resolved through *Special Circumstances*. Other student debts caused by Institution's failure to inform the student that the course was not an approved course. There appears to be some gap in communication between Educational Institutions and Centrelink; which may contribute to student debts? Austudy matter settled at AAT.

Currently dealing with a few cases relating to the 'Living Away From Home Rate' and 'Unable To Live At Home.'

### **Marriage-like Relationships**

An increase of inquiries about MLR situations ranging from being investigated, prosecution interviews, living arrangements, separated under the one roof and actual decisions. Some of these cases were at a very early stage. A couple of them have been found to be in a MLR (or quasi), as they shared many things and ongoing mutual commitment is very strong. For those cases of couples who are *separated under the one roof*, Centrelink's "tough policy" is that "the man should go". But this is not always possible as people may be experiencing problems in finding alternative accommodation and/or may simply not be able to afford it.

Besides debts, other predominant issues have been around qualification problems: cancellation/suspension of payments, rejection of claims for DSP, NSA Incapacitated, CA, CP, Special Benefits. Other issues included Preclusion, arrears, overseas pensions, CDDA. Feedback from clients seeking to claim income support indicates that it is getting more difficult for people to get back on payment.

Direct negotiation with Centrelink has proven effective in resolving many cases and getting payment restored. Many appeals reaching ARO and SSAT levels have been resolved with a measure of success. Most matters at the AAT have been settled satisfactorily without proceeding to a hearing.

## **3. Policy work/issues**

Contributed with input and Policy recommendations through the Administrative Review Subcommittee in areas of law reform such as: AAT Proposed Listing and Adjournment Practice Direction; Inquiry into the Administrative Appeals Tribunal Amendment Bill (2004). Participated in liaison meeting Perth and provided Agency feedback about AAT Practice Direction. From time to time provided feedback on adverse impact of Policy through Regional Centrelink offices and Centrelink Consultative Committee (eg. Customer Service, Direct Debit, FTB Non lodger debts, etc).

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Attended "Welfare to Work" workshop presented by WRAS at the State CLC Conference in Fremantle. At present intend to attend DEWR's Welfare to Work Consultation Session in Perth.

#### **4. CLE/information**

Community Legal Education sessions have been conducted to established community groups from Bosnia/Croatia, Young mothers and Indigenous participants. Topics included: advance payments; dealing and preventing Centrelink debts; appeal rights. Information distribution about Student Debts, YA, PA, MLR, Appeal Rights and general Welfare Rights factsheets have been displayed for the public during "Youth Week"; "Law Week" and at "The Community Corner" at Centrelink.

A presentation about the role of the Welfare Rights Advocate was presented at the Centrelink Consultative Forum.

#### **5. Future directions**

The FCLC will be moving soon to The Queensgate Shopping Centre (Opposite Council Building) in Fremantle. The new location is more central.

## **5.14 Darwin - Community Legal Service Inc**

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### **1. Staff**

Ian Tranthem *Principal Solicitor*

Kimberley Bott *WR Advocate since 01 Feb 2004 17 Hours/week*

*Annual leave (6 weeks) from March 2005 then 12 months Maternity Leave from May 2005*

Cathy Davies *WR Advocate on 12 month contract since May 2005 17 Hours/week*

### **2. Casework trends**

Increase in MLR debts being raised on very thin/equivocal evidence

Increase in "assets" investigations invariably involving complex financial material which inhibits our capacity to assess (assist or not). Appear to be obvious gaps in the "chain of evidence" which are glossed over.

Investigations generally becoming more protracted and complex at ODM level in Compliance Team. The result is matters are harder to get to ARO level Review. (Up to 10 months with ODM).

Bizzare treatment of taxi drivers' earnings- characterising them as employees and disallowing deductions from gross income for fuel, washdowns & GST.

### **3. Policy work/issues**

Continued involvement with Centrelink Community Youth Reference Group (quarterly meetings)  
Membership MLR Sub-committee

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#### **4. Projects/publications**

Developing an education package for GPs about the TDR and how the information recorded is ultimately used by Centrelink.

