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Pulling down their breaches : An analysis of Centrelink breach and appeal numbers from 1996 to 2001 using a case study of a single Centrelink office

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**PULLING DOWN THEIR BREACHES:
AN ANALYSIS OF CENTRELINK BREACH AND APPEAL
NUMBERS FROM 1996 TO 2001 USING A CASE STUDY OF A
SINGLE CENTRELINK OFFICE**

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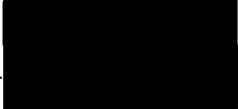
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Abstract

This thesis is about current Centrelink breach and appeal figures. It is also about the current conservative neo-liberalising climate of Australian social policy reforms, with which they are inextricably connected. It shows that while Centrelink breach numbers have increased more than three fold since 1996, formal appeals against Centrelink decisions have not increased similarly. This thesis asks: what might this mean? It answers this question through a single case study of a Centrelink office. Data was collected using individual focused interviews, documents collected from the site, and direct observation (including a map of the office drawn by the researcher). Various possible interpretations drawn from the social policy literature were evaluated in relation to the case study findings. Interpretations included the neo-liberals, advocates, new-contractualism, the view that surveillance is oppressive and an interpretation that draws from the work of Michel Foucault. The thesis found that Foucault's work on discipline and governmentality—particularly his ideas about surveillance and individualisation—was the most relevant interpretation of Centrelink breaching and appeals to the case study data. Much evidence was found for these governing techniques, and their imperfection. The thesis concludes that the current conservative neo-liberal based reforms, including the new breach regime, show undue confidence about their ability to govern individual Centrelink clients.

Declaration

I  certify that this thesis does not, to the best of my knowledge and belief:

- *Incorporate without acknowledgment any material previously submitted for a degree or diploma in any institution of higher degree*
- *Contain any material previously published or written by another person except where due reference is made in the text; or*
- *Contain any defamatory material.*

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Abbreviations

AAT	Administrative Appeals Tribunal
ACOSS	Australian Council of Social Service
AIFS	Australian Institute of Family Studies
ARO	Authorised Review Officer
ART	Administrative Review Tribunal
CES	Commonwealth Employment Service
DSS	Department of Social Security
FaCS	Department of Family and Community Services
HECS	Higher Education Contribution Scheme
JNA	Job Network Agency
NSA	Newstart Allowance
NWRN	National Welfare Rights Network
SSAT	Social Security Appeals Tribunal
WRAS	Welfare Rights Advocacy Service
YA	Youth Allowance

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PART A
GROUNDWORK

CHAPTER ONE

INTRODUCTION

Background and Some Definitions

Australian social security payments have had some form of activity requirement or proof of eligibility since 1945, and to some extent before this (Carney & Ramia 1999). Requirements have varied from needing to provide proof of identity, to proof of need, to proof of actively looking for work. More recently, proof of actively participating in society is required to meet some payments.

Linked with these requirements was some form of penalty for non-compliance. This may have involved the denial or reduction of payment. New Australian penalty rates were introduced in July 1997. They have since been the source of great controversy, culminating last year in a report from the Office of the Commonwealth Ombudsman (2002) and also the *Report of the Independent Review of Breaches and Penalties in the Social Security System* (Pearce, Disney & Ridout 2002). The new penalties are summarised in Figure 1. In most of the Australian literature, such penalties are referred to as 'being breached'. The term breach will therefore be used throughout this thesis to refer to the action or non-action for which a penalty is imposed, and being breached will refer to the penalty¹.

¹ It is also important to remember that a Centrelink breach means non-compliance *not* fraud. Welfare fraud is a criminal offence in which dishonesty is intentional. Breaches rarely involve criminal intent and welfare fraud rates have not increased at the same rate as breach rates (ACOSS, 2000, p. 4). Indeed, according to the Australian Council of Social Service (ACOSS), in 1998-99, out of the 6 million Australians receiving social security, less than 0.1% were found to have fraudulently obtained benefits (ACOSS, 2000, p. 4).

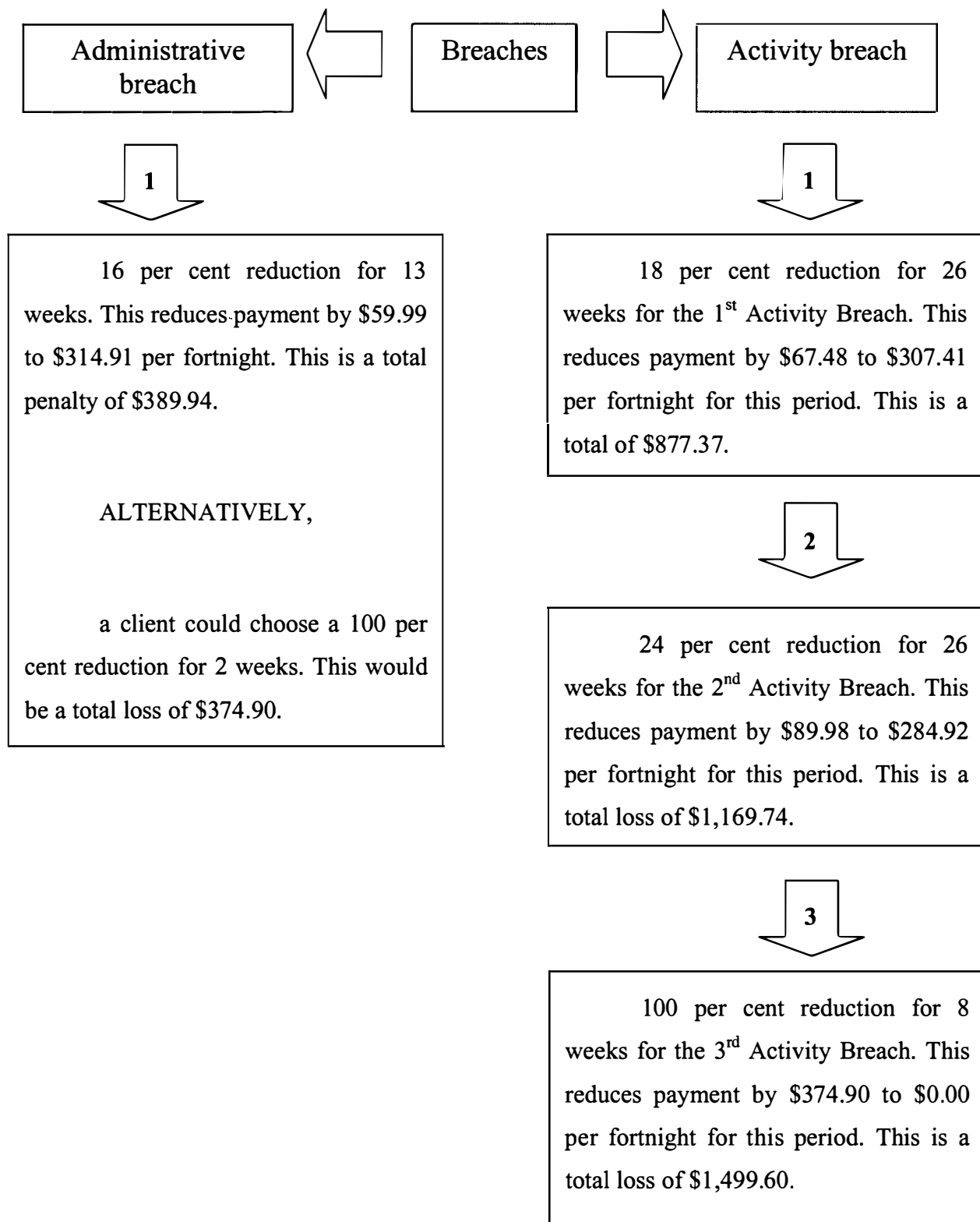


Figure 1. The financial penalties of different breaches, as applicable at 28th October 2002 (FaCS, 2002, 3.2.11.20, 3.2.11.10). Payment amounts are calculated from the Newstart Allowance (NSA) single rate (FaCS, 2002, 5.1.8.20).

Currently, there are two major categories of breaches; administrative breaches and activity test breaches. An administrative breach occurs when a client refuses or fails, without sufficient reason, to comply with a notification requirement. Notification requirements include:

- attending an office of Centrelink² when asked to do so,
- notifying Centrelink of changes to their circumstances,
- replying to letters from Centrelink, or
- providing a required tax file number (FaCS, 2002, 1.1B.90).

An activity test³ breach occurs when a client does one of the following:

- refuses or fails to attend a job interview without sufficient reason,
- fails to complete a labour market program without sufficient reason,
- is dismissed from a labour market program for misconduct,
- refuses to declare, or fails to correctly declare, earnings from employment,
- becomes unemployed voluntarily without sufficient reason,
- becomes unemployed due to misconduct,
- fails to accept suitable job offers without sufficient reason,
- has not applied for a particular number of job vacancies (FaCS, 2002, 1.1B.90).

The main difference between these penalties and the preceding rates⁴ is the incremental reduction of payment for an activity breach according to whether it is the first, second or third breach. Previously, an activity test breach incurred a non-payment period according to both the length of time on payment, and whether it is a first or second breach.

² Centrelink is the Australian government agency currently responsible for the day-to-day administration and payment of most federal government income support payments.

³ New Start Allowance and Youth Allowance recipients, both jobseekers and students, must satisfy an activity test to qualify for their payment. The activity test is different for NSA and YA recipients. (FaCS, 2002)

⁴ Here I mean the rates that the current rates have replaced, not all rates since 1945.

The previous system was criticised for two connected reasons. The first criticism was that it was too harsh because it left clients with no payment after a first infringement. The second criticism of the system was that it was ineffective because Centrelink officers were reluctant to breach clients when it meant they were immediately denied income for a period. The current penalty rates were designed to combat these two problems (Moses, 2000).

