

Domestic Violence and Centrelink

AskLOIS

Factsheet



This fact sheet summarises the Ask LOIS webinar on this topic presented on 4 November 2020 by DONNA FLOOD, SOLICITOR, WELFARE RIGHTS CENTRE (NSW)

To view this webinar for free, or to access other resources, visit www.asklois.org.au

This factsheet will cover the following:

- How does Centrelink define FADV?
- How FADV can affect an existing relationship with Centrelink
- Common issues victims face when trying to access or change a payment
- How to obtain a Crisis Payment
- Residency issues
- Newly arrived residents waiting period (NARWP)
- Special Benefit and NARWP
- Debts
- Changes as a result of COVID-19

How Does Centrelink define Family and Domestic Violence (FADV)?

Centrelink uses the following definition:

- *“Domestic and family violence occurs when someone tries to control their partner or other family members in ways that intimidate or oppress them.*
- *Controlling behaviours* can include threats, humiliation ('put-downs'), emotional abuse, physical assault, sexual abuse, financial exploitation and social isolation, such as not allowing contact with family or friends.
- *Family violence* means conduct, whether actual or threatened, by a person towards, or towards the property of, a member of the person's family that causes that or any other member of the person's family to fear for, or to be apprehensive about, his or her personal well-being or safety.
- *Domestic violence* can include violence to someone who is not a family member, for example co-tenants and people in shared housing situations”.

How FADV can affect an existing relationship with Centrelink

- **Care of children** - Proving who children live with after a relationship breakdown can be difficult, which can affect benefit entitlements.
- **Financial independence** - If the perpetrator receives the Centrelink payment for both parties, the victim may not have the financial resources or support to leave the relationship.

- **‘On again/ off again’ relationships** – It can be difficult to know what to tell Centrelink about whether a victim is a member of a couple or separated under one roof.
- **Financial abuse** - The perpetrator may be hiding income or forcing non-reporting.
- **Threats** – Perpetrators and their supporters can make threats of ‘dobbing in’ to Centrelink to control the victim.

Common Issues Victims Face when trying to access, or change a payment

- **‘Principal carer’** - Parenting Payment Single can only be paid to one parent (not both) so there can be disputes about who should be paid.
- **Loss of care of children** – Centrelink must be notified within 14 days of any change to custodial arrangements, but it can be unclear whether a victim has lost custody in circumstances where a partner refuses to return the children.
- **Child Support payments** - Family Tax Benefit payments are assessed on how much a victim is meant to receive - not what they are actually receiving, which can lead to a significant reduction in Centrelink payment. It is possible to have the payment calculated on the amount of money actually received rather than what the Child Support Agency assessed should be received.
- **Young people** – Young people may need to establish they are independent from their parents and that parental income should not be considered. If unable to do so, they may be paid the lower, dependant rate or be precluded from payment entirely due to parental income.

YOU CAN REQUEST THAT A SOCIAL WORKER CONTACT THE CLIENT TO HELP GATHER EVIDENCE OR ACT AS AN INTERMEDIARY BETWEEN CENTRELINK AND THE CLIENT – 132 850

How to obtain a Crisis Payment

To obtain a Crisis Payment as a result of FADV, Centrelink must be contacted:

- Within 7 days of the perpetrator leaving the house or
- Within 7 days of the victim making the decision that they cannot return to the house.

An application must be lodged within 14 days of first contact with Centrelink.

Up to 4 applications can be made in 12 months (Crisis Payments required for other reasons will still be payable in addition to these payments).

PEOPLE SHOULD MAKE SURE THEY TELL CENTRELINK THEY ARE CONTACTING THEM BECAUSE THEY NEED CRISIS PAYMENT!

Residency Issues

- Temporary Australian residents are not entitled to Centrelink benefits
- New Zealand citizens:
 - Who entered Australia on a special category visa and are NOT Australian citizens are eligible to be paid JobSeeker Payment for six months only. This can only be claimed once in their lifetime and in limited circumstances.
 - NZ citizens may be eligible for the New Zealand disability support or age pension while residing in Australia, but only in limited circumstances.
 - NZ citizens may be eligible for Family Tax Benefit and Child Care Subsidy payments.
 - If a NZ citizen becomes a permanent resident, the Newly Arrived Residents Waiting Period will apply.

Newly Arrived Residents Waiting Period (NARWP)* and Qualifying Residence Period

* if permanent resident visa granted since 1 January 2019

Once permanent Australian residency has been granted the applicant will need to wait until they are eligible to claim a payment:

- JobSeeker, Carer Payment or Parenting Payment: 4 years residency in Australia.
- Family Tax Benefit A: One year residency
- Family Tax Benefit B: No waiting period

Age Pension and Disability Support Pension have a 10 year Qualifying Residence Period that is separate from the NARWP.

DOMESTIC VIOLENCE IS A 'SIGNIFICANT CHANGE IN CIRCUMSTANCES' SO A VICTIM MAY BE ELIGIBLE FOR SPECIAL BENEFIT DESPITE A NARWP BEING IN PLACE.