**Current Status** -stalled.

#### **5. Future directions – the next 12 months**

##### **(a) opportunities/plans for the Centre/Service**

Maintain involvement with NWRN and MLR Sub-committee

Monitor capacity to take on complex casework

##### **(b) threats to the Centre/service**

Staff burnout

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## 6.0 SUB-COMMITTEE REPORTS

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### 6.1 Administrative Review

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#### 1. Terms of Reference:

- To prepare a NWRN submission on any Bill(s) that seeks to amend the SSAT/AAT.
- To monitor developments in relation to administrative review practices and procedures and to report issues of concern to the NWRN with proposals for action and reform (such as delays, the role of the model litigant etc)
- To write to DFACS/Centrelink putting a case for the funding of Departmental appeals to the Administrative Appeals Tribunal
- Deal with other issues impacting on the administrative review process as referred by the Members/Committee meeting

#### 2. Membership:

- Genevieve Bolton (Convenor)
- John Stannard
- Bill Mitchell
- Antonio Gonzalez
- Jackie Finlay
- Linda Forbes (Co-opted member)

#### 3. Activities to date (since last NWRN conference):

- Prepared a submission on behalf of the Network to the Senate Legal and Constitutional Committee Inquiry into the Administrative Appeals Tribunal Amendment Bill 2004. Genevieve and Jackie gave evidence before the Inquiry in Sydney on 1 February 2005. Members of the sub-committee also liaised with relevant politicians and political advisers regarding our concerns about the proposed amendments. Comment was also provided to the media.
- The decision of the Government not to proceed with its proposal to remove the mandatory requirement for the President to be a Federal Court Judge was a particularly pleasing outcome from this piece of law reform work.
- Provided comment by way of submission to the Administrative Appeals Tribunal on their draft Listing and Adjournment practice direction
- Participated in a telephone link up (along with other NWRN members) and provided a briefing paper to a consultant contracted by Centrelink to review their current structure and processes around appeals.
- Provided advice, support and guidance, to Linda Forbes, the Network's Representative on

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Centrelink's Internal Review Project.

- In the previous year, the Sub-committee had made representations to Centrelink regarding funding of Departmental appeals to the Administrative Appeals Tribunal through the delegation process and was firmly advised that such funding would only ever be considered on a case by case basis

#### **4. Future of the Sub-committee:**

Recommend that the sub-committee continue under the following terms of reference:

- To prepare a NRW submission on any Bill(s) that seeks to amend the SSAT/AAT.
- To monitor developments in relation to administrative review practices and procedures and to report issues of concern to the NRW with proposals for action and reform.
- Deal with other issues impacting on the administrative review process as referred by the Members/Committee meeting.
- To liaise with the University of Melbourne on a research project currently being undertaken on applicants' perceptions of social security administrative review processes and provide advice to NRW on whether we should be involved in the project and if so, on what basis
- To provide advice, support and guidance to the Network representative on Centrelink's Internal Review Project.

## **6.2 CLE**

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### **1. Terms of Reference**

- Design a mechanism for collecting and sharing CLE materials within the network.
- Promote the value of CLE as a legitimate source of service delivery.
- Offer support to NRW members to undertake CLE projects.
- Develop strategies to promote the website as a training delivery tool.

### **2. Current Membership**

- Gail Middleton
- Chris Belcher
- Jillian Chapman
- Melissa Coad
- Dale Nelson

### **3. Activities to date**

This new committee linked up three times during the year, but for various reasons it was difficult to get everybody together at the same time which meant we lost some momentum.

We (well Chris really) have managed to produce a CD which will demonstrate a whole range of

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CLE tools that will support services in their non casework activities. This will be distributed at the NWRN conference.

NWRN members all undertake a variety of CLE work and the more we support each other in this work the better and stronger we will become.

#### **4. Future of the Sub-committee**

There is still a strong commitment from members to stay networked but we would propose that the sub committee continue as a network, which communicates via email, rather than trying to have people available at the same time for a link up. It would also be preferred that there is one person from each centre that is listed in this network so we know everyone has the opportunities to share resources.

- Draft new Terms of Reference:
- Ensure every NWRN member has a contact on the CLE network.
- Promote the value of CLE as a legitimate source of service delivery.
- Offer support to NWRN members to undertake CLE projects.
- Develop strategies to promote the website as a training delivery tool.

## **6.3 Debt**

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### **1. Terms of Reference:**

- To identify key debt and debt recovery changes that we think should be addressed and to propose relevant solutions to each;
- In particular, to identify and propose strategies to advance the issues of “notional entitlement” and to address the issue of “another person knowingly;” and
- To identify the key elements of a significant long-term campaign to address the identified debt issues.

### **2. Current Membership:**

- Gerard Thomas
- Dianne Anagnos and
- Carla Wilson

### **3. Activities to date:**

- At the time of the last annual conference Centrelink was announcing the national restructure of its Debt Recovery (DR) operations.
- The new DR system dictated most of the work of the sub-committee over the past year
- A number of training sessions were delivered by the Debt sub-committee (with assistance from Melissa Coad, Sydney) to Centrelink officers during the DR restructure process in Coffs Harbour, Brisbane, Sydney, Melbourne and Perth in August and September last year.

