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## Submission to the Senate Inquiry into the purpose, intent and adequacy of the Disability Support Pension

### Executive Summary

Financial Counselling Victoria (FCVic) welcomes the opportunity to make a submission to the Committee on this important inquiry into the purpose, intent and adequacy of the Disability Support Pension (DSP).

Financial counsellors in Victoria work with and represent large numbers of clients who interact with the Federal systems of support, in particular the DSP and JobSeeker, and have considerable insight into the problems people encounter in accessing those systems and making them work fairly and supportively. This submission, drawing on client experiences and our members' professional observations, raises a number of concerns about the DSP failing to provide support to many vulnerable community members and people living with a disability

Fundamentally, it defeats the purpose of the DSP if it is run on the basis of making it difficult to access and impossible to live on for people with complex medical and social support needs (precisely the people it is meant to support). In making that point, we wish to draw the Committee's attention to the following key issue areas and associated recommendations:

1. DSP application process unfit for purpose
  - Eligibility criteria, assessment and determination
  - Health assessments and medical evidence
  - Program of Support (POS)
  - Unacceptable delays in assessment of claims

⇒ **Recommendation: Review/reform of application and assessment processes – more transparent; guided by principles of support and enabling access; simplifying application process; and reducing barriers, discrimination against mental health conditions**
2. Inadequate rate of payments
  - ⇒ **Recommendation: Review the rate of the DSP to take account of current rental costs, and disability/medical costs, and ensure that recipients are able to live above the poverty line.**
3. Interaction of the DSP with JobSeeker
  - ⇒ **Recommendation: The Department/Services Australia establish a review process for people who have been on JobSeeker for over 18 months to consider whether DSP would be a more appropriate form of support, and to ensure reasonable assistance is provided to enable a simplified DSP application to be made.**

## About Financial Counselling Victoria

Financial counselling is a regulated profession providing free, confidential and independent advice and advocacy for people in, or at risk of, financial hardship. Financial Counselling Victoria (FCVic) is the peak, professional body for financial counsellors in Victoria, and a member organisation of Financial Counselling Australia. FCVic advocates on behalf of financial counsellors and their clients on systemic issues that cause and exacerbate poverty and hardship.

## Introduction

FCVic convenes a Centrelink Working Group, which brings together financial counsellors in Victoria concerned about improving social security systems so that they are more effective in supporting vulnerable people. The working group brings insights garnered from providing support to and advocating for clients in hardship who interact with the social security system.

The experiences of our clients, and of financial counsellors' own interactions with the Disability Support Pension (DSP) system, point to systemic problems with the accessibility of the DSP and the adequacy of the payments. Indeed, many financial counsellors report that just the process of applying for the DSP has exacerbated their clients' existing physical and mental health conditions.

This feedback points to a key issue for the Committee to examine: How can the disability support system be reformed to ensure its operation and administration are consistent with what should surely be its purpose and intent – to support and improve the capacities and lives of Australians living with disabilities. Sadly, at present we do not believe the DSP is administered in a manner consistent with those fundamental objectives.

Despite the problems we are identifying, the DSP provides crucial support for many people who are excluded from standard employment by their circumstances. However, the significant deficiencies we identify in this submission mean it is currently failing to support many Australians unable to work due to medical conditions, and for those fortunate enough to access it, there are questions about its adequacy in some circumstances.

### 1. DSP application process unfit for purpose

The issue most commonly observed by financial counsellors is the difficulty of the DSP application process. Particularly for people who are applying due to poor mental health, the barriers posed by the application process are often almost impossible to navigate, as is evident in the case studies outlined below. People who are often fundamentally unable to obtain employment due to a disability are then forced to go on JobSeeker, with a lower rate of benefit, and additional requirements that they are often not able to meet. Many applicants require significant support just to complete the claim form, but access to support services is limited, particularly for those living in rural or regional areas.