However, advocacy agencies have been alarmed at an apparent explosion of breaches being administered by Centrelink (ACOSS, 2001a; 2001b; 1999; WRAS, 2000). For example, the Australian Council of Social Service (ACOSS) report a 189% increase in the number of penalties over the three years from June 1998 (ACOSS, 2001a). Reports with titles such as *Kicking them while they're down* (Mullins, 2002) and *Stepping into the breach* (The Salvation Army Australia, 2001) are critical of the new penalty rates. They claim that the new regime makes it easier for a Centrelink officer to administer a breach. Further, they claim, this combines with the introduction of new complex activity requirements to effectively target the most vulnerable of Centrelink clients—particularly the homeless and the young (Mullins, 2002). Indeed, between 1996 and 1998 some significant additional requirements for payment were introduced, such as:

- Activity agreements, now called preparing for work agreements, for all unemployed people were introduced in September 1996 (FaCS, 2002, 1.1.P.510),
- Additional mutual obligation initiatives that certain job seekers aged between 18 and 35 must meet while receiving income support were introduced in July 1998 (FaCS, 2002, 1.1.M.170),
- The jobseeker diary (Centrelink, 2000c) in which some Youth Allowance (YA)⁵ and Newstart Allowance (NSA)⁶ recipients must detail between 6 and 10 employers contacted per fortnight (FaCS, 2002, 6.2.1.80),

⁵ A fortnightly income support payment for people generally aged between 16 and 20, and full-time students aged between 21 and 24 (FaCS, 2002).

⁶ Newstart Allowance is an income support payment, payed fortnightly (FaCS, 2002).

- Work for the dole for some YA and NSA recipients between 18 and 34 years old (FaCS, 2002, 3.2.8.80), and
- Employer contact certificates which provide written verification of a client's approach to a prospective employer (FaCS, 2002, 6.2.1.50).

Additionally, in March 1998 the Commonwealth Employment Service (CES), which had administered free job search assistance since the 1940s (Department of Employment Workplace Relations and Small Business, 2000), was replaced with a network of private and government run Job Network Agencies (JNA). Since then all YA and NSA Centrelink clients have been required to sign with one (or more) of these agencies to receive payment (FaCS, 2002, 6.2.1.80). Such additional requirements, according to the advocacy agencies, have been difficult for many clients to cope with (ACOSS, 2001a; ACOSS, 2001b; Mullins, 2002; WRAS, 2000).

Of particular concern to the Welfare Rights Advocacy Service (WRAS) in Western Australia was the apparent low number of Centrelink clients who appealed in 1998-1999 despite the increasing quantity of breaches. An appeal means a formal questioning of a Centrelink decision by a client. The WRAS state that "of the 165,492 breaches imposed in 1998-99, only 2,393 (1.5%) were the subject of a review or appeal" (WRAS, 2000, p. 5). They conclude that this reflects the vulnerability of those being breached. WRAS assumes that those who are too vulnerable to avoid incurring a breach are also too vulnerable to seek a formal appeal of this breach.

Such concerns have led to two independent reviews of current social security penalties—one by the Office of the Commonwealth Ombudsman (2002) and also the *Report of the Independent Review of Breaches and Penalties in the Social Security System* (Pearce et al., 2002). Both reports were critical of the unnecessary hardship caused to clients by Centrelink's administration of breaching penalties. For example, the Office of the Commonwealth Ombudsman was concerned that clients were not being

notified prior to being penalised, and thus being denied the opportunity to explain their action.⁷

However, since 1996-1997, the formal Centrelink appeals system⁸ in Australia has also met with controversy. The current three tiered formal appeal system is illustrated in Figure 2. The appeal structure is an hierarchical three tiered system of administrative review of increasing generality. The first level of appeal is an internal review of the decision by a Centrelink Officer called an Authorised Review Officer (ARO). A client who is still unhappy with this decision can lodge an external appeal with the Social Security Appeals Tribunal (SSAT). Finally, if the client is unsatisfied with this decision—and has the stamina—an appeal may be lodged with the Administrative Appeals Tribunal (AAT), which deals with all Commonwealth administrative appeals. Appellants cannot skip a level of appeal; they must complete an ARO review before appealing to the SSAT. Similarly, they must have an SSAT decision before appealing to the AAT (SSAT, 1997a). Centrelink clients are also expected to appeal to the original decision maker before they can lodge an appeal with an ARO. Clients may also approach the Commonwealth Ombudsman and their local Member of Parliament to resolve grievances. The Commonwealth Ombudsman and Member of Parliament may be approached at any time, in any order.

⁷ Following these reports some minor changes were made to the breaching regime. Since July 2002, clients who failed to attend an interview with Centrelink no longer incurred an automatic administrative breach (Ziguras, Dufty, & Considine, 2003, p. 11). They could now have their payments suspended and reinstated if they have a reasonable excuse.

Further changes to the breaching regime were enacted in early 2003, including extending activity testing to parenting payment clients whose youngest child is over 12 years old (Ziguras et al., 2003, p. 11). Also, from September 20, the amendments provided by the *Australians Working Together and other 2001 Budget Measures Act 2003 (Cwth)* will allow people who receive a first breach, but comply with the relevant requirement within 4 weeks, would have the penalty reduced to 8 weeks.

⁸ The appeals system is also often referred to as merits review. An appeal or merits review is the process whereby an administrative decision of the government is reviewed “on the merits”: that is, the facts, law and policy aspects of the original decision are all reconsidered afresh and a new decision – affirming, varying or setting aside the original decision – is made (Administrative Review Council, 1995, pp. 9-10).

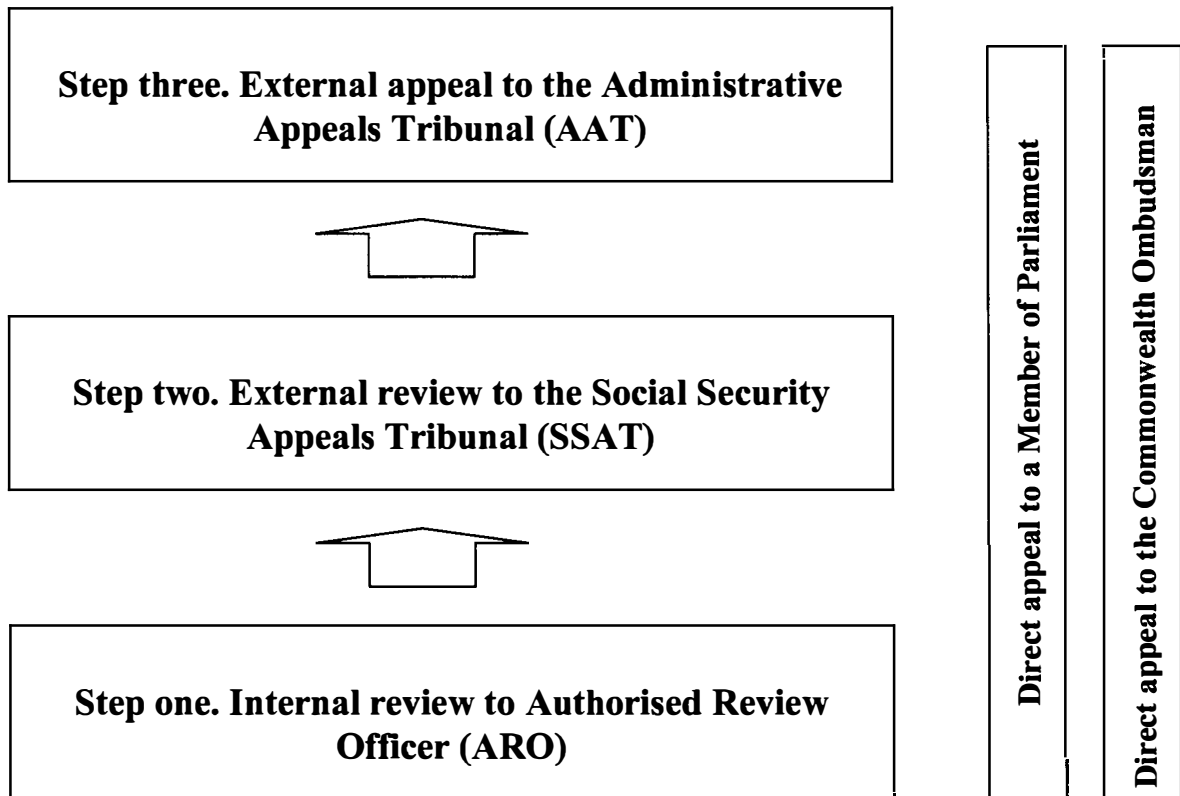


Figure 2. The three tiered review of Centrelink decisions

The current appeal system is the result of lobbying by the civil rights movement of the 1970s and has not changed structurally since the 1980s (Carney, 1998). However, it is under pressure to reform. In 2000-2001 the government unsuccessfully proposed the *Administrative Review Tribunal Bill 2000* and *Administrative Review Tribunal (Consequential and Transitional Provisions) Bill 2000* (Hansard, 2000, p. 23494-23505). This was an attempt to merge the SSAT, AAT and other external review bodies into a “one stop shop” that would be called the Administrative Review Tribunal (ART). It was argued that this was required for “fair, just, economical, informal and quick” external review of administrative matters, including social security matters (The Parliament of the Commonwealth of Australia House of Representatives, 2000, p. 168). While the SSAT and AAT provide multi-tiered review with routine representation by a lawyer or social worker, the ART was to provide a single tiered review, where appellants need special permission to be represented by either a lawyer or social worker (The Parliament of the Commonwealth of Australia House of Representatives, 2000).

Also, the matter would be heard by a single person rather than the current SSAT panel (The Parliament of the Commonwealth of Australia House of Representatives, 2000).

Despite remaining structurally intact through such pressures to reform, clients' ability to access the formal appeal system has been effectively reduced. Clients' access to appeals has changed in two ways. First, only Centrelink decisions can be appealed formally, not JNA agreements or their other dealings with clients (Owens, 2001). Since clients must deal with at least one JNA to receive payment, this means that some of the requirements for payment are not subject to formal appeal. Second, Centrelink has changed the way clients access the first level of formal appeal—the ARO. Rather than have the AROs separate from the Centrelink offices that administer day-to-day payments, over the last five years most AROs have been moved into Centrelink offices (Centrelink, 2000a). Since a Centrelink client must appeal to an ARO before proceeding to an external appeal with the SSAT, the ARO plays an important gate-keeping role in the appeals structure.

Thus, not only are breach numbers increasing significantly, but a Centrelink client's scope to appeal a breach has changed. It seems WRAS's (2000) observation about the low number of appeals in 1998-1999 was pertinent. However a low appeal rate in 1998-1999 partnered with an increase in breach numbers from 1998 to 2001 is not sufficient data to claim that high breach and low appeal numbers are related to policy changes. The years do not correspond. More information from the period of policy change is required to make such claims. Because the new breach regime, new activity requirements and the changes in scope for seeking an external appeal have all occurred since 1996-1997, then an analysis of breach and appeal numbers since 1996-1997 is required.