- As a follow-on from our involvement with the DR training, the sub-committee began to have regular telephone link-ups with senior Centrelink debt staff. These were held about every 6 weeks from September 2004 to June 2005.
- Negotiations were held around the appointment of a central contact person for Debt Recovery problems for WRC's and other community agencies – Ron Crawford. Ron also participated in the telephone link-ups after his appointment
- Ongoing review of the new DR structure was conducted in the link-ups. In summary, we have seen throughout the year a reduction in the number of people on the standard rate of withholdings. We were given useful updates about the new 'streamlining' DR process and this information was distributed on the BBS. Primarily it has allowed for DR officers to accept lower rates of recovery where a person requests it due to financial hardship without the need for a financial information form. The forms are only used where there is dispute about the person's expenses or it is a large debt.
- The *Debt Briefing Paper* which was developed last year and contained key issues in debt prevention and debt recovery continued to guide the debt discussions during Delegations in November 2004 and again in March 2005, details of which are contained in delegation minutes.
- Another discussion paper outlining concerns regarding debt recovery actions taken by Dunn and Bradstreet was provided to Centrelink during the Nov 05 Delegation.
- Attendance at National Conference of Debt Recovery Managers in Brisbane.
- Submission on behalf of the NWRN to the ACCC/ASIC redrafting of Debt Collection Guidelines
- Attendance at a Centrelink Debt Value Creation Workshop (as an observer) with Centrelink clients who had/have a Centrelink debt (report posted on BBS).

#### 4. Future of the Sub-committee:

- The key debt prevention strategy regarding the nature of Centrelink's correspondence remains to be given Centrelink's full attention despite continued efforts to raise this during the Nov 04 and March 05 Delegations. Although recent talks with Hockey's office have indicated some intention to work on the issue with the NWRN.
- The 'streamlining' approach (supported by the new Debt Recovery KPI) has been quite successful for most debt recipients of standard sized debts. It appears that the majority of these recipients are able to have withholdings reduced from the standard rate simply by contacting Centrelink and advising they are in financial hardship and providing some key financial details. **Attention should now be turned fully to 2 other key areas: 1) Dun and Bradstreet activities and 2) the continued use of voluntary mortgages for some client groups (large debts and older people)**
- The impact of Working Credit and the new telephone reporting system needs to be assessed and its debt prevention capacity understood. The provision of data to the NWRN about Working Credit and the telephone reporting system has been the subject of discussion in both the November 04 and March 05 delegations. Centrelink has indicated they will provide it when they have it. This would be a very useful field of

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enquiry for future Debt sub-committee work.

- Work on the notional entitlement debate has been sidelined by the predominant work of the sub-committee on debt recovery. A future debt sub-committee will probably want to consider this.

## 6.4 Disability and Carers

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### 1. Terms of Reference

- To monitor legislative, policy and administrative issues relating to AWT initiatives affecting Disability Support Pension, Carer Payment, Carer Allowance and Newstart Allowance (incapacitated); to advise the Network of issues identified; and to develop proposals for legislative and administrative reform.
- To identify\* legislative and policy flaws impacting on carers in respect of both Carer Payment and Carer Allowance and to develop proposals for legislative and administrative reform. (\*NB – previous Network submission regarding review of CDAT refers).
- To provide advice, support and guidance to the Network representative on the Customer Disability Reference Group.

### Adopted at Members Meeting:

September 2003

Reviewed at: Conference August 2004

### 2. Current Membership

- Gerard Thomas
- Dale Nelson
- Ian Tranthem
- Bill Mitchell
- John Crooks

### 3. Activities to date

Unfortunately, due to other pressing commitments this sub-committee did not formally meet during the year, however there was a considerable amount of feedback and discussion from the NWRN members, via the bulletin board of the main issues that the committee was tasked to explore.

### 4. Future of the Sub-committee

Recommendation for the committee to cease, and establish a “Welfare To Work” sub committee, incorporating relevant terms of reference.

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## 6.5 Family Tax Benefit

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The FTB sub committee did not officially convene this year. This was not due to a lack of FTB concerns, but because of an inability to get the members together for a meeting and the fact that some work on FTB was continuing to be done outside of the sub committee. Regrettably however, this meant that the network was reactive to FTB issues, rather than being proactive. However, FTB did not slip entirely off the NWRN radar with FTB issues still being addressed where necessary.

### 1. Terms of Reference:

- Develop proposals for alternative approaches in order to reduce the number of FTB debts caused by incorrect income estimates, shared care rules, changes in circumstances and arrears of child support.

From 1.7.06 families will be able to offset irregular child support with unused maintenance income free area from previous years. This measure is expected to reduce FTB debts by \$41.6m over four years. **A WIN**

- Express our concern with the withholding of tax refunds to recover FTB debts arising from the same financial year.

From 1.7.06 reconciliation top up payments and tax refunds can be used to offset outstanding family assistance debts from previous years. **A LOSS**

- Propose policy changes to the interpretation of 'severe financial hardship' waiver provisions (section 97 FAAA).