For people with disabilities who are homeless or in precarious accommodation, primary services like food and shelter are prioritised by necessity. A person in these circumstances who, on paper would appear clearly eligible for the DSP, has little chance of negotiating the onerous application process and expensive medical appointments. Consequently, their inability to access disability support payments puts them at risk of being trapped in a cycle of homelessness.

### a) Eligibility criteria, assessment and determination

For the purposes of DSP eligibility, a person must have a permanent condition, defined by the Department of Social Services as a medical condition which is “fully diagnosed, treated and stabilised and is more likely than not, in light of available evidence, to persist for more than 2 years”.<sup>1</sup>

According to financial counsellors with experience assisting clients to make DSP claims, the word ‘fully’ creates problems as its meaning is unclear, and in many medical situations impractical.

A financial counsellor who was consulted for this submission reported speaking to a person on ABStudy payments who had been in a serious car accident and broken their spine in two places but could not get on to the DSP because they were not ‘fully diagnosed’ or ‘fully treated’, even though they were significantly impaired and would continue to be impaired for more than 2 years. Removing this requirement from the definition of ‘permanent condition’ would enable people living with disabilities to receive the support they require to maintain reasonable living standards.

The impacts of COVID-19 and lockdowns in Victoria have resulted in some medical treatments being unavailable for months, and many waiting lists for specialists have been blown out to years as a result. This has flow on effects for people who are waiting for these appointments for their medical condition/s to be ‘fully’ diagnosed, treated and stabilised for the purposes of their DSP claim.

People living in rural or regional areas and remote communities are further impacted due to the shortage of local medical professionals who are qualified to provide evidence for DSP claims, compared to people living in metropolitan areas. The continuation of Telehealth for medical appointments would be of great assistance to those applying for the DSP outside of metropolitan centres, although many of these people would remain undiagnosed due to the unaffordability of specialists.

### b) Health assessments and medical evidence

Medical evidence from specified professionals directly addressing the DSP eligibility criteria is an essential component of an application for the DSP. The way that the system is currently structured means that medical professionals are inadvertently the gatekeepers for the DSP, often without understanding the application process or the significance of their role within it.

Financial counsellors are concerned that it is very difficult for people on low incomes to access and engage with health professionals who are willing to treat them and provide the required medical evidence. Applicants are often seeing many different health professionals, meaning that individual doctors do not have the background to provide information required for applications. Moreover, when almost every person applying for the DSP is, in the interregnum, surviving on the below-the-poverty-line JobSeeker payment, our experience is that few applicants have sufficient financial resources to enable them to access the necessary medical expertise to support their application.

For mental health conditions, diagnosis of the medical condition causing the impairment must be made by a psychiatrist or an appropriately qualified medical practitioner with evidence from a clinical psychologist. Clinical psychologists and psychiatrists are unaffordable for many people, and a full diagnosis for the purpose of the DSP may require more than one appointment – increasing the cost substantially.

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<sup>1</sup> [Social Security \(Tables for the Assessment of Work-related Impairment for Disability Support Pension\) Determination 2011](#)

There is also a gap between the language in which medical professionals write reports, and the language effectively required by Centrelink to regard a claim as meeting the criteria. For example, medical professionals can often be deliberately optimistic in terms of a prognosis for the sake of their patient's outlook and tend to write reports that way. However, a realistic picture of their patient's medical condition may well be what is required to satisfy the DSP application criteria. Few medical professionals are also expert in how to write reports for vetting by Centrelink.

Another perverse element of this situation is seen in the reports of medical professionals charging impecunious patients additionally for the administrative impost of preparing reports for Centrelink.

### c) Program of Support (POS)

To satisfy the [Continuing Inability to Work] ([1.1.C.330](#)) criteria for the DSP, people who claim the DSP on or after 3 September 2011 and are assessed as not having a severe impairment ([1.1.S.127](#))...must demonstrate that they have actively participated in a POS. This POS with a job provider must occur for a period of at least 18 months in the 36 months before a DSP claim is made, unless the person was unable, solely because of his or her impairment, to improve their capacity to prepare for, find or maintain work through continued participation in the program.<sup>2</sup>

Financial counsellors observe that the POS process and requirements are poorly understood by medical professionals and applicants alike. These issues with understanding are reinforced by Centrelink, resulting in people feeling 'not disabled enough'.