Breach and Formal Appeal Numbers from 1996-1997 to 2000-2001

While breach numbers have increased markedly from 113,100 in 1996-1997 to 346,078 in 2000-2001, appeal numbers have not increased similarly. This will be shown using a comparison of breach numbers, and relevant ARO, SSAT and AAT appeal applications. Figure 3 represents breach and appeal numbers from 1996-1997 to 2000-2001 graphically, while the actual figures are shown in Table 1.⁹

⁹ While I presented and analysed similar data in Sleep (2002), here the data is updated and reworked.

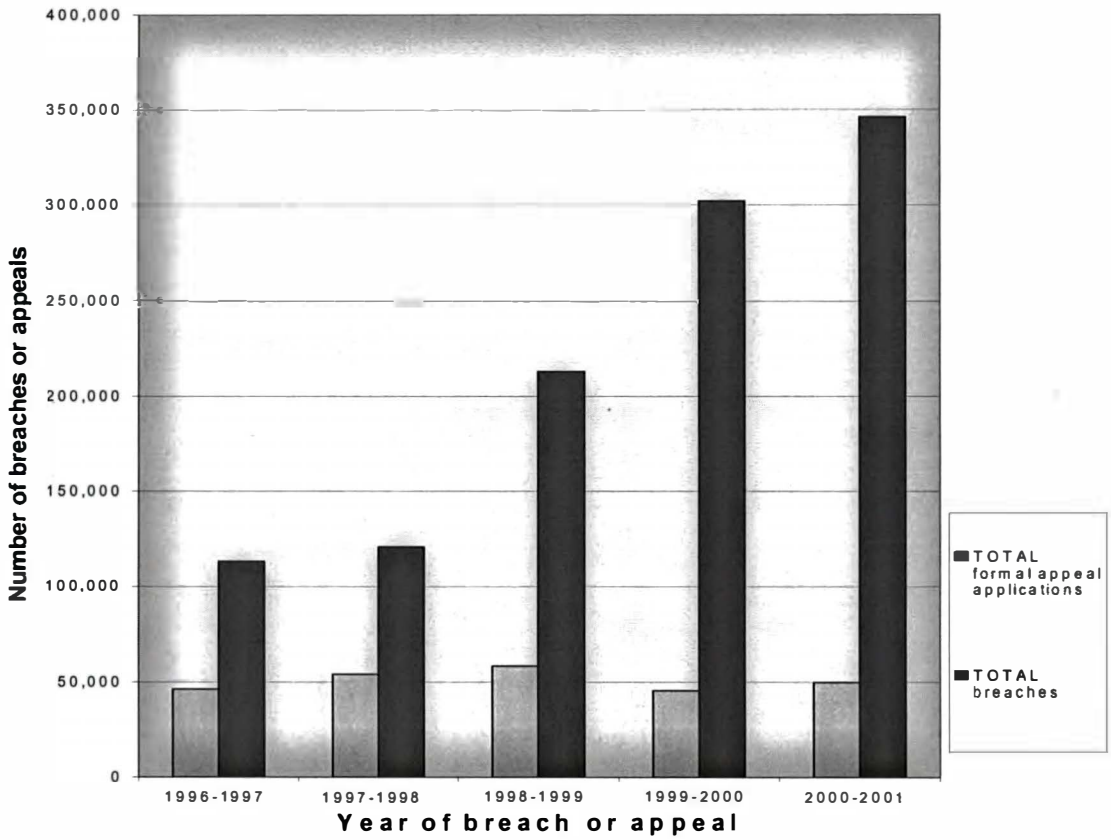


Figure 3. Centrelink breach¹⁰ and appeal numbers from 1996-1997 to 2000-2001

¹⁰ Data represents the number of breaches, *not* the number of people breached.

Table 1. Centrelink breach¹¹ and appeal numbers from 1996-1997 to 2000-2001

	1996-1997	1997-1998	1998-1999	1999-2000	2000-2001
ARO applications received	33,462 (DSS, 1997, p. 296)	43,074 (FaCS, 1999, p. 134, 268)	47,375 (FaCS, 1999, p. 274)	36,043 (FaCS, 2000, p. 145, 274)	40,920 (Centrelink, 2001, p. 104)
SSAT applications received	11,353 (DSS, 1997, p. 296)	9214 (FaCS, 1999, p. 134, 268)	9246 (FaCS, 1999, p. 274)	7766 (FaCS, 2000, p. 145, 274)	7,651 (Centrelink, 2001, p. 104)
AAT applications received	1328 (DSS, 1997, p. 296)	1797 (FaCS, 1999, p. 134, 268)	1797 (FaCS, 1999, p. 274)	1592 (FaCS, 2000, p. 145, 274)	1,375 (Centrelink, 2001, p. 104)
TOTAL formal appeal applications	46,143	54,085	58,418	45,401	49,846
TOTAL breaches	113,100 (Moses, 2000, p. 5)	120,718 (Office of the Commonwealth Ombudsman, 2002, p. 1)	212,900 (Office of the Commonwealth Ombudsman, 2002, p. 1)	302,078 (Office of the Commonwealth Ombudsman, 2002, p. 1)	346,078 (Office of the Commonwealth Ombudsman, 2002, p. 1)

Figure 3 and Table 1 show total breach numbers. It is important to note that the number of breaches is represented rather than the number of people actually breached. Also, the current incremental breach regime was not implemented until March 1997 (DSS, 1997, p. 108) and the figures are drawn from various sources so are not reliable for accurate statistical analysis. Nevertheless, the general pattern is striking—the total number of breaches almost tripled over this period.

However, the number of appeals shows a different pattern. Figure 3 shows total formal appeals while Table 1 shows formal appeals as ARO applications received,

¹¹ As for Figure 3, the data here represents the number of breaches, *not* the number of people breached.

SSAT applications received, AAT applications received and total formal appeal applications. The formal appeal rate appears flat when juxtaposed to the increase in breach numbers since 1997-1998. However, the ARO, SSAT and AAT data in Table 1 reveals some subtle patterns. The greatest proportion of formal appeals are lodged at the ARO level. This is not surprising because all appeals to the SSAT and AAT must first pass through the ARO level. However, while the number of ARO appeals has been generally stable from 1996-1997 until 2000-2001, in 1996-1997 and 1997-1998 the ratio of ARO appeals to breaches imposed was almost one formal appeal to three breaches. This drops to almost one formal appeal to four imposed breaches in 1998-1999 and then one appeal to eight breaches in 2000-2001. Even if we note that each appeal is not necessarily about a breach, the pattern is striking. Fewer and fewer breaches seem to be appealed formally from 1996 to 2001.

The greatest number of SSAT appeals were lodge in 1996-1997. The 1996-1997 SSAT Annual Report observed that this was an unprecedented high (SSAT, 1997b, p. 18), but neglected to explain it. The report described the figures as dropping back to normal despite “expecting a further increase in appeal lodgements in 1997-1998” (SSAT, 1997b, p. 18). SSAT appeal numbers then dropped slightly from 1998-1999 until 2000-2001.

The pattern of AAT application numbers is even more subtle. Here the greatest number of appeals were in 1997-1998 and 1998-1999. However the more subtle pattern and slight peak in 1997-1998 rather than the SSAT’s peak in 1996-1997 and 1997-1998, are not surprising when two important points are considered. First, the changes were less obvious because all social security payments are represented, not just those subject to activity breaches like the SSAT data¹². Consequently, the pattern is effectively

¹² For the SSAT data, only appeal applications pertaining to activity tested payments such as YA, NSA and Austudy are included. However, AAT data includes all social security matters, not just payments which involve breach penalties. Therefore, the AAT data also includes such payments as family support payment, single parent and old age pensions. It is also important to note that the payments have changed name over this period. For example, Job Search Allowance and NSA were amalgamated in September 1996. Also, YA was introduced from 1 July 1998. It replaced Austudy for 16 to 24 year

diluted. Secondly, AAT appeals peaked a year later than SSAT appeal numbers due to the time required for matters to reach the higher level AAT, usually 3-6 months (AAT, 1995; 1996; 1997; 1998; 1999; 2000; 2001). It is highly likely that many people who appealed to the SSAT in 1996-1997 did not reach the AAT level until 1997-1998 (AAT, 1997; 1998). Due to this time lag effect the peak in AAT appeal numbers in 1997-1998 corresponds with the peak in SSAT appeal numbers in 1996-1997. Also, like the SSAT appeal numbers, the AAT rates decreased slightly from 1998-1999.

Thus, while Centrelink breaches have increased from 1997-1998 to 2000-2001, formal appeal numbers have effectively stagnated. This disparity has been shown by comparing breach and appeal numbers from 1996-1997 to 2000-2001. During this period major social security policy changes have been implemented. Centrelink and the JNAs have replaced the Department of Social Security (DSS) and CES, and the new breach regime, new activity requirements and the changes in scope for seeking an appeal have all been implemented. *This thesis asks the apparently simple question—what might this mean?*

Outline of Thesis

This thesis is about current Centrelink breach and appeal numbers. Put simply, it is an interpretation of these figures. It attempts to interpret the breach and appeal figures through a case study of a Centrelink office, which includes semi-structured interviews with Centrelink clients.

However, interpreting breach and appeal numbers is more complex than it may first seem. This is for two reasons. The first reason is that, with the exception of WRAS (2000), a sustained analysis of the relationship between the current increase in breaches but not appeals has not, to my knowledge, been attempted. The second reason is that

olds, Youth Training Allowance for 16 to 17 year olds, and NSA and Sickness

neither breach nor appeal numbers occur in a political or social vacuum. Indeed, different approaches to social policy can be used as the basis of differing interpretations of current breach and appeal numbers. For example, one might argue that an increased breach rate but stagnation of appeal numbers means that the current system is working—it's catching the 'bludgers' (Howard, 1999). In contrast, ACOSS (2001a; 2001b; ACOSS & NWRN, 2000) argues that the current increase in breaches reveals an overly harsh regime, while the stagnating number of formal appeals indicates that few income support recipients are able to protect their rights. Consequently, different approaches from the social policy literature will be considered.