This received support from Labor and Democrats but further work needs to be done on this issue.

- Support ACOSS findings that FTB does not reflect the rising costs of children as they get older and could therefore increase child poverty.
- Identify any emerging FTB policy or casework issues.
- Assist with the facilitation of WRAS factsheets onto the NWRN website.

No work was undertaken on this issue during the year.

- Respond to inconsistency and inequities across Centrelink, FAO and ATO which impact upon FTB.

The Network wrote to Jeff Whalen in February regarding FTB B debts and received a response.

Follow up other FTB issues arising from delegations or ministerial meetings.

### 2. Membership:

- Julia Priest (convener)
- Gail Middleton
- Gerard Thomas
- Genevieve Bolton and WRAS

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### **3. Activities to date**

See items under specific objectives. In addition the Network:

- Issued a release re Labor's family and tax policy
- Discussed concerns and received assurances regarding the timing of FTB Supplement payment

### **4. Future of the Sub-committee**

I recommend that the FTB sub committee continue as there will continue to be issues that need addressing.

- Issues arising from the child support taskforce – i.e. Impact of formulae changes on rate of FTB.
- Concerns about the \$600 FTB supplement masking debts, which therefore result in people not appealing the substantive matter. The supplement is an extremely good debt recovery strategy, which reduces incentive to appeal.
- There's still room to negotiate further regarding the concept of 'notifiable events' in relation to debt given the concession regarding dependent children's income increasing above the threshold. Would like to see this principle used when calculating FTB entitlement due to change in partner status.

## **6.6 Marriage-like Relationships**

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### **1. Terms of Reference**

- To investigate issues of marriage-like relationships with a view to documenting evidence and case studies in relation to the issues and providing proposals for dealing with these.
- In particular to deal with:
  - (a) Centrelink's interpretation of the legislation, including policy considerations
  - (b) Centrelink's investigation practices
  - (c) Centrelink's decision making processes; and
  - (d) Whether the current statutory criteria is the most appropriate for determining entitlement to payment

### **2. Adopted at Members Meeting:**

Conference August 2004

Membership:

- John Stannard
- Sam Purcell

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- Julia Priest
  - Kimberly Bott and
  - Greg Sando

both of whom left during the year, Ian, Catherine and Gerard and also Genevieve and Bill (co-opted at various times)

### **Activities to date (since last NWRN conference):**

Committee has been relatively active and has met most months since the last NWRN Conference.

The following items have appeared in that time:

- Production of a submission to Ombudsman and Centrelink
- Development of a form for NWRN members to use to report MLR issues which have been collated by Illawarra to obtain an overall picture of issues for Centres nationally.
- Lobbying the office of the Commonwealth Ombudsman successfully, to conduct an own motion review of Centrelink MLR decisions, policies and procedures
- Launch of an MLR self-help booklet produced by Illawarra
- Tabled paper on MLR decisions to Centrelink and fed into the delegations process
- Contributed to questions to the Senate Estimate Committee and obtained a data set of MLR review decisions Australia-wide. This strategy followed a failure of FACS to respond adequately or at all to several requests from Gerard to produce MLR data.
- Submitted a research grant and initiated a research project with Griffith University into MLRs and the effect of decisions
- Various items of media work were conducted around MLRs
- Two external people, Tamar Hopkins and Keiran Tranter have sat in on different link ups. Tamar discussed her paper which appeared in the August 05, Alternative Law Journal and Keiran discussed the GU research project.

### **Future of the Sub-committee:**

- As a single issue sub-committee it should continue while the problem presents. It does not look like disappearing in the immediate future.
- There will be a need to respond to the Ombudsman report which is anticipated around the end of 2005.
- The MLR research at Griffith Uni will ramp up in the next year, assuming the already funded pilot receives continuation funding and becomes a project proper.

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## 6.7 Residence

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### 1. Terms of Reference:

- To monitor legislative, policy and administrative issues affecting migrants.
- To establish and maintain liaison with FACS and Centrelink and migration lawyers, to facilitate consultation on issues affecting Ministerial declarations re approved visas for Social Security payment eligibility; qualifying residence exemptions; and newly arrived resident's waiting period exemptions.
- To identify issues relating to the administration of the Social Security Agreement between Australia and New Zealand; and to develop proposals for reform – particularly regarding Special Benefit availability. To seek that FACS and Centrelink meet with the NWRN (i.e., with our sub-committee) and New Zealand Consul staff, to consult regarding the need to reintroduce access to Special Benefit for SCV holders.