'Severe impairment' is defined as 20 points under a single Impairment Table, which does not take account of the combined impact of two or more 'moderate impairments'. In addition, as outlined above, there are many difficulties associated with gathering medical evidence for 20 points under a single Impairment Table. This means the POS requirement often ends up being applied to people who should not be required to meet it, or alternatively, that DSP recipients are forced to go through expensive and psychologically debilitating processes to demonstrate the 'severity' of their impairment, or risk losing access to the DSP altogether.

### d) Unacceptable delays in assessment of claims

As is evident in the case studies outlined below, applicants often encounter extremely long waits for claims to be processed. In the process of preparing this submission, we heard from one financial counsellor who reported that a client with a pending claim for the DSP had waited 14 weeks so far with no response, and as a result he is borrowing money for living expenses, and that others in a similar position had resorted to Cash Converters for the same reason.

Even clients who have submitted an application under the terminal illness provision (which should be fast tracked) are waiting four weeks and more. The same financial counsellor had received reports of clients dying before their application was approved under the same terminal provisions.

## 2. Inadequate rate of payments

Financial counsellors strongly believe that the DSP rate needs to increase as the current rate is only really tenable for public housing residents (whose rent is limited to no more than 30% of income). This is because the rate of the DSP has not increased commensurate with the increase in rental cost. For those living in supported

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<sup>2</sup> [SSAct](#) section 94(2) A person has a continuing inability to work...

accommodation, their rent can be as high as 85% of their DSP benefit, while it is well established that rent needs to be under 30% of income to prevent the tenant from living in poverty<sup>3</sup>.

DSP recipients also often have increased living and medical expenses as a result of their disability, which also raises issues with the adequacy of the rate of the DSP.

*Recommendation: Review the rate of the DSP to take account of current rental costs, and disability/medical costs, and ensure that recipients are able to live above the poverty line.*

### 3. Interaction of the DSP with JobSeeker

Financial counsellors encounter many clients having to make do with JobSeeker payments because they cannot access the DSP due to the issues identified above. Consequently, the experience of financial counsellors suggests that there may be many people living with significant disabilities and trying to survive on the lower JobSeeker payments. The differential rates between JobSeeker and the DSP have created perverse incentives for the Government to minimise access to the DSP and maximise the number of people on JobSeeker, even where there is no real likelihood of labour market participation. We suspect these incentives, as they did with the Robodebt scandal, operate in a range of ways within the Department, and remedial action is warranted to address their impacts over time.

*Recommendation: The Department/Services Australia establish a review process for people who have been on JobSeeker for over 18 months to consider whether the DSP would be a more appropriate form of support, and to ensure reasonable assistance is provided to enable a simplified DSP application to be made.*

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<sup>3</sup> Australian Institute of Health and Welfare 2021. Housing affordability. Canberra: AIHW. Viewed 12 July 2021, <https://www.aihw.gov.au/reports/australias-welfare/housing-affordability>

## Case study 1 - Lived experience of the DSP application process while experiencing mental illness, physical health issues and homelessness as a result of bushfire

Lisa\* and her children became homeless as a consequence of the catastrophic 2009 bushfires in Victoria. After 18 months of temporary inadequate living arrangements, separated from some of her children, she was eventually rehoused appropriately with her children.

Lisa had always worked, sometimes several jobs at once to support her family. At the age of 40 her health deteriorated, both physically and mentally and she has not been able to work since, due to enduring health issues. Since losing her employment she has been reliant upon NewStart/JobSeeker and Family Tax Benefit.

Lisa was diagnosed with PTSD, anxiety and depression as well as a physical health issue. Lisa states health experts involved in her care and treatment have recommended she apply for the Disability Support Pension as she has no work capacity. She has now made applications for the DSP three times in the last six years but is still struggling on JobSeeker.