However, an analysis should go even deeper than this. This is because it is impossible to separate interpretations of breach and appeal numbers from ideas about what welfare is and should be, and what humans are and should be. Indeed, is welfare a citizenship right (Marshall, 1949/2000) or a hindrance to entrepreneurial success (Hayek, 1959/2000)? If welfare is a citizenship right, then should Centrelink clients be coerced into doing certain activities in order to receive income support (Lawrence M. Mead, 1991/2000)? If welfare is a hindrance to personal freedom, then should clients be punished for not complying with Centrelink procedure? Are economic markets the best way to distribute wealth and provide welfare (Smith, 1974), or do people need to be protected from the violence of these markets through state based redistribution of wealth (Titmuss, 1968/1979)? If economic markets are the best distributor of resources, then a low number of formal appeals against Centrelink decisions is not a concern, the number of people on welfare is. If people need to be protected from the market, then the few formal appeals against Centrelink is a serious concern because it means people have no state protection against the increasingly market orientated Centrelink. Therefore, an analysis of the current breach and appeal rate should consider different possible interpretations, with consideration of their foundational assumptions, about social welfare and humanity. This thesis will attempt to do this.

Therefore, this thesis is essentially *explorative*. It aims to explore different approaches' interpretations of the current breach and appeal figures. It hopes to

contribute to the study of Centrelink breaches and appeals by conducting an explorative case study of a Centrelink office, interviewing Centrelink clients about the breach and appeal regime, and drawing from an interdisciplinary battery of social policy and sociological approaches. I hope this shows possible interpretations of the current disparity of breach and appeal numbers that may not have been considered by scholars and policy makers in the area. More modestly, I hope anyone interested in the current breach and appeal regime will benefit from a review of some relevant literature on breaches and appeals, and some modest original research on this topic.

This thesis is comprised of eight chapters which are organised into three parts—Part A, Part B and Part C. Chapters One to Three incorporate Part A, which sets the ground work for the analysis of the remaining sections.

Chapter One has shown that there is a disparity of Centrelink breach and appeal numbers between 1996-97 and 2000-01. It also outlined the current breaching system, and the current appeals structure.

Chapter Two demonstrates that simply showing that there is a disparity of breach and appeal numbers is insufficient evidence with which to argue that there is any meaningful relationship between these numbers. It thus shows the need for more information about the social context of breaching and appealing. In other words: what it is like to be breached and to seek (or decline to seek) a formal appeal. A case study of a single Centrelink office is justified as an appropriate method to explore the social context of breaching and appealing. It explains how data was collected using various techniques—individual focused interviews, documentation, and direct observation. The method for analysing this evidence is then outlined. Since this is an explorative study, it is shown that the most effective analytical method is to evaluate different theoretical frameworks according to the case study data. In other words, the study sets out to see which theory fits the case best. Approaches evaluated in relation to the case study findings include the neo-liberals, advocates, new-contractualism, the view that surveillance is oppressive and an interpretation that draws from the work of Michel Foucault.

However, before different theoretical perspectives are evaluated according to the case study findings, the nature of the current Australian welfare regime must be established. This common ground is required for the different perspectives to be comparable. Chapter Three considers various methods of categorising welfare states. These include levels of expenditure, residual and institutional welfare systems, levels of citizenship (civil, political and social), the “three worlds of welfare capitalism” (Esping-Anderson, 1990/2000), and contemporary flavours of neo-liberalism (Hayek, Mead and Murray). Through considering these different categorisations, Chapter Three establishes that the current Australian welfare regime is essentially neo-liberalising. The remaining chapters work on this basic assumption to evaluate different possible explanations for the disparity of breach and appeal numbers in the light of the case study data.

Chapter Four and Five comprise Part B of this thesis. Part B concentrates on mainstream political views about breaches and appeals—neo-liberal—and its most public opposition—the advocates. It moves the analysis beyond the neo-liberals and the advocates to an emerging analysis known as new-contractualism.

Chapter Four deals with the neo-liberals and the advocates. The neo-liberals represent the mainstream view of social policy in Australia (2000a; McClure, 2000b). They hold the ‘hard line’ that breaches are necessary to ensure Centrelink clients comply. In contrast to the neo-liberals, the advocates include organisations who aim to advocate on behalf of the disadvantaged. Exemplar organisations include WRAS (1999; 2000), ACOSS (2001a; 2000) and The Salvation Army of Australia (2001). They are particularly concerned about the frequency and size of the financial penalty borne by those already living in poverty under the current Centrelink breaching regime. In Chapter Four the neo-liberals’ position is outlined, their interpretation of current breach and appeal numbers is described, and then evaluated. The advocacy view is then given the same treatment.

Chapter Five considers new-contractualism accounts. They argue that the current breach and appeal numbers reflect a new fetish for contractualism in Australian public

policy, especially in welfare provision. Within this perspective, two influential accounts seem to be emerging—an account influenced by Terry Carney's (1998; 1994; 1999; 2001; 2001) analysis, and one influenced by Anna Yeatman (1997; 1998; 1999). This chapter deals with these different accounts separately. Carney's account is outlined, his interpretation of current breach and appeal numbers clarified, and then evaluated in light of the case study evidence. Yeatman's account is then treated similarly.

The remaining three chapters make up Part C of this thesis. They focus on the role of surveillance and individualisation in Centrelink breach and appeal numbers. Chapter Six deals with accounts that view surveillance as oppressive, including that of William De Maria (1992). De Maria argues that the appeal system is one of the many methods by which the powerful oppress. These approaches are outlined, and their interpretation of current breaches and appeals indicated, and then evaluated.

Chapter Seven draws from Michel Foucault's (1977; 1991) influence and considers his interpretation of surveillance and individualisation, which has been developed by Mitchell Dean (1995; 1998; 1999) and others. This analysis draws from studies on discipline and governmentality. These terms are outlined, their interpretation of breach and appeal numbers clarified, and finally evaluated according to the case study findings. According to this view, surveillance and individualisation are disciplinary techniques that create particular types of Centrelink clients. Other disciplinary techniques include normalisation and distribution. According to this approach, these disciplinary techniques are also inevitably incomplete. The evaluation shows that there is much evidence for these disciplinary techniques in the case study findings, and also much evidence of their failure.

Chapter Eight then concludes the thesis. Through exploring some different interpretations of the current Centrelink breach and appeal numbers, and evaluating their relative strengths and weaknesses, this thesis argues tentatively in favour of an approach that draws from Foucault's work on discipline and governmentality. The increase in breach and but not appeal numbers since 1996 is shown to reflect both the success of disciplinary techniques in creating governable Centrelink clients, and the

failure of these techniques. It demonstrates how governable Centrelink clients are trained not to seek appeals. Most alarmingly, it demonstrates how the breach and appeal system does not always create compliant active jobseekers, but also creates cynical individuals who expect their basic rights to be violated. This results in individuals who associate being breached with the random incompetence of Centrelink rather than any action of their own. It concludes that the techniques for making a Centrelink client into an active jobseeker are imperfect and, thus, the conservative neo-liberalising Australian social policy reforms are over confident.

Clients, Customers or Latent poor?

However, before continuing, I must justify my use of the term Centrelink clients. This term has implied meaning, as any term used to describe this group of people does. For example, American neo-liberal writer Charles Murray refers to this group of people as the “latent poor” because they “would be poor if it were not for government help” (Murray, 1982/2000, p. 100). In contrast, left leaning writer Margaret Conley prefers to use the term “unemployable” (Conley, 1982). She explains that:

The terms “undeserving”, “unworthy”, and “vicious” have been applied to paupers, vagrants, drunks, beggars and homeless, but what makes this group so undeserving and so prone to attracting derogatory labels, is that they do not work. Most have not chosen a life of non-work, for unlike those born into wealth, people born into poverty usually find a life of unemployment pays very badly. Most of the paupers, the undeserving, belong to a group known as the unemployable, and what makes them unemployable is that their particular skills (or lack of skills) are either no longer, or never have been, marketable commodities. (Conley, 1982, p. 281)

I could have chosen to use one of these terms rather than Centrelink clients. I could also have used the term welfare recipients or beneficiaries. However, few of these terms are used in current debates. The terms recipients and beneficiaries were common

in the 1970s and 1980s, but they are now considered too passive. Some current writers use the term ‘underclass’ to refer to people who may have never worked in their lives and who don’t expect to. They perceive an underclass of helplessness and intergenerational dependency on welfare (compared to Dean & Taylor-Gooby, 1992)—similar to the “jobless families” and “job poor communities” that McClure (2000a, p. 2) finds “disturbing”. However, it is the underclass analysis that misunderstands the constitution of Centrelink clients. Research has found many Centrelink clients do experience short bursts of casual work between periods of unemployment—a phenomenon known as “job churning” (Le & Miller 1999). This was a phenomenon experienced by many of the clients interviewed. Centrelink clients could also be seen as a ‘labour pool’ or ‘reserve work force’. However, the terms ‘underclass’, ‘labour pool’ and ‘reserve work force’ do not distinguish between those working poor who may be breached by Centrelink and those who have no relationship with Centrelink and, as such, cannot be breached by them.

Advocacy agencies like ACOSS and WRAS use the term ‘Centrelink client’ to indicate a service based relationship. The federal government takes this service relationship even further and uses the term ‘customer’ in its official documents¹³ (Centrelink, September 2000) to indicate a consumer relationship between customers and government service providers. The use of both of these terms reveals a shift in rationality in governing the unemployed in Australia, and will form an important part of the analysis of this thesis, particularly in Chapter Seven. For now, let it suffice to say that by using the term Centrelink clients as the default term, we allow this shift to be perceptible.

¹³ Although the terms ‘bludgers’ and ‘people living on handouts’ have been used by politicians when addressing the nation (Howard, 1999), the term customers is more common in official departmental documents.

Some Notes on Language

Some of the language used by the interviewees might offend some people. Although I could have edited this 'bad' language to make it less colourful, I decided to leave it unaltered. As Jim, one of the interviewees explained:

If you're scraping all that [bad language] you're you're not understanding Use it. Otherwise you're, you're not getting my frustration, you're not getting how I feel. And I've been feeling it for a long time.

Thus, both as an attempt to help us understand how some interviewees felt, and as a respectful gesture to Jim, the more colourful language used by some interviewees remains unaltered in this thesis. I mean no disrespect by including it, and I hope no one is offended. Also, being aware of the gender dimensions of conventional grammar, I have chosen to use the plural 'their' rather than 'his' or the clumsy 'his/her' when referring to individuals.