Special Benefit and Newly Arrived Residents Waiting Period

A person serving a NARWP may be eligible for Special Benefit if a significant change in circumstances occurred

after arriving in Australia and after getting an onshore permanent residency visa

A significant change can include:

- relationship breakdown
- family and domestic violence

If the breakdown of the relationship and FADV occurred in Australia before permanent residency was granted it may be accepted as a significant change in circumstances for Special Benefit, provided the change in circumstances was caused by the FADV, e.g. leaving a relationship or homelessness.

Children may be eligible for Special Benefit even if their parent is not eligible, e.g. if child is an Australian citizen.

WE ALWAYS RECOMMEND TESTING YOUR ELIGIBILITY FOR A PAYMENT BY MAKING AN APPLICATION FOR SPECIAL BENEFIT NO MATTER WHAT VISA YOU ARE ON OR WHEN YOU ARRIVED

Case Study

17 year old Min contacted us when living in a homeless shelter. She'd had to leave home due to FADV but had been rejected for a Centrelink payment as she was on a temporary visa. All we could do was refer her to the Immigration Advice and Rights Centre (another CLC) and ask her to come back when she got her permanent residency.

Min returned a couple of months later. The Newly Arrived Waiting Period (NARWP) had been waived due to COVID but she was struggling to get on payment as Centrelink wouldn't grant her 'independent' rate without talking to her parents first to prove she'd left because of violence. Centrelink also failed to refer her to a social worker to make an assessment or recommendation.

Min is now on payment after Centrelink talked to her mother but not her father. We've advised Min that her payment will be cancelled when the NARWP is reinstated as she has a 4 year waiting period from the date she received permanent residency before she is eligible for a Centrelink payment. Once the NARWP applies again, she will no longer be eligible for Youth Allowance.

As DV led to Min leaving home and becoming homeless (even though it was before becoming a permanent resident) she should be eligible for Special Benefit. We have advised her to apply before her payment is cancelled so that her payment continues without gaps.

Debts

Centrelink debts can be incurred for many reasons including:

- Incorrect reporting of income because the perpetrator refuses to disclose their income.
- Parenting Payment being received by a parent when the children are not in their care. If a Parenting Payment debt is due to non-return of children to the parent the children usually live with, that parent's efforts to return the children to their care can be used as evidence for a debt waiver (including police reports).
- A tax return not being lodged by a member of a couple receiving Family Tax Benefit (FTB). This can result in the entirety of what was received as FTB being raised as a debt.

Remember:

- FADV can be used as evidence that the victim should not be considered a 'Member of a Couple' for social security purposes.
- FADV can be accepted as evidence towards waiver of a debt.
- Relationship breakdown can be used to request a temporary write-off of a FTB debt due to non-lodgement of tax returns by the ex-partner.

BUT NEVER APPEAL A DEBT WITHOUT GETTING LEGAL ADVICE AS DEBTS CAN AND DO INCREASE ON APPEAL!

Changes as a result of COVID

- Economic Support Payment – 2 x \$750 payments paid in 2020
- Coronavirus Supplement – Was \$550, now \$250 fortnightly (not for Carer Payment /Carers Allowance, Aged Pension or Disability Support Pension) - Ends 31 March 2021
- Waiver of Newly Arrived Residents Waiting Period - Ends 31 March 2021
- Waiver of Assets Test & Liquid Assets Waiting Period - Ended 25 Sept 2020
- Increase in partner income test - Income free area now \$1,165, tapers at 27c per \$1
- Increase to personal income free area from \$104/fortnight to \$300/fortnight

- Pause in raising of debts - Ended 31 Oct 2020

- Pause in recovery of debts - Ends Feb 2021.

Note: If a person is struggling financially because they have left a relationship, they can contact Centrelink and ask for their debt repayments to be put on hold for a period or reduced to a manageable level.

- Suspension of mutual obligations - Ended Sept 2020 or November 2020 in Victoria (except small business). FADV can be a reason for mutual obligations to be temporarily suspended.

Important Dates to remember

No guarantee the Coronavirus Supplement will continue past 31 March 2021.

- JobSeeker Payment may then return to \$40 a day
- possible expansion and/or extension of JobKeeper to March 2021

Debt pause finished 31 October 2020. Debt recovery resumes from February 2021.

Newly Arrived Residents Waiting Period will be reintroduced on 1 April 2021.

Mutual obligations have recommenced – FADV is considered to be a special family circumstance for temporary exemption from mutual obligations.

How to refer clients to Welfare Rights Centre

Clients: 9:30am – 12:30pm Mon & Wed
Phone 02 9211 5300
 1800 226 028

Website <https://welfare-rightscentre.org.au/need-help>

Warm Referral: 9 – 5pm Mon - Fri
Admin 02 9211 5389
Email sydney@welfare-rightscentre.org.au