The first application was rejected for no clear reason and Lisa felt too unwell, isolated and overwhelmed to appeal the decision.

Some years later she made a second application as surviving on Newstart Allowance meant she was having difficulty accessing appropriate supports and was struggling to pay for medical expenses. Again, the claim was rejected for no clear reason.

Lisa has made a third claim for the DSP in the last year and has had some support from professionals but was still not aware of the criteria of eligibility, including the condition being fully diagnosed and fully treated and the impairment table points system. She thinks her medical professionals may not have used the Centrelink appropriate language and she has therefore been asked by Centrelink for more information to be provided within a three-month timeframe. Lisa is now stressed that she is unable to see her health professionals due to the COVID-19 restrictions and will also need to save another \$430 upfront fee to see her psychiatrist for the sole reason of completion of a report which addresses the specific DSP eligibility criteria.

Lisa reports the whole DSP application process has been draining, frustrating and makes her health conditions worse. She is often told by her health professionals and front-line Centrelink staff that she should be on the DSP, but her attempts to satisfy the criteria to access the DSP have so far failed, at significant financial and emotional cost, and she still remains unclear about the criteria and what she has to do to satisfy them.

\*Name changed

## Case study 2 - First person account from a DSP applicant with lived experience of polysubstance abuse and complex mental health issues

On the 28th of July 2016 I was terminated from my job as a result of my complex mental health issues. I had been battling mental health issues for many years and it had got to the point where I no longer had the energy to get out of bed each day and I was reported missing by my employer. I soon lost my job as a result of my absenteeism.

I first went on to Job Seeker with a medical exemption and, in early 2017 my GP told me to apply for DSP as he could not see me working in the foreseeable future due to my problematic use of methamphetamine (ICE) and associated medicolegal problems, Anxiety disorder, Benzodiazepine dependence, Cluster B personality traits, Depression - Major and Polysubstance Abuse.

I went to the Heidelberg Centrelink Office with my mum and we spoke to a worker and asked her to take us through the required documentation to apply for DSP and she clearly communicated that a Psychologist Report accompanied with a report from your GP is what is required to apply.

I was already seeing a Psychologist for my mental health so I simply requested a report. My mum and I started the application and submitted the required reports about 6-8 weeks after starting it and awaited a response.

A couple of months later I received a letter from Centrelink stating that my DSP Claim had been rejected as I did not meet the criteria. It was really unclear why, so my mum and I went back to the Heidelberg [sic] Office and we spoke to the same staff member and asked why had it been rejected. She said she was unsure why. So I asked for the decision to be reviewed and, about a month or two later I was informed that the decision stood and I was still not clear as to why I was rejected. It is hard enough battling mental health issues but having to deal with Centrelink and the DSP process, it just exacerbated my mental health issues on every encounter with them and the lack of support they offer people applying for DSP.

So I called up Centrelink Head office and requested to speak to a manager about my claim. I called several times and each time, I was told a different reason why it was rejected or they simply said I didn't meet the criteria. Finally I was put on to the person who rejected the claim and they opened my file and told me was simply all I needed was a Psychiatrist Report not a Psychologist Report. I essentially needed the letter head to be changed as the details in the Psychologist Report met the criteria. I also was told I had to start a new claim.

I then was faced with the next challenge in late 2017 which was to find a bulk billing Psychiatrist as my Psychologist was not linked in with any Psychiatrists. This was a very stressful and difficult task and I asked Centrelink for support to find one. They told me they could not assist and it was my responsibility to find one for my application. I asked my GP for assistance and he told me that I definitely needed to see one for a medication review as well as for Centrelink but he did not know any Bulk Billing Psychiatrists in Victoria and he simply said they do not exist. My mum and I called over 50 Psychiatrists in Melbourne over a week or two and all of them stated they didn't bulk bill and that I would need 2 appointments plus the report and the cheapest price quoted was \$1200 and a waiting time of 2 - 3 months.