### 2. Membership:

- Linda Forbes (Convenor),
- Melissa Coad
- Mark Leahy

### 3. Activities to date (since last NWRN conference):

- Primarily due to the changes in the skilled migrant assessment criteria, we rarely see newly arrived resident waiting period cases. It would seem that because of this, and because there are now (thankfully) exemptions from the NARWP ("family member" and a broad range of visa sub-classes), the issue has died. The NARWP fact sheet remains popular, however, because it sets out the convoluted exemptions and the visa sub-classes that attract Special Benefit.
- There remains a particular need for legislative reform to allow New Zealanders access to Special Benefit (at least) but it is apparent that this Government will never budge on this issue. Unlike the NARWP, the New Zealander issue persists and we soldier on with Act of Grace submissions for the most desperate people. Melissa is on a sub-committee of the NSW Migrant Advisory Forum (see below), on the issue.
- Our sub-committee members continue to be a reference point for the Network regarding residence issues - for casework, policy and community education purposes.
- Linda spoke at the national MAC meeting last year, on access and equity issues for migrants and refugees in accessing administrative review.
- Centrelink still seems to be administering TPV activity-testing fairly sensitively but we are concerned that policies will change under DEWR after 1 July 2006.

### 4. Future of the Sub-committee

In terms of legislative reform, we would still propose that:

- the newly arrived resident's waiting period should be abolished;

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- TPV holders should attract the full range of income support payments;
  - New Zealand citizens should qualify for Special Benefit; and that
  - the New Zealand Agreement should cover Parenting Payment Single.

We all know that none of this is going to happen, however, so we feel that our energies are best directed to ensuring that unpalatable policies are administered as fairly as possible.

Not everyone in the Network would be aware that Melissa Coad is Community Convenor of Centrelink's NSW Multicultural Advisory Forum (MAF - the new amalgamation of the old MAC and MCF). This is indeed a rather powerful position. We have always found the MAC and MCF to be great means of identifying and raising not just service delivery issues, but also for informing Centrelink, DFACS and DEWR of issues affecting migrants and refugees - for both existing and proposed legislation. Melissa's convenor-ship of the MAF has given us greater influence. Although the MAF is a NSW body, not national, Centrelink's Multicultural Services National Office is located in Sydney (outposted). We've developed an excellent relationship with Peter Rock, the National Manager Multicultural Services, who's been very much on side on various issues.

We particularly need to be mindful of the impact on migrants and refugees of the proposed Parenting Payment and DSP changes. We must ensure that the issues faced by migrants and refugees are taken into account by DEWR, Centrelink and the Job Network in devising activity test and exemption policies. The Network can push these issues at meetings with DEWR, but DEWR can tend to be dismissive of some of the issues raised if they can say "migrants - that's a Centrelink service delivery issue", or "we're talking about disability today, you'll have to take up your points regarding parents with the parenting people". Raising these issues at the MAF at the very least ensures that Centrelink and DEWR are forced to talk to each other about the issues we raised in front of us and representatives of migrant and refugee organisations.

We propose that we "euthanase" the sub-committee for now, and we can channel the powers of all-powerful Melissa as the need arises. Melissa and I are also happy to take part in other sub-committee projects from time to time, where there is a need to identify/raise issues for migrants and refugees - especially regarding the July 2006 changes.

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## 6.8 Simpler and Fairer Payment System

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### 1. Terms of Reference

- To inform and guide NWRN participation in the 'simpler and fairer payment system' review process
- To analyse and assess the Government's discussion document
- To oversee the development of a NWRN response and general policy development in this area
- To consult inside and outside the Network and to facilitate consultation by NWRN members
- To assist in the promotion of NWRN views on a simpler and fairer payment system.

### 2. Current membership

Gerard Thomas

Michael Raper

Mark Leahy

### 3. Activities to date

The committee was reviewed at the conference August 2004. (At conference it was agreed that the Sub-committee would continue as a sleeper to be reactivated if the issue re-emerges at a political/developmental level).

The Sub-committee did not meet during the period, as developments in the Welfare To Work area took precedence. However, the issues of simplification and fairness continued to feature prominently in the work of NWRN (for example, the report and lobbying around the study – "A dog's breakfast" and in our work on the 2005 Federal Budget proposals).

### 4. Future of the Sub-committee

It is recommended that the Sub-committee be formally wound up.

## 6.9 Youth

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### 1. Terms of Reference

- To follow up on the items referred to it from the NWRN Inc membership in relation to the issues affecting young people under 25.
- To progress the individual recommendations made in the NWRN report Runaway Youth Debt whilst not duplicating the activities undertaken by the Debt Sub-Committee. Activities to continue in relation to:
  - Youth debt as a result of discontinued study, including retrospective exemptions and alternative activity testing requirements and delegation to ODMs to consider waiver provisions

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- Youth debt where payments have been made to parents of the young person. Work to be undertaken to ensure young people are aware of their notification obligations in relation to payments.
  - Reductions in payments to young people as a result of repayment of an advance loan and a breach rate reduction (currently in excess of 25% of payment).
  - Lower the standard rate of withholdings to recover a debt from youth related payments.
  - Raise issues in relation to the particular difficulties of young people to comply with standard proof of identity requirements. To lobby to ensure alternative proof of identity guidelines for young people are readily accessible to and utilized by Centrelink staff.
  - To identify any emerging policy or casework issues/trends in relation to young people.

