

14 July 2020

Our ref: KS-ACTL

The Hon Stuart Robert MP
Minister for the National Disability Insurance Scheme
Minister for Government Services
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

The Hon Anne Ruston
Minister for Families and Social Services
PO Box 6100
Senate
Parliament House
Canberra ACT 2600

By email: [REDACTED]

Dear Ministers

COVID-19: issuing of Centrelink clearances / Notices for personal injury compensation payments

Queensland Law Society (**QLS**) is the peak professional body for the State's legal practitioners. We represent and promote over 13,000 legal professionals, increase community understanding of the law, help protect the rights of individuals and advise the community about the many benefits solicitors can provide. QLS also assists the public by advising government on improvements to laws affecting Queenslanders and working to improve their access to the law.

The forwarding of correspondence requesting urgent action be taken to improve the processing times for Centrelink clearances and Notices of Charge has the support of:

- WorkCover Queensland which is Queensland's (QLD) mandatory government owned employer WorkCover accident insurer
- The Motor Accident Insurance Commission, Queensland which is responsible for administering QLD's Compulsory Third Party Insurance Scheme and manages QLD's Nominal Defendant
- Three CTP insurers in Queensland - RACQ Insurance, Suncorp, and Allianz; and
- The Australian Lawyers Alliance, Queensland Branch.

COVID-19: issuing of Centrelink clearances for personal injury compensation payments

We understand each of those entities may write, or have written, separately to you setting out their own experiences.

All other Australian Law Societies and Institutions and the Law Council of Australia are also supportive of the requests made in this correspondence. They too will, I understand, write separately to you.

The Queensland public is incredibly fortunate to have longstanding and financially strong workers compensation and CTP schemes in this State. Their roles continue to be vital during this period of uncertainty.

At the Federal level, we are aware of the unprecedented demand for Centrelink services and assistance as millions of Australians seek government support due to recent unemployment or business disruption.

We anticipate that this demand is unlikely to subside in the foreseeable future.

Compensation payments during COVID-19

The COVID-19 pandemic continues to present significant challenges for our members, their clients and the wider community.

In the conduct of personal injury claims in particular, one of the more practical concerns which has been consistently raised with us, is the current delay Centrelink staff are confronting in providing Clearance Recovery Notices. We are aware that the Australian Lawyers Alliance and WorkCover QLD have each raised these concerns with you.

We understand that there is a currently a delay in excess of 8 weeks some taking closer to 10 weeks in receiving these notices from the date they are requested. Historically, Centrelink used to produce clearances or notices as quickly as 48 hours after a request but no more than 7 days. We fear the current unacceptable delays may increase, in the context of the pandemic.

As you would be aware, under the *Social Security Act 1991* (Cth), once notice of the recoverable amount is given, the compensation payer or insurer is liable to pay to the Commonwealth the amount specified in the notice. Where notice has been given either as a preliminary notice or by a recovery notice to the compensation payer or insurer, it is an offence, to make a compensation payment after receiving such notice¹. Where notice has not been given to the compensation or insurer, a recoverable debt may be raised against the claimant.

The provision of timely notices of recoverable debts from Centrelink is therefore, a critical element in ensuring that any settlement monies are paid promptly to claimants and to ensure claimants are not exposed to unnecessary subsequent recovery actions from Centrelink.

The current delay is causing claimants to continue to receive Centrelink benefits for longer than otherwise necessary and delaying Centrelink's recovery of refunds payable.

In addition to those adverse impacts on Centrelink the current excessive delay is creating additional stress and anxiety for claimants who, after many years have agreed to resolve their

¹ *Social Security Act 1991* (Cth), s 1184D(1) and (2).

COVID-19: issuing of Centrelink clearances for personal injury compensation payments

damages claim, only to then be required to wait up to a further 12 weeks before payment can be made in some circumstances where no refund is payable to Centrelink at all.

We write to request this current backlog be urgently addressed so that:

1. Claimants can cease receiving Centrelink benefits,
2. Claimants can receive the damages and compensation payments and move on with their lives, and
3. Centrelink can receive its refund and close its file.

Proposal

In order to overcome the challenges presented to your staff at this time and to assist vulnerable claimants in minimising delays to their receipt of settlement funds, QLS, together with the key compensation payers and insurers in our State, the other State and Territory's Law Societies and Institutes and the Law Council of Australia urge the Federal Government to move promptly to engage a surge capacity in Centrelink to meet this elevated demand period.

This will enable increased direct service requirements to be met and existing workloads, including the prioritising of notices and clearances, to be progressed promptly. We understand that Medicare has previously taken similar steps.

The engagement of such a taskforce will not only serve to benefit thousands of personal injury compensation recipients, during a time when they may be particularly vulnerable, but it will also have the added benefit of freeing up and reducing a future backlog of work for Centrelink staff in the coming months.

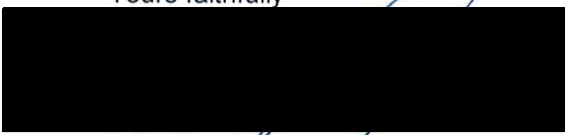
We would be pleased to have the opportunity to speak with you about this issue further at the earliest opportunity if you consider a discussion would be of assistance.

Once the current backlog is reduced we, and all other Law Societies, Insurers and regulatory authorities, wish to discuss with you proposals that might be implemented to minimise the risk of the backlog occurring again. QLS and the Queensland Insurance Commissioner would like to convene a workshop for this purpose. We believe there are opportunities to improve the speed and accuracy in recognition of repayment amounts and the processing of these reimbursements to Centrelink, which would not only be to Centrelink's benefit but all key stakeholders who engage with these processes,

We can arrange for representatives from each of the above named stakeholders to be available for such a discussion.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on (07) 3842 5930.

Yours faithfully


Luke Murphy
President

COVID-19: issuing of Centrelink clearances for personal injury compensation payments

Copy to: Mr Anthony Seebach
General Manager, Debt and Appeals
PO Box 7788
Canberra BC ACT 2610

Ms Rebecca Skinner
Chief Executive Officer
Services Australia
PO Box 7803
CANBERRA BC ACT 2610