



## Fact Sheet 2: Appealing a Centrelink Debt Because of Domestic Violence

### 1. Introduction

If you receive Centrelink or Family Assistance payments (or have received them in the past), Centrelink can raise a debt against you if it thinks you have been paid more than you were entitled to receive.

If you are experiencing domestic violence, there are some common issues that can result in Centrelink raising a debt. This factsheet explains some of the common reasons why someone experiencing domestic violence might have a debt with Centrelink. It also explains where to get help with a Centrelink debt.

### 2. How do I know if I have a Centrelink debt?

Usually, you will know that you have a Centrelink debt because Centrelink has sent you a letter, called an 'Account Payable' letter. This letter will tell you the reason for the debt, the debt amount, the due date to repay the debt, and how to repay it. If you are still receiving Centrelink payments, Centrelink may withhold part of your payment to repay the debt so you will notice that you receive less money than your normal payment.

### 3. Common ways that debt can occur when you are experiencing domestic violence

Below are some common ways that Centrelink debts can arise, but it is not a complete list. If you think you have a debt with Centrelink, it is a good idea to get some legal advice.

#### 3.1. Centrelink believes that you are or were a member of a couple

Most Centrelink payments are paid at different rates for single people and members of a couple. The singles rate is higher, because if Centrelink thinks you are in a relationship, it assumes that you both benefit from the combined income. Your relationship status is also important to work out if you qualify for Centrelink payments.

If you are married or in a registered relationship, you are taken to be a member of a couple for all payments. If you are in a 'de facto' relationship, Centrelink will assess your circumstances to decide if you are a couple.

While Centrelink does take domestic violence into account when it is deciding whether you are a member of a couple, domestic violence does not automatically mean that you will be considered a single person, even if your partner does not share money with you. This means that if you reported to Centrelink that you were a single person, Centrelink may decide that you were part of a couple and that they overpaid you.

#### 3.2. Overpayment based on care of children

If you have children, you may receive Family Tax Benefit. Family Tax Benefit Parts A and B are Family Assistance payments (and the Part A and Part B supplement) are paid to parents with children and calculated based on your family's circumstances (including your income plus the amount of child support you receive). If you are the principal carer for the children, you may also receive the Parenting Payment.

Sometimes perpetrators of domestic violence make false claims about who cares for the children, or how much they care for the children. When this happens, Centrelink is alerted that the claims for the care of the children do not add up. This can cause Centrelink to believe that you have been overpaid, and you may receive a letter from Centrelink saying that you need to repay a debt.

### 3.3. Overpayments caused by delays in child support payments

Sometimes perpetrators of domestic violence can delay their tax returns in order to delay the payment of child support. When the ex-partner's income and child support is finally assessed and paid (in part or in full), it can result in Centrelink sending a notice of overpayment because they have recalculated how much Family Tax Benefit you should have been paid in that tax year.

Emma left home with five dependent children due to family violence in 2018. Her ex-husband delayed doing his tax returns to delay calculation of child support. She received Family Tax Benefit for approximately two years while he refused to lodge his tax return. When he finally did in 2020, his income was assessed and he was ordered to pay \$18,000 child support arrears but paid only \$7000. Emma received a debt notice in 2021 for more than \$8000 for overpayment of Family Tax Benefit between 2018 and 2020.

## 4. What can I do if I disagree with a Centrelink debt?

Centrelink is not always right when it says someone has a debt, and even if the debt is correct there may be reasons why it would be unfair to recover it. However, Centrelink rules are complex and if you are considering challenging a debt, you should get legal advice first. There can be risks involved in appealing Centrelink debts. When you challenge a debt, Centrelink may do more investigations and come to a new decision. So your debt could decrease, but it could also increase.

There are four main types of challenge:

1. You believe that Centrelink has made an incorrect decision that you were overpaid  
*For example, if they have decided you were a member of a couple, but you were not.*
2. You agree that you have a debt but you think that Centrelink hasn't calculated the debt correctly  
*For example, if Centrelink decided you were a member of a couple between 2015 and 2020, but you separated in 2019.*
3. You agree that you have a debt, but the overpayment was made because Centrelink made a mistake  
*For example, if you informed Centrelink that you had moved in with someone in 2019, but they lost the information and continued to pay you at the single rate.*

4. You agree that you have a debt, but it would be unfair for Centrelink to recover it due to your difficult circumstances, for example, if you are the victim of domestic violence.

*For example, if you ended up with a Family Tax Benefit debt due to the delay in your ex-partner lodging his tax return. You may be able to argue that this was part of a pattern of abuse and that there would be a severe impact on you and your children if this debt was recovered.*

If Centrelink believes you knowingly made false statements, or deliberately failed to provide Centrelink with correct information, you may get a letter from Centrelink saying that your debt is being considered for prosecution. **You should get legal advice as soon as possible if this has happened to you.**

## 5. Where to get help?

Centrelink and social security laws are complex, and the rules can be confusing. If you are experiencing domestic violence and having issues with Centrelink, you should get some legal advice.

Canberra Community Law specialises in social security law and can give you advice and assistance with Centrelink.

## Disclaimer

This factsheet contains general information available at the time of publication. It does not constitute legal advice. If you have a specific legal problem please contact Canberra Community Law's advice line on 02 6218 7900.

Canberra Community Law is entirely independent of Centrelink. All assistance is free.