## **2. Current membership**

Melissa Coad

Kate Beaumont

Jillian Chapman

## **3. Activities to date**

There was one link up of the Youth Sub committee to discuss NWRN submission to the Senate inquiry into Student income support.

## **4. Future of the Sub-committee**

We recommend that the sub-committee does not continue at this time. Many youth specific issues can be covered by other sub-committees such as the debt sub-committee. If a youth specific issue were to arise it may be a good idea to resurrect the committee based on one specific issue rather than the existing fairly broad (and perhaps ambitious) terms of reference.

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## 7.0 Reports from NWRN nominees on outside bodies

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### 7.1 Breach Review Taskforce

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**Michael Raper**

#### **Outcomes**

The Breach Review Taskforce handed its report to Kevin Andrews, Minister for Employment and Workplace Relations in December 2004. The report found the current breach and penalty regime to be excessively harsh and counter-productive and recommended a radical overhaul that would shift the emphasis dramatically away from punishment after the event to the encouragement of compliance and re-connection.

In the Budget in May, the Government announced the end of the current breach and penalty regime from July 2006 and its replacement with a form of payment suspension in the event of non-compliance. The rationale of the Breach Review Taskforce was accepted although not the recommended replacement system.

#### **Background**

The Breach Review Taskforce was established in 2003 as a result of the agreement between the Democrats and the Government that led to the passage of the Australians Working Together (welfare reform) legislation in 2002. Whilst that legislation included changes to the breaches provisions for people on Newstart Allowance and Youth Allowance (enabling a reduction in penalty from 26 to 8 weeks), the Democrats nevertheless insisted that the whole system needed a thorough examination.

The Democrats, on advice from ACOSS and NWRN, drafted the terms of reference and suggested the composition of the Taskforce, both of which were adopted in large measure by the Government. However, whereas the recommended membership included an NWRN nominee, the Government rejected this and included two ACOSS nominees instead. NWRN did not object to this as we had reached agreement with ACOSS that one of its nominees would be from NWRN (Michael Raper).

As it turned out, NWRN played a significant role in the analysis of the issues and both the content and form of the final report. After many months of deliberation, the dynamics of the Taskforce were altered significantly by both the election results, in which it became obvious that the Government would have the numbers in the Senate, and the dramatic changes in the machinery of Government / departmental changes announced soon after. The process of reaching consensus was significantly complicated by the new, dominant role and harder line of DEWR which pushed for a much more “rapid reconnect” suspension system – a form of which ultimately prevailed in the Budget announcements.

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## 7.2 Centrelink Disability Customer Reference Group

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### Dale Nelson - WRU Melbourne

#### Frequency of Meetings in 2004-05

There were two DCRG meetings for the 2004-05 financial year, held in October and September.

Membership of the Reference Group

The names and organisations of members of the reference group for 2004-05 is listed below.

Community Sector Representatives

- Colleen Hooper – ACE National Network
- Janine Stewart – Disability Advocacy Service
- Rob Lake – National Association of People Living with HIV/AIDS
- Suzanne Varghese – Brain Injury Australia
- Isobel Collins – Victorian Mental Illness Awareness Council
- Jenny Kitchin – ACROD
- Aileen McFadzean – Blind Citizens Australia
- John Pratt – Australian Association of the Deaf
- Dale Nelson – National Welfare Rights Network
- Sue Egan – Physical Disability Council of Australia
- Dianne Qian – National Ethnic Disability Alliance
- Pamela Menere – Women with Disabilities Australia
- Belinda McAuliffe – National Council on Intellectual Disability
- Julie Austin – Carers Australia
- Dot Fox – National Indigenous Disability Network

#### Role of the Group

The role of the Disability Customer Reference Group has been discussed extensively. Its role is to advise Centrelink on service delivery matters, and somewhat more controversially, to monitor and report on the impact of policy on Centrelink's service delivery.

The Disability Customer Reference Group provides advice in some key areas:

- Centrelink staff training
- The experience of people with disabilities when dealing with Centrelink
- Employment assistance service delivery
- Activity-testing & compliance for people with disabilities

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- Medical and work capacity assessments
  - Centrelink communication

**Secretariat:** Centrelink provides all secretariat services, and meets the basic travel and accommodation costs of members as required.