CHAPTER TWO

METHOD: EXPLORING CENTRELINK BREACH AND APPEAL

FIGURES

Chapter One showed a disparity between current Centrelink breach and appeal figures. This chapter outlines the methods used to explore these figures. First, it justifies the use of a case study of a single Centrelink office. It then outlines the data sources used, which included interviews with Centrelink clients as they were leaving the office, documentation collected from the office, and direct observation. Third, it outlines the techniques used to analyse the data to explore the significance of the current Centrelink breach and appeal numbers. Finally, it outlines some ethical considerations, explains some ways the validity and reliability of the study were facilitated, and some limitations of the study methods.

A Case Study of a Centrelink Office: Justification

There is currently a disparity of Centrelink breach and appeal numbers. However, simply describing the contrast between breach and appeal figures is not sufficient evidence to claim there is a relationship between them. To claim a relationship with this data alone commits the same logical fallacy as claiming there is a relationship between an increase in media interest in crime and an increase in the actual crime rate (Jupp, 1989). The two figures do not necessarily correlate. More data is needed. To my knowledge, the only research that has attempted to investigate a possible relationship between the current breach and appeal numbers has been done by WRAS (2000). However, they point out that their data is limited by its reliance on anecdotal evidence rather than a systematic inquiry into the relationship. Consequently, to

understand if there is a relationship between breach and appeal numbers, more evidence is required.

Furthermore, the Centrelink breach and appeal figures described in Chapter One are not just abstract numbers—they happen to people. It is Centrelink clients who are breached, and who officially have access to the formal appeals structure. Despite this, no systematic research has attempted to explore a possible relationship between clients being breached and possible reasons for seeking a formal appeal. While some important research has investigated the experience of being breached (ACOSS, 2001a; ACOSS, 2001b; Lackner, 2001; Moses, 2000; Mullins, 2002; Office of the Commonwealth Ombudsman, 2002; Pearce et al., 2002; The Salvation Army Australia, 2001; WRAS, 2000; Ziguras et al., 2003), this research does not link the breaches to appeals. While this research is useful and valuable, it offers insufficient evidence for any relationship between current breach and appeal numbers.

The Wallis Consulting Group (2001), funded by FaCS, does link concerns about the breach rate with appeals. Their concern, however, is perfunctory. Their analysis consists of a six line paragraph (Wallis Consulting Group, 2001, p. 62), and research on appeals consisted of two closed-ended survey questions. Their concern, however, does not extend to the appeal *numbers* over the period that the breach figures increased so markedly. It also is not particularly interested in the experience of being breached or seeking an appeal: the Wallis Consulting Group (2001, p. 5) surveyed 3003 NSA and YA (unemployed) Centrelink clients over the phone using primarily closed-ended, short answer questions. This research alone does not provide sufficient evidence for any relationship between breach and appeal numbers.

It is from the social context that evidence of any relationship between these two figures can be obtained. In other words, more data about the phenomenon of the disparity of breach and appeal numbers in its social context is needed. According to Yin (1993, p. 31) this constitutes a case study. An exploratory case study method was used in this research.

So, what case did I study, why was this case chosen and how did this proceed? The case used in a case study can be a person, a town or even a country. In this research the case was a particular Centrelink office—this included the clients that visited the office and the layout of the office. It also included the forms and fliers used by that office to communicate with clients (although these were produced in Canberra, they were collected from the site). A Centrelink office is one of the few places where Centrelink clients congregate in one place, and where they all experience Centrelink decisions (including breaching) and can collect information about seeking a review and also lodge an appeal. Although a Centrelink office is by no means the only place where Centrelink clients experience Centrelink decisions or can seek a formal appeal, it is a place where these processes are linked.

Another possible case might have been the SSAT or AAT. This would have allowed collection of contextual data about seeking a formal appeal, however a Centrelink office was preferred. This is because it allowed the social context of all Centrelink decisions and appeals to be studied at a single site. For a similar breadth of data both the SSAT and AAT would need to be studied—leading to many cases rather than one. Also, the AAT and SSAT would not allow the context of actual Centrelink decisions to be analysed, just appeals. To study a Centrelink office was a more resource efficient and effective approach.

Another possible case might have been a JNA office. Indeed, this is where much of the management and surveillance of Centrelink clients occurs, for example, through negotiated agreements. However, JNAs do not administer breaches nor allow Centrelink clients to appeal their decisions (Owens, 2001). To study a Job Network office to explore Centrelink breaches and appeals would miss the phenomenon entirely. A Centrelink office is a more appropriate site to study the social context of Centrelink breaches, Centrelink decisions and formal appeals.

Also, although a number of offices throughout Perth could have been sampled, this would not have significantly increased the representativeness of the sample—especially nationally. Perhaps if offices could be randomly selected from each state and

territory a nationally representative sample could be obtained. However, this type of generalisation is not the aim of this project. As Stake (1995, p. 7-8) wrote, “the real business of case study is particularisation, not generalisation. We take a particular case and come to know it well”. It is through a deeper contextual understanding of a Centrelink office that a deeper understanding of the significance of the current breach and appeal figures can be obtained. To concentrate on a single Centrelink office does not detrimentally limit an exploratory project such as this. To study any more offices, at this stage, would be an inefficient use of limited resources.

The particular Centrelink office was selected according to the pragmatic criteria explicated by Stake: “time and access for fieldwork are almost always limited. If we can, we need to pick cases which are easy to get to and hospitable to our inquiry” (Stake, 1995, p. 7-8). The particular office chosen was close to the researcher’s base. Further, its layout was suitable for conducting interviews with Centrelink clients without needing permission from Centrelink. It had an appropriate area on the footpath outside the office to conduct interviews. There was a metal bench that was obscured from the Centrelink officers working inside. The bench was also close enough to the exits to approach potential participants and obscured from the road so participants didn’t need to be embarrassed to be seen outside the Centrelink office. It was also sheltered from the sun and rain. These factors were shown to be important when I attempted to conduct interviews outside another Centrelink office. Although one interview, with Jed, was completed, a Centrelink officer who could see the interviewee and myself from inside the office interrupted it. I was concerned about the interviewee’s privacy. It was also physically uncomfortable for potential interviewees and myself outside the other Centrelink office, as there was nowhere to sit down, no shelter and too much traffic noise.

Data was collected from the selected office using a variety of sources—interviews with Centrelink clients after they visited the office, documents such as forms and fliers found in the office, and direct observation inside the office which included drawing a map of the office layout. According to Yin (1989, p. 84-95) these are common sources of evidence for case studies. Each source is elaborated below.

Individual Focused Interviews

Individual focused interviews of Centrelink clients were conducted. Although a particular set of theoretical frameworks were being evaluated, including neo-liberal, advocacy, new-contractualism, one that views surveillance as oppressive and one derived from the work of Michel Foucault, I still needed to provide room for unexpected responses. This is because the study was essentially explorative. According to Minichiello et al. (1995) individual focused interviews permit this exploration and flexibility, within a broad framework. This is because in individual focused interviews “the topic area guides the questions being asked, but the mode of asking follows the unstructured interview process” (Minichiello et al. 1995, p. 65). Clients’ accounts of Centrelink decisions, payment postponements, breaches, appealing, and their account of the appeal system itself were sought. Please see Appendix A for the interview schedule.

Information about Centrelink clients’ accounts of the appeal system was obtained through a series of open-ended and closed-ended questions. An example of a closed-ended question is:

“To what extent are you aware that you have a right to have decisions of Centrelink subject to a review by an Authorised Review Officer?”

I _____ I _____ I _____ I _____

Very aware Somewhat Aware Not Sure Not Aware

An example of an open-ended question about appeal system knowledge is:

“What rights do you think you have when you disagree with a decision taken by Centrelink?”

Demographic information was also collected.¹⁴ Also, room for unforeseen information was allowed through broad questions such as “would you like to add anything else to this conversation?” The interviews were taped and interviewees were encouraged to speak freely if they wished—all did to some extent. Interview duration ranged from 10 minutes to almost an hour.

As Minichiello suggests (Minichiello et al. 1995, p. 80), the interviews consisted of three main sections—an opening, topical sections and a closing. A “funnelling” process of questioning was used (Minichiello et al. 1995, p. 84). This means “as the participants engage in conversation, the interviewer guides the informant’s view towards more specific” and personal issues (Minichiello et al. 1995, p. 84). This gently built rapport with participants and encouraged them to discuss their experiences with Centrelink. This is especially important for research with income support recipients. Brewer found in his interviews with Australian unemployed people that some were initially “wary and defensive” when discussing feelings about their situation (Brewer, 1980, p. 47).

Sampling

Interviewees were sampled from the population of Centrelink clients who visited the Centrelink office, and might incur an activity or administrative breach. Although the topic of the thesis is Centrelink breach and appeal numbers, clients were interviewed regardless of whether they had been breached. This is for two main reasons. First, this research aimed to explore interpretations of the breach and appeal figures. An answer to this question required information about all Centrelink clients’ knowledge of the

appeals system, not just those who have been breached. Second, it was difficult to discern who was breached before the commencement of an interview. I believe it would have discouraged people from participating if they were approached with a question about their breach record (following the experience of Brewer, 1980, p. 47). This would also preclude the funnelling questioning technique outlined above. Also, to find out that someone had not been breached while conducting the interview, and then discard his or her contribution, would be inappropriate. Further, as will be shown later, some clients seemed confused about whether they had indeed been breached.

Three techniques were used to try to obtain a random sample of potentially breached Centrelink clients leaving the Centrelink office. First, following a technique described by Neuman (1991), every seventh person exiting the Centrelink office was invited to participate in the research. Second, I aimed for a balance of different demographic groups, such as age and gender, following Lowenstein's (1997) study. Lowenstein obtained this balance through a somewhat organic process; simply continuing interviewing until a loose balance emerged. The male/female ratio of participants in this project was 13/9. Please see Table 2 for the age groups sampled. At least one member of each age group indicated participated in the study; unfortunately no one over 55 participated. Aged pensioners and disability support recipients used another entrance and were thus not sampled. Since people receiving these payments cannot incur either an activity or administrative breach, they are not relevant to the study. While most of the interviewees were under 35 years old, this may reflect the general population of clients who used the Centrelink office and might incur a breach rather than sample bias. There are more Centrelink clients who are under 35 years old receiving payments that are subject to the breach regime than older clients (FaCS, 2003, p. 28, 30, 32, 36). Third, time stratified sampling—Monday morning first week, Monday afternoon second week, Tuesday morning third week, and so on (similar to Carrington, 1993)—was used.

¹⁴ This was a requirement of the Western Australian WRAS, who I worked with in the early stages of this project. The Western Australian WRAS also helped develop the interview schedule.