I again contacted Centrelink Head Office and asked if they could assist me with the \$1200 I needed to see the Psychiatrist for my DSP application as I do not have that amount of money available to pay for it as I was living on subsistence [sic] with the Job Seeker Payments. They told me they could not offer any financial assistance. At this point, I really felt that it was not possible to get on DSP as Centrelink offers no support to those who meet the criteria to do so.

In early 2018 the Detox program I completed linked me in with an AOD worker at Banyule Community Health and she desperately wanted a medication review by a Psychiatrist on the back of my numerous CAT Team assessments and complex mental health issues as well as she wanted to assist me in getting on DSP. So she fought and advocated for me within the health system and managed to get me 2 bulk billed appointments with a Psychiatrist and a report for Centrelink. I had to wait about 2 months to see the Psychiatrist and, by mid-2018 I had the report required to apply for DSP. So with my mum pushing me and her support and assistance, I finished off a new application and submitted it to Centrelink.

A month or two later I received a letter response stating that my application for DSP had again been rejected and no clear reason was given. I again appealed the decision with Centrelink. I was sent another letter outlining my appeal was rejected. So the punches kept coming. My mum had not given up hope for her son getting onto DSP whereas I had. Dealing with Centrelink and trying to get DSP was traumatising me and I wanted to give up as it was exhausting.

After this appeal was rejected and numerous more phone calls to Centrelink, I was made aware that I could request it be heard by the Administrative Appeals Tribunal and it was listed to be heard in early 2019.

In the hearing at the Administrative Appeals Tribunal I was clearly told for the first time since applying for DSP what the issue was and it was that the report I had got written to support my DSP application was from a Psychiatry Registrar who was part of the CAT Team and not a fully qualified Psychiatrist and simply if the information in the report was written on the correct letter head I would meet the criteria. Also I was clearly told that you need 20 points across 4 categories and I have 20 points in 1 category alone. I also was told by the tribunal that they really feel for people like me who meet the criteria and should be on DSP but struggle to get on it because of the barriers Centrelink put up to get on it, the red tape as well as the lack of support they offer applicants.

So again my mum and I called around and tried to find a Bulk Billing Psychiatrist with no luck, so I called Centrelink Head Office and I spoke to a manager in DSP Claims and I explained my circumstances and I proposed that we bypass my right to an independent Psychiatrist and the Centrelink only go off their Psychiatrist that I have to see at part of the DSP process and I was informed that this was not possible and I had to provide a Psychiatrist Report.

A few months later I had to attend the Heidelberg Centrelink Office as my payments had been cut off as I had not submitted my doctor's certificate on time exempting me from looking for employment as I was medically unfit for work and I have been since getting on Jobseeker Payments in 2016. I spoke to a worker and requested that I be reinstated on the day and she looked up my file and then said there is no way she is reinstating me as I have never attended my Job Agency appointments. I explained I have been medically exempt and I am not required to attend the appointments and she told me that she would not reinstate my payments. I then said I want to speak to a manager and I am not leaving until I am reinstated. At this point she then pressed the emergency button on me, so I calmly walked out of Centrelink.

Following this encounter I was banned from calling Centrelink and entering any of their offices and if I needed to contact them I had a special number to call and to leave a message and if they think my query was worthy they will call me back. When they called back and if they called back it would be from a private number and if I missed the call, well that's too bad. This made it almost impossible to proceed with my DSP claim and it put the final barrier in place in moving forward with my claim.

Fortunately while completing the Catalyst Program through Uniting Care I was linked in with an amazing and supportive financial counsellor and she put me on to Berrill & Watson Lawyers who are now advocating for me





on my DSP claim and I have hope it will be resolved almost 5 years after first applying and all the stress, anxiety and turmoil I have been through.

I am still banned over 2 years later since the incident at Centrelink from entering their offices or calling them and I have complied with all their requests and to be honest the ban should have never been put in place. However Centrelink did a quarterly review on me in June 2021 after I submitted a doctors certificate exempting me from work and once I told them I now have an advocate Berrill & Watson they instantly changed their tune and they done a review of how I interact with them and they will be removing the ban and I will be able to contact them like any other person.