Issues Explored

- mutual obligation
- Welfare to work plans
- Comprehensive Work Capacity Assessments
- The new compliance regime

### **Work Ahead**

Following last month's meeting, I am undertaking some research on addressing compliance issues for people who may be unable to comply for disability-related reasons.

## **7.3 Australians Working Together/ Participation Reference Group**

### **Gerard Thomas - WRC Sydney**

#### **1. Frequency of Meetings in 2004-05**

Meeting for the 2004-05 financial year were held in July, September, November, February, April and June, with a total of 6 meetings held over the year. Minutes for many of these meetings have previously been posted onto the NWRN Bulletin Board.

#### **2. Membership of the Reference Group**

The names and organisations of members of the reference group for 2004-05 is listed below.

Community Sector Representatives

- Di Gursansky – University of SA
- Carmel Brophy – National Rural Women's Coalition
- Gavin Dufty – ACOSS/St Vincent De Paul
- Jim Giles – Council on the Ageing/National Seniors Partnership
- Dave Ireson – Australian Youth Affairs Coalition
- Jillian Rowe – Southern Edge Training
- Sally Sinclair – National Employment Services Association
- Jac Taylor – National Council for Single Mothers and their Children
- Gerard Thomas – National Welfare Rights Network

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- Ramdas Sankaran - Federation of Ethnic Communities Councils of Australia
  - Jack Quinane – Australian Federation of Homelessness Organisations
  - Collette O’Neill – Australian Federation of Disability Organisations
  - Wilma Gallett – IPA (a private Job Network member)
  - Kathleen Swinbourne – Sole Parents’ Union
  - Margherita Coppolino – Disability consumer representative
  - Brian Babington – Families Australia

### 3. Terms of Reference

The most recently amended version of groups terms of reference, are listed below.

Centrelink *Participation* Community Reference Group Terms of Reference

#### Background

In 2000 the Government invested an additional \$483.5 million in Centrelink over four years from the *Australians Working Together* package, the Government’s initial response to the recommendations in *Participation Support for a More Equitable Society*, the Final Report of the Reference Group on Welfare Reform (the McClure Report). In the new and expanded role as the ‘gateway’ to this new participation system, Centrelink was to play an integral role in encouraging and assisting people on income support to participate economically and socially. A major component of *Australians Working Together* was the introduction of a new Personal Adviser role within Centrelink to provide case-by-case assessment and assistance for specific groups identified by Government as disadvantaged in the labour market, and to help people (some of whom would have activity requirements for the first time) identify opportunities and goals and assist them in planning to achieve these goals over time, guiding them towards greater economic participation wherever possible.

Extensive consultations with the community had occurred to seek their views on the AWT package. As part of the consultations the need for reassurance was raised by the community in relation to Centrelink’s ability to deliver the new measures and its capacity to act as a “gateway”, to introduce the new Personal Adviser role to meet the needs of and be understanding of different customer groups and to provide services in an individually tailored way, and to ensure the training of all Centrelink staff so they understand fully the new participation requirements, so that requirements of customers in their plans reflected their ability to comply.

In response to this, in May 2002 Centrelink established the AWT Implementation Community Reference Group comprised of representatives from the community sector and government to oversee the service delivery implementation by Centrelink of the Government’s *Australians Working Together* initiative. Over the two years of implementation, Centrelink shared with the Reference Group information about how Centrelink was designing its implementation of AWT and its service delivery approach, and the Reference Group members provided valuable input and advice to Centrelink on these and over time feedback on the impacts they were seeing on particular customer groups and opportunities for improvements.

In November 2004 the Reference Group’s name was changed to the Participation Reference Group in recognition of the increased focus of the Government’s policy priorities on workforce

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participation, and that the implementation of AWT was essentially complete.

### **Role of the Group**

The role of the *Participation* Community Reference Group is to provide advice to Centrelink on its service delivery and supporting arrangements for *participation services*, and to bring an understanding of the impacts and the experience of customers on Centrelink's ongoing service delivery around participation by working age customers.

The Community Reference Group provides advice in some key areas:

- The overall service delivery arrangements;
- The experience of customers;
- Emerging service delivery needs of specific customer groups;
- The operation of the participation processes and systems;
- The effectiveness of training and information for Centrelink staff;
- Centrelink staff interactions with customers;
- Opportunities to strengthen community relationships and linkages between Centrelink and other community service providers and businesses; and
- The identification of good practice.

The group will achieve this by:

- Monitoring and providing feedback on ongoing service delivery;
- Drawing on relevant stakeholder input and providing a focus for input to Centrelink by community agencies, service providers, business, customer representative groups and customers;
- Promoting ideas and opportunities;
- Receiving timely information from Centrelink on issues critical to the above; and
- Receiving information from policy departments.

**Secretariat:** Centrelink provides all secretariat services, and meets the basic travel and accommodation costs of members as required.