Table 2. Age group of participants

Age group	Number of participants
15-21	3
21-24	7
25-34	8
35-44	3
45-54	1
Total	22

A total of at least thirty Centrelink clients was originally anticipated, continuing until I reached a point of theoretical saturation, end of research time, or no more willing participants. Twenty-two interviews were sufficient for this exploratory project. A brief description of each interviewee is listed along side their pseudonym in appendix C.

Recruiting interviewees

Recruiting Centrelink clients has proved problematic for many researchers since they are a geographically decentred group. However, researchers who have conducted immediate, in-situ interviews outside government offices (Fitzpatrick, 1987; Turner, 1983), or job clubs (Brewer, 1980; Fitzpatrick, 1987) have experienced the most success. Indeed, no person approached by Turner (1983) outside DSS offices declined to be interviewed. In contrast, advertising in local newspapers seems the least successful technique employed, with Fitzpatrick (1987) receiving only one response, and that being abusive. In the light of past successes and challenges, I recruited people from directly outside the Centrelink office, and avoided advertising in newspapers.

I was concerned that Centrelink clients may be reluctant to talk with me if they thought I worked for Centrelink. Therefore, I needed to distinguish myself from Centrelink. I wore smart-casual clothing (jeans and a t-shirt, not a business suit), introduced myself as a Masters student from Edith Cowan University doing research on Centrelink breaches and appeals, reassured them of my independence from Centrelink and gave them a declaration and consent form to read (see Appendix B).

It is important to consider that not all people who enter or exit a Centrelink building are Centrelink clients (they may be staff for example). However, a sufficient percentage of the human traffic were Centrelink clients and this approach to recruitment was successful. Most people approached participated, which reflects past research that recruited unemployed people directly from the office (Fitzpatrick, 1987; Lowenstein, 1997; Turner, 1983, p. 2-3).

Ethical considerations

The Edith Cowan University ethics committee for research on humans approved the interview research methods. Interviews were only conducted after the interviewee gave informed consent. Informed consent meant that, after I informed the participant of the nature of the research, their anonymity, and freedom to decline at any time without giving reasons, the interviewee signed the informed consent form (see declaration and consent form in Appendix B). It was essential that the participants understood that the research was independent from Centrelink. This means that participation involved no financial benefit or punishment, nor could it be used for mutual obligation.

Since some YA recipients are minors, special consideration of their rights was required. Before the potential participant signed a consent form, I established whether they were a minor. I asked them if in doubt. No one I approached was a minor.

Each participant's confidentiality was maintained by using pseudonyms on the cassette tapes and transcripts of interviews, and in the research report. No participant's real name or actual contact details were recorded on the tapes, transcripts, interview schedules or in the final research report.

If any interviewee stated they wished to seek an appeal of their breach, or asked for information about appealing breaches, then I referred them to relevant services. I carried brochures produced by local community legal centres, and phone numbers for the SSAT and Ombudsman. This documentation was not available from the Centrelink office. However, other documents that were available from the office were important sources of evidence for this thesis.

Documentation

The documents collected from the Centrelink office for this research are described below. All documents, except for the customer charter (Centrelink, September 2000), were obtained through a Centrelink officer because they were not available without this contact. According to Yin (1989, p. 86) documents should not be seen as unbiased accounts of the working of, for example, a Centrelink office or action of a Centrelink client. Rather, they should be understood to be a particular view point. Also, "for case studies, the most important use of documents is to corroborate and augment evidence from different sources" (Yin, 1989, p. 86). The documents used in this thesis included:

Application for payment of Newstart Allowance (Centrelink, 2 May 2000) (also known as the 'fortnightly' form). This is a double sided A4 sheet which must be completed personally by NSA clients every fortnight and returned to a Centrelink office to ensure payment continues. Mitchell Dean (1998, p. 95) used the 'fortnightly' form to demonstrate how the ethical lives of the unemployed are governed.

The jobseeker guide (Centrelink, 2000d) and jobseeker diary (also known as the 'dole' diary). Together they comprise a small stapled aqua and purple printed booklet, in which *The jobseeker diary* (Centrelink, 2000c) is a removable insert. *The jobseeker diary* (Centrelink, 2000c) (37 pages) is where the client records job search activity in detail. It is removable so it can be lodged at a Centrelink office after twelve weeks of diary keeping. A new diary is then collected by the client for completion over the next twelve weeks. *The jobseeker guide* (Centrelink, 2000d) (18 pages) is for the Centrelink client to keep private job search notes and contains job search tips, similar to the "Job Search Kit" referred to in Mitchell Dean's research (1998, p. 95).

What we can do to help each other: customer charter (Centrelink, September 2000). This is an information pamphlet. It is glossy and printed in green and orange ink. They are very common—laminated copies of this pamphlet were on the counters of the Centrelink office. The pamphlet outlines appropriate behaviour for both Centrelink and its clients.

Claim for Newstart Allowance (Centrelink, 2000b) and Notes for Newstart Allowance (Centrelink, 2000e). An A4 sized booklet, matt printed in purple and green ink. The *Claim for Newstart Allowance* (Centrelink, 2000b) is a 23 page form that must be completed by a client, often in an interview with a Centrelink officer, in order to apply for NSA. The 8 page *Notes for Newstart Allowance* (Centrelink, 2000e) is a smaller booklet insert of instructions for completing the NSA application form.

Direct Observation

As Yin (1989, p. 91) suggests, direct observation ranges "from formal to casual data collection activities". The formal observation in this study included a map of the office layout drawn by the researcher during a visit to the office in early 2002. Casual

observations were also noted throughout the research, particularly when interviewing Centrelink clients.

Analysing Evidence

Data was analysed according to different possible explanations of current breach and appeal figures in the Australian social policy literature—from neo-liberalism, to advocacy, to new contractualism, to surveillance as oppressive, to an approach drawn from the work of Michel Foucault. This process was similar to Yin’s “explanation building” where “the case study evidence is examined, theoretical positions are revised, and the evidence is examined once again from another perspective” (Yin, 1989, p. 113-115). Different evidence was used to evaluate different possible explanations. For example, interviews with Centrelink clients were invaluable for evaluating the neo-liberal, advocacy, and new-contractualism approaches, while the documents and map derived from direct observation were most useful for evaluating the approach drawn from the work of Michel Foucault. Like most existing case studies, this analysis will proceed in narrative form (Yin, 1989, p. 113)—through critically applying and evaluating each approach according to the evidence. The neo-liberal and advocacy approaches will be the first to be evaluated, then the new-contractualism approach, then the oppressive surveillance approach, and finally an approach that draws from Michel Foucault’s ideas.

Validity and Reliability

According to Yin (1994, p. 92), case studies that use multiple sources of evidence curbed potential validity (or accuracy) problems. Using different data sources also allowed me to triangulate these different sources to corroborate findings. Further

validity was enhanced by analysing the data according to different possible explanations, and evaluating these different possibilities (Yin, 1993).

I reduced the chance of a biased sample of interviewees, and thus improved the validity of the research, in four ways. I attempted to obtain a balance of different demographic groups, used time-stratified sampling methods, interviewed as many people as possible, and consulted with industry professionals such as WRAS.

The reliability (or reproducible nature) of the research was facilitated by keeping a research diary, and describing my research and analytic method. Also, using the same interviewer (myself) and following the same research schedule at each interview enhanced the reliability of the interview findings.

Methodological Limitations

However, any conclusions made through this research should be tempered with an understanding of some methodological limitations of the study. We must remember that a single case study was used. A single Centrelink office was studied in detail. While this allowed detailed information about a particular office to be collected—such as the indiscriminate nature of breaching and many clients' attitudes to appealing—this was only one case. This means that any attempt to extrapolate these findings to the entire population must be cautious. I have no reason to assume the particular office studied was representative of all Centrelink offices. However, I have no reason to assume it was significantly different either. As Stake (1995) explains, inferences can be made from a small number of cases; however they must be made with caution and with consideration of other possibilities. I hope I have done this through considering different interpretations of the breach and appeal numbers.

The data collection techniques also had potential limitations that should be recalled here—particularly the interviews. Some of these limitations are listed below.

- Despite all my efforts, interviewees (also people who declined to be interviewed) may still not have believed I was independent from Centrelink and may have altered their responses accordingly.
- My age and gender may have influenced people's responses to my questions. Since I was the only interviewer, I was very sensitive to this while conducting the interviews and also during the analysis of their transcripts.
- I was only able to interview unemployed people who could access the Centrelink office; my sampling excluded people from regional Australia, and people who were too ill to attend Centrelink.
- Since I conducted the interviews in English, I am aware that non-English speakers were excluded from the sample.

Conclusion

Numerical figures alone provide insufficient evidence for a relationship between breach and appeal figures. More data on the social context, which links Centrelink decisions such as being breached to the formal appeals structure, is required. An exploratory case study of a single Centrelink office, incorporating documentary evidence, individual focused interviews, and direct observation, was used. The case was analysed according to an evaluation of different social policy interpretations of the current breach and appeal figures. Chapter Four explores and evaluates the neo-liberal and advocacy interpretations of current Centrelink breaches and appeals. Chapter Five explores and evaluates the new-contractualism writers' interpretations. Chapter Six explores and evaluates some oppressive surveillance accounts. Finally, Chapter Seven evaluates the discipline and governmentality analyses of current Centrelink breach and appeal figures.

However, as Esping-Anderson (1990/2000, p. 155) postulated in his seminal taxonomy of welfare regimes, “we cannot test contending arguments unless we have a commonly shared conception of the phenomenon to be explained”. In the context of exploring possible explanations of the current breach and appeal numbers through a case study of a Centrelink office, the specific phenomena are breaches and appeals. These breaches and appeals exist within the context of the Australian welfare regime. Therefore, we must establish an understanding of the Australian welfare regime before different interpretations of the breach and appeal figures can be tested against the case study findings. The Australian welfare regime is the topic of the next chapter.

CHAPTER THREE

THE AUSTRALIAN WELFARE REGIME

This chapter will establish a conception of the current Australian welfare regime. This will be used as a basis for the pending evaluation of different explanations of current breach and appeal numbers. As explained in the previous chapter, without this the pending evaluation will be less convincing. However, establishing a conception of the Australian welfare state is a complex task.

A very general definition of a welfare state is a state that accepts “responsibility for securing some basic modicum of welfare for its citizens” (Esping-Anderson, 1990/2000, p. 154). According to this definition, Australia could be considered to be a welfare state. However, this definition is too general for three reasons.

First, this definition is too general because it does not address questions about the level of state responsibility, how this responsibility is administered and whether this is a desirable method. In short, it ignores the diverse ways that different governments have attempted to guarantee welfare. For example, social democratic governments like the Scandinavian countries have a different approach to welfare than Australia, America and Britain which are often referred to as liberal welfare regimes (Esping-Anderson, 1990/2000).

Second, the above definition is too general because even within a particular welfare state there are different forms of service provision. For example, Richard Titmuss (1968/1979) famously extended the common sense definition of welfare as income relief to include all social benefits from governmental redistribution of wealth. He perceived direct income relief to be the equivalent of the tip of an iceberg of the entire social spending by government. The submerged bulk of the iceberg of social

spending, according to Titmuss, is enjoyed by the middle and upper classes through tax breaks, industry subsidies and general infrastructure like roads.

Similarly, more recent Australian writers (such as Bryson, 1992; McMahon, Thomson, & Williams, 2000; Williams, 1989) distinguish different types of welfare within the Australian welfare state. They distinguish social welfare from occupational and fiscal welfare. Social welfare, according to McMahon (2000, p. 10) includes “government-individual benefits redistributed from taxation to those who are eligible in relation to defined and strictly evaluated need”. It is applied mostly to the poorer sections of the population. In contrast occupational welfare is defined as welfare that includes benefits paid “to wage and salary earners over and above their pay, including those referred to as fringe benefits” (Bryson, 1992, p. 131), such as company cars and travel expenses. And fiscal welfare “is the use of the taxation system to reduce the amount of taxes paid on certain approved goods and services” (McMahon et al. 2000, p. 10) such as investments. Both occupational and fiscal welfare benefit the middle and higher income earners more than the poor. They continue to explain that:

In addition, the welfare state also delivers education, health, policing, cultural and recreational services. Like occupational and fiscal welfare, these services also favour those who are already better off. (McMahon et al. 2000, p. 10)

Third, the above definition of the welfare state is too general because it ignores that the Australian welfare regime has changed over time. For example, in the nineteenth century social welfare provision was handled by voluntary organisations, such as the Benevolent Society of New South Wales (Conley, 1982), while in the post war period social provision was administered primarily by the Federal Government of Australia.

Consequently, the general definition of a welfare state offered above is over simplistic. It does not consider differences among welfare states, different welfare provisions within welfare states, or historical changes. Another definition is required. A

taxonomic system helps to establish the best way to conceptualise the current Australian welfare regime. Different writers, however, offer different categorisations of welfare states. For example, some writers distinguish among welfare states according to the level of expenditure, others according to the type of welfare provision—residual or institutional, and others according to citizenship rights. Therefore, an understanding of the current Australian welfare regime should consider different categorisations of welfare states. Consequently, this chapter will consider the distinctions made by the level of expenditure writers, then Richard Titmuss, then TH Marshall, then Esping Anderson, then some neo-liberal writers. These different categorisations will form the organisational structure of this chapter.

Categorising Welfare States

Levels of expenditure

One taxonomy of welfare states focuses on the level of social expenditure, assuming that more expenditure indicates a greater commitment to welfare (Esping-Anderson, 1990/2000, p. 155). However, relating this to Australia is problematic. On the one hand, Peter Saunders (then Director of the Australian Institute of Family Studies) paraphrases the then Senator Jocelyn Newman, Minister for Family and Community Services, “that rising rates of welfare dependency were ... placing an increasing burden on government expenditure” (Saunders, 2000, p. 1). Saunders and Newman might argue, according to the levels of expenditure taxonomy, that Australia currently has an exorbitantly high commitment to welfare. On the other hand, many writers observe that as poverty and unemployment are increasing, the scope for people to actually obtain services from the state is decreasing (McMahon et al. 2000). Hence, while total expenditure may seem to be increasing, the actual level of support is not. It seems that Esping-Anderson (1990/2000, p. 155) was correct to criticise the categorisation of welfare states according to their level of expenditure because they ignore important structural and political issues. For example, he states that the “focus on

spending may be misleading” because “some nations spend enormous sums on fiscal welfare in the form of tax privileges to private insurance plans that mainly benefit the middle classes” (Esping-Anderson, 1990/2000, p. 155).

Residual and institutional welfare

Another approach derives from Richard Titmuss’s (1968/2000) classical distinction between institutional and residual welfare states (Esping-Anderson, 1990/2000, p. 156). In an institutional welfare state, the state universally addresses the entire population, and embodies an institutionalised commitment to welfare. Also, “it will, in principle, extend welfare commitments to all areas of distribution vital for societal welfare” (Esping-Anderson, 1990/2000, p. 156). In contrast, residual welfare “assumes responsibility only when the family or the market fails; it seeks to limit its commitments to marginal and deserving social groups” (Esping-Anderson, 1990/2000, p. 156). According to this distinction, the Australian welfare state has been residual throughout its history, but to different degrees. Before federation welfare in Australia was administered by voluntary community agencies, like the Benevolent Society of New South Wales (Dickey, 1987). These societies provided basic relief to marginal, deserving groups (Conley, 1982). Under the Whitlam Labor Government in the 1970s, welfare in Australia was the closest to universal it has ever been. McMahon et al. (2000) refers to this period as a “high water mark” of democratic socialism in Australia. Education (including tertiary education) became free and Medibank (universal public health insurance) (van Krieken et al. 2000, p. 159, 190) was introduced. Both of these services were available without means testing. However, since a fiscal crisis was declared in the late 1970s the Australian welfare regime has become increasingly residual. A student loan scheme for university fees has been introduced (the Higher Education Contribution Scheme) (Australian Taxation Office, Department of Employment Education and Training, & Department of Employment Education Training and Youth Affairs, 1989) and more recently high-income earners have been financially penalised through tax for using the public health system rather than private health insurance (see *A New Tax System (Medicare Levy Surcharge - Fringe Benefits*

Amendment) Bill 2000 (Cwth)). This might surprise Titmuss because he writes about residual welfare in the 1950s in the past tense. For example, according to Titmuss:

In the past, poor quality selective services for poor people were the product of a society which saw ‘welfare’ as residual; as a public burden. The primary purpose of the system and the method of discrimination was, therefore, deterrence (it was also an effective rationing device). (Italics not in original R. Titmuss 1968/2000, p. 47)

While this “universal versus residual” distinction is useful, it is not a simple dichotomy. Titmuss (1968/2000, p. 46) believes “those students of welfare who are seeing the main problem today in terms of “universal versus selective” services are presenting a naive and oversimplified picture of policy choices”. Indeed, such oversimplifications do not account for other diverse characteristics of welfare states such as citizenship rights or social structure (Esping-Anderson, 1990/2000, p. 157).

Three levels of citizenship: civil, political and social

Another approach derives from TH Marshall’s classical division of citizenship into three parts—“civil, political and social” (Marshall, 1949/2000, p. 32). TH Marshall (1949/2000, p. 32) explains that the “civil element” of citizenship:

is composed of rights necessary for individual freedom—liberty of the person, freedom of speech, thought and faith, the right to own property and to conclude valid contracts, and the right to justice ... The institutions most directly associated with civil rights are the courts of justice.

The “political element” of citizenship to TH Marshall (1949/2000, p. 32) is:

the right to participate in the exercise of political power, as a member of a body invested with political authority or as an elector of the members of such a body. The corresponding institutions are parliament and councils of local government.

To TH Marshall (1949/2000, p. 32) the “social element” of citizenship is:

the whole range, from the right to a modicum of economic welfare and security to the right to share the full social heritage and to live the life of a civilised being according to the standards of the prevailing society. The institutions most closely connected with it are the educational system and the social services.

According to Marshall social rights are both the newest part of citizenship to be extended, and have been separated from citizenship in certain periods. For example, the Poor Law¹⁵ in England from 1834 to 1918:

treated the claims of the poor, not as an integral part of the rights of the citizen, but as an alternative to them—as claims which could be met only if the claimants ceased to be citizens in any true sense of the word. For paupers forfeited in practice the civil right of personal liberty, by internment in the workhouses, and they forfeited by law any political rights they might possess ... The stigma which clung to poor relief expressed the deep feelings of a people who understood that those who accepted relief must cross the road that separated the community of citizens from the outcast company of the destitute. (Marshall, 1949/2000, p. 34-35)

Many writers have used this separation of citizenship into civil, political and social to map changes in the Australian welfare state. In particular, some writers point to a current divorce of social citizenship, in the form of rights to welfare, from general citizenship rights (Bessant, 2000a; Carney & Ramia, 1999; Carney & Ramia, 2001; Harris, 1999; Shaver, 2001). They point to the increasing requirements that claimants

must meet to receive payment, including voluntary work under mutual obligation and work for the dole, as evidence for this change. Further, some writers even argue that large segments of the population have been effectively denied citizenship due to the biases of the Australian welfare state. For example, Carol Pateman (1989/2000) argues that women have never been considered full citizens under the Australian welfare system because they have never been considered independent (see also, Bryson, 1992; Bussemaker & Voet, 1998; Shaver, 2001). However, while focusing on different types of citizenship may offer a useful basis of critique for current trends in Australian social welfare policy¹⁶, it does not account for all variations among different types of welfare states. For example, it does not accommodate different types of social stratification to consider inequalities among those with similar citizenship rights such as tax breaks (that is, occupational welfare) for a white collar working man compared to a blue collar employed gent's occupational welfare.

The three worlds of welfare capitalism

Another approach to categorising welfare states is the well-known taxonomy developed by Esping-Anderson (1990/2000) in *The three worlds of welfare capitalism*. He attempted to account for “qualitatively different arrangements between state, market and the family” (Esping-Anderson, 1990/2000, p. 161). He identified three clusters of regime types—liberal, corporatist and social democratic (Esping-Anderson, 1990/2000, p. 162).

Corporatist welfare regimes, Germany for example, focus on contributory social insurance. As Robert E. Goodin (2000, p. 172-173) summarises, in a corporatist regime “you get what you pay for and you pay for what you get. Furthermore, what insurance pays you when you are unable to work is a direct function, and a large fraction, of what you used to earn when you were in work.” Here “what predominated was the

¹⁵ Poor Laws were laws designed to regulate the poor in England. See Chapter Six for more information about the English Poor Laws.

¹⁶ As will be shown in Chapter Five.

preservation of status differentials; rights, therefore, were attached to class and status” (Esping-Anderson, 1990/2000, p. 162).

Social democratic welfare regimes include the Scandinavian countries. They pursue:

a welfare state that would promote an equality of the highest standards, not an equality of minimal needs as was pursued elsewhere ... manual workers come to enjoy rights identical with those of salaried white-collar employees or civil servants; all strata are incorporated under one universal insurance system, yet benefits are graduated according to accustomed earnings. This model crowds out the market. (Esping-Anderson, 1990/2000, p. 163)

Finally, in liberal welfare regimes:

means tested assistance, modest universal transfers or modest social insurance plans predominate. Benefits cater mainly to clientele of low income, usually working class, state dependants. In this model, the progress of social reform has been severely circumscribed by traditional, liberal work-ethic norms: it is one where the limits of welfare equal the marginal propensity to opt for welfare instead of work. Entitlement rules are therefore strict and often associated with stigma; benefits are typically modest. In turn, the state encourages the market, either passively—by guaranteeing only a minimum—or actively—by subsidising private welfare schemes. (Esping-Anderson, 1990/2000, p. 162)

Esping-Anderson locates Australia, along with the United States of America and the United Kingdom, in the liberal cluster (1990/2000, p. 162).

This taxonomy accounts for many variations among different types of welfare state. However, Esping-Anderson (1990/2000, p. 163) qualifies this taxonomy with a caution that “welfare states cluster, but we must recognise that there is no single pure

case ... Neither are the liberal regimes pure types". Indeed, there are variations among liberal states which are not accommodated by the large category "liberal welfare regimes". The next section extends Esping-Anderson's taxonomy to include some contemporary interpretations of liberalism apparent in western welfare states.

Contemporary flavours of neo-liberalism—Hayek, Mead and Murray

There are many contemporary flavours of liberalism that are becoming increasingly influential in western liberal welfare states. These ideas are often collectively called neo-liberal or new-right ideas. For convenience, this thesis will refer to such ideas as neo-liberal. Traces of the neo-liberal ideas of Friedrich von Hayek, who wrote 40-50 years ago, and Lawrence M Mead and Charles Murray, who are more current writers, can all be found in the Australian welfare regime.

Hayek's ideas about welfare and freedom, for example, have been very influential in Australia. He interprets the ideal liberal welfare state as one that does not impinge on individual liberty. Although Hayek does not argue against all state based welfare provision, he does believe that certain "methods of government action" (Hayek, 1959/2000, p. 91) deny individuals their freedom. He claims that:

The reason why many of the new welfare activities of government are a threat to freedom, then, is that, though they are presented as mere service activities, they really constitute an exercise of the coercive powers of government and rest on its claiming exclusive rights in certain fields. (Hayek, 1959/2000, p. 91)

Hayek (1959/2000, p. 92) does not consider redistribution of wealth to be the primary aim of welfare because "it is bound to lead back to socialism and its coercive and essentially arbitrary methods". He continues to warn against giving government "exclusive and monopolistic powers" because "the chief danger today is that, once an aim of government is accepted as legitimate, it is then assumed that even means

contrary to the principles of freedom may be legitimately employed” (Hayek, 1959/2000, p. 92-93).

Hayek’s ideas have become increasingly influential in Australian social policy. For example, the Liberal-National coalition government’s replacement of the state based CES with many competing JNAs fits well with Hayek’s concern about the monopoly and coercion of government. Similarly, Newman, when she was Minister for Family and Community Services, expressed Hayek type concerns about how the erosion of individual enterprise means the national market economy is compromised:

Long-term worklessness and welfare dependency tends to reduce people’s opportunities to participate fully in society. This means the productive capacity of the nation is not as great as it could be. (Newman, 1999, p. 6)

Even Hayek’s argument that government services are socialist and threaten individual freedom is mirrored by Vanstone when she was Minister for Family and Community Services:

Liberal social policies, which are based on a recognition of the primacy of the individual, which see choice as a better motivator than compulsion, and which see the community rather than government as the natural builder and owner of social capital were the victors of the twentieth century ideological war. (Vanstone, 2001)

She continues later in the same address:

The victory has been the triumph of liberal democracy with its focus on the individual over communism, socialism and any other system which does not acknowledge the primacy of the individual. (Vanstone, 2001)

Mendes (1998) maps the influence of Hayek's ideas (along with Adam Smith's and Milton Friedman's) on the Liberal Party of Australia from 1983 to 1997. He shows that concerns "to reduce government interference with free market outcomes by restricting access to social security payments" have gained influence from the early 1980s on (Mendes, 1998, p. 74). Mendes calls this a "neo-liberal takeover of the Liberal Party" (Mendes, 1998, p. 68). This was in response to the defeat of the Fraser Liberal government. However, in response to further election defeats the Liberal Party made a pragmatic compromise by adding to concerns about market interference some social conservative concerns "to reinforce traditional institutions such as the family" (Mendes, 1998, p. 74). Mendes claims that this compromise of the small government, freedom focused agenda of Hayek is the platform that led the Liberal and National Parties to form a coalition government in 1996. This demonstrates a small departure from the freedom focused agenda of Hayek's, who expresses disdain for governments that decide what people need and should be like (Hayek, 1959/2000; 1976; 1979).

Since the Liberal and National Parties' coalition government has extended its term in office, the influence of Lawrence Mead's ideas has become clear (Mendes, 2000). This is to the extent that, during the debate about welfare reform that led to the McClure report (2000a; 2000b):

[t]he government brought Lawrence Mead to Australia to extol the virtues of US-style reform. Mead was the keynote speaker at the annual conference of the quasi-independent research body the Australian Institute of Family Studies (AIFS) ... The AIFS, then under the research direction of British neo-liberal academic Peter Saunders, lauded the views of Mead and their relevance to the Australian situation. (Mendes, 2000, p. 3)

In contrast to Hayek's focus on freedom, Mead (1997a; 1997b) supports a mutual responsibility in which welfare recipients must be forced to be free, or, coerced into being competent citizens. This is because, according to Mead, despite fewer structural barriers to good paid employment since the 1960s and early 1970s, poverty has become entrenched amongst those who work little because they do not have the competence,

confidence or motivation to sustain full time employment. He (Mead, 1991/2000, p. 107) believes that this has formed an underclass whose “poverty stems less from the absence of opportunity than from the inability or reluctance to take advantage of opportunity”.

Newman, when she was Minister for Family and Community Services, reflected Mead’s ideas about the need to force people to be self reliant. For example, she said:

We do welfare recipients no favours by simply paying their benefits and being content to leave them on welfare indefinitely. They have both the right and the obligation to share in the benefits of economic and employment growth and to participate in their communities to the full extent of their capacity (Newman, 1999, p. 6).

Further, the influential McClure report (2000a; McClure, 2000b) reflects Mead’s position with its dire warnings about welfare dependence and “entrenched economic and social disadvantage” which led to “an intergenerational cycle of significant joblessness” (McClure, 2000a, p. 3). McClure recommends we “re-think and re-configure our approach to social support”. He claims that a “social support system should seek to optimise their [clients’] capacity for [social and economic] participation” (McClure, 2000a, p. 3-4). McClure thus recommends a focus on “participation support” rather than income support.

Further, Mead (1991/2000, p. 111) argues that, in the United States, and increasingly in the United Kingdom and the rest of Europe, “the drift is towards policies that address [the lack of] motivation by seeking to direct the lives of those dependent on government” so they can eventually help themselves. Newer paternalistic programs, such as workfare in the United States, have this aim (Mead, 1991/2000). So too do the post-1997 Australian Liberal/National coalition government’s policies of mutual obligation, work for the dole, and increased surveillance through the jobseeker diary (Mendes, 2000, p. 26). Indeed, in *The challenge of welfare dependency in the 21st*

century (1999) released by the then Senator Newman, welfare dependency is seen as best combated by mutual obligation (see O'Connor, 2001). Indeed, according to Newman (1999, p. 9, 10), one of “a number of key principles that will underpin the reform of the welfare system” is:

expecting people on income support to help themselves and make a contribution to society, through increased social and economic participation reflecting mutual obligation. (Original is in bold type)

Similarly, Tony Abbott, Minister for Employment and Workplace Relations, justifies work for the dole along Mead like lines:

Work for the Dole is starting to change the culture of welfare and work. Work for the Dole demonstrates to unemployed people that they have not been abandoned to quiet despair in front of the television set. It reassures wider society that they are pulling their weight in a largely shirker proof system. Most significantly, it helps to overcome the impact of a regressive tax transfer system by creating a strong non-monetary incentive to find work. If the alternative to working for a wage is working for the dole, even part-time work at modest rates of pay becomes considerably more attractive. There's nothing 'punishing' about Work for the Dole projects but participation invariably involves turning up on time, attention to detail, taking responsibility and working in a team (like a normal job) and failure to perform can involve a failure to be paid (like a normal job). (Abbott, 2003)

Mead's agenda has thus been deeply influential in Australian social policy since the Liberal/National coalition government has been in power. However, as Mendes (2000, p. 24) points out, Mead's big state approach has not been complemented by the increased welfare spending required to force Centrelink clients to be free. Rather, much government talk suggests the need to reduce government spending. For example Prime Minister John Howard's 1999 Federation Address titled *The Australian way* criticised the then welfare system for passivity and over-generosity as follows:

The dole system we inherited sent the worst possible message to young Australians. It told them that dropping out of school, out of their communities, escaping personal responsibility, was acceptable and that the taxpayer would foot the bill. (Howard, 1999)

Hayek's concern about the problems of budget and big government have been shown to be shared by the current Liberal/National coalition government; so too was Mead's concern about making welfare dependents behave more independently. Charles Murray shares these two concerns and has, along side Hayek and Mead, influenced current directions in Australian welfare reform. Charles Murray is both concerned with budget issues, and making 'welfare dependents' behave more independently. Indeed, Murray agrees with Hayek that the government should be as small as freedom allows and not redistribute wealth. In fact, he claims that increased government spending has led to an increase in the "latent poor" (his term for social security recipients)¹⁷, while periods of less spending have decreased it (Murray, 1982/2000). Tony Abbott recently expressed similar concerns about government spending increasing welfare dependence in his address to the Young Liberals:

Comprehensive social security is part and parcel of modern civil society but has had a range of harmful side-effects. Failure to acknowledge the way universal, more-or-less unconditional welfare changes people's behaviour has seriously compromised Australian government's effort to deal with unemployment. The Hawke Government cut