

Ms Pauline O'Neill  
National Manager  
Debt Management Branch  
Debt and Appeals Division  
Australian Government Services Australia

27 August 2020

**By email: [Pauline.o'neill@servicesaustralia.gov.au](mailto:Pauline.o'neill@servicesaustralia.gov.au)**

Dear Ms O'Neill,

**HUMAN SERVICES DELAYS IN ISSUING CLEARANCE RECOVERY NOTICES FOR PEOPLE WHO HAVE RECEIVED PERSONAL INJURY COMPENSATION PAYMENTS**

I am writing to you as President of the Australian Lawyers Alliance (ALA).

This letter seeks to highlight our continuing concerns regarding the unacceptable delays by Human Services in issuing clearance recovery notices. These recovery notices are necessary before an employer or insurer is lawfully allowed to release compensation payments for people who have suffered personal injury, and have received a lump sum payment or periodic payments of compensation.

We note that we have previously raised the concerns of ALA members regarding this issue.

The ALA is concerned that after a brief period in which the timeframe for processing Lump Sum settlements had marginally improved to approximately 28 days earlier this year, the timeframe has again increased to unacceptable levels.

We note that in September last year the Department indicated that it was working towards a 14-day timeframe, noting that this was contingent on staffing resource constraints. The ALA appreciates that the current health crisis arising from the COVID 19 pandemic has significantly increased the workload of Services Australia staff. However, we are deeply concerned that Services Australia have been unable to give adequate priority to the processing of claims for charges against the settlement/judgment sums, and the provision of the commensurate documentation, as core business.

This has exacerbated the level of anxiety and distress experienced by our members' injured clients, their families and carers. The current delays in having the required clearance statements issued during this time of great anxiety and need means that funds which should be assisting families remain locked in insurers' trust accounts.

Since mid-March, our members have seen a marked increase in the number of delays in the issuance of clearance certificates by Services Australia. For example, for Centrelink clearances in Queensland alone, the offices of one ALA member have reported more than 63 cases of extraordinary delay since March. Sixteen remain outstanding. Of those that have received the clearance:

- 3 clients had to wait between 30 and 39 days

- 13 clients had to wait between 40 and 49 days
- 14 clients had to wait between 50 and 59 days
- 15 clients had to wait between 60 and 69 days
- 1 client had to wait 71 days
- 1 client had to wait 83 days

Of the 16 that are currently outstanding:

- 3 clients have been waiting between 30 and 39 days
- 4 clients have been waiting between 40 and 49 days
- 2 clients have been waiting between 50 and 59 days
- 3 clients have been waiting between 60 and 69 days
- 3 clients have been waiting between 70 and 79 days
- 1 client has been waiting for 81 days so far.

The situation in other States is no better. In the Victorian cases of a member, the average wait time across 16 delayed cases has been 56 days. They have experienced similar results in New South Wales. One firm in WA advises delays are often between 42 and 70 days and in some cases up to 130 days. The experience of that firm is that the delays are shorter in settlements with the statutory motor vehicle insurer in WA. A South Australian firm has experienced delays of more than four weeks in almost all cases.

Regrettably, ALA members have found that they cannot, at present, rely on Services Australia delivering the Clearance Notice within the statutory requirement of 28 days.

One ALA member conservatively estimates that between \$5mil and \$10mil in agreed payments are currently being held up by Services Australia delay – and that's just in the caseload of one plaintiff law firm. The industry-wide impact could be ten times that amount.

The ALA therefore strongly urges that immediate steps are taken to adequately staff and resource capability of the Debt Management Branch, Debt and Appeals Division, to ensure that the timeframes for processing lump sum settlements quickly moves to the original goal of 14 days.

The ALA requests you give this matter your urgent attention and advise as to what steps will be taken to address the urgent staffing requirements of the Department in order to achieve the 14-day target timeframe.

Please direct correspondence to Dr Louis Schetzer, Policy & Advocacy Manager, Australian Lawyers Alliance, on (02) 9258 7700 or at [louis@lawyersalliance.com.au](mailto:louis@lawyersalliance.com.au).

Yours sincerely,



**Graham Droppert**

**President**

**Australian Lawyers Alliance**