**Recent changes:** Late in 2004, Welfare Rights proposed that the name of the meeting be changed, to better reflect the interests of both stakeholders and government agencies. Generally, members of other Departments, including Prime Minister and Cabinet, FaCS and DEWR attend the meetings on an ad-hoc basis. The CEO of Centrelink also attends the meetings, to get feedback directly from organisations represented on the Reference Group. Representatives from Indigenous people, those with mental health problems and from the business sector, are still being sought.

## **4. Issues Explored**

A wide range of issues were discussed at the meetings, with highlights being a report on the first two years of the Personal Support Program, a report on Centrelink's draft Homeless Person's Strategy and reports on breaches and on Newstart Incapacitated assessments. A focus on the

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most recent meetings have been the Government's Welfare To Work changes, including suspensions policy, Comprehensive Work Capacity Assessments, and the impacts on Centrelink of the Welfare To Work changes. Services for young people, particularly those considered to be "at risk", has also been a focus of discussion at meetings. Further details on the activities of the group can be found on the Bulletin Board.

## **6. Next Meeting**

The next meeting is to be held on 22 September, 2005.

# **8.0 Treasurer's report**

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This year the Network budgeted to spend the money that was required for us to keep our profile up and cover the costs involved. We originally budgeted to lose about \$14,000 (a little less than we had at the end of last year) but in the end only spent about \$1,500 less (effectively a profit against budget of over \$10,000). The main source of income remains the Scully Fund and in future further funding will be required to keep the Network operating at this level. At the end of the year we had around \$20,000 in reserves, enough to keep us 'going' for a year without further external funding.

We moved money into a cash management account this year and this resulted in more than \$800 in unbudgeted income.

## **Peter Horbury**

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## 9.0 Auditor's report

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*Dalton Williamson & Company*  
Chartered Accountants

*4/1004 Doncaster Road*  
*P O Box 1063*  
*Doncaster East, Vic. 3107*  
*Tel. 9842 6766*  
*Fax. 9842 6744*  
*Web: www.dwc.com.au*

INDEPENDENT AUDIT REPORT TO THE MEMBERS OF  
NATIONAL WELFARE RIGHTS NETWORK INC.

### Scope

We have audited the financial report, being a special purpose financial report, of National Welfare Rights Network Inc. for the year ended 30th June, 2005. The Committee is responsible for the financial report and has determined that the accounting policies used are appropriate to meet the requirements of the Associations Incorporation Act 1991 Australian Capital Territory and are appropriate to meet the needs of the members. We have conducted an independent audit of this financial report in order to express an opinion on it to the members of National Welfare Rights Network Inc. No opinion is expressed as to whether the accounting policies used are appropriate to the needs of the members.

The financial report has been prepared for the purpose of fulfilling the requirements of the Associations Incorporation Act 1991 Australian Capital Territory. We disclaim any assumption of responsibility for any reliance on this report or on the financial report to which it relates to any person other than the members, or for any purpose other than that for which it was prepared.

Our audit has been conducted in accordance with Australian Auditing Standards.

The audit opinion expressed in this report has been formed on the above basis.

### Audit Opinion

In our opinion, the financial report of National Welfare Rights Network Inc. presents a true and fair view of the financial position of National Welfare Rights Network Inc. as at 30th June, 2005 and the results of its operations for the period ended 30th June, 2005.

DALTON WILLIAMSON & COMPANY  
Chartered Accountants



HAROLD HERBERT DALTON  
Partner

Melbourne  
16th September, 2005

**NATIONAL WELFARE RIGHTS NETWORK INC.**

**FINANCIAL REPORT**

Year ended 30th June, 2005

Receipts

Memberships	260.00
Levies	11,963.20
NACLC reimbursed	550.00
Conference Registrations	2,464.00
GST Refunds	1,310.00
Grant - Scully Fund	20,000.00
Interest received	889.27
	<u>37,436.47</u>

Payments

Administration costs	138.42
Audit Fee	55.00
Subscription Access	150.00
Communications (Website etc)	12,883.75
Delegation costs	9,049.78
Annual conference	4,780.92
Staffing Costs - NLO etc	11,915.00
	<u>38,972.87</u>

Funds on Hand 1st July, 2004	22,484.07
Less Excess of payments over receipts	<u>-1,536.40</u>
Funds on Hand 30th June, 2005	<u>\$20,947.67</u>

**NATIONAL WELFARE RIGHTS NETWORK INC.**

**STATEMENT OF ASSETS**

As at 30th June, 2005

Fitzroy & Carlton Community Credit Co-operative Ltd	5,947.67
Commonwealth Bank Cash Management Trust	<u>15,000.00</u>
TOTAL ASSETS	<u>\$20,947.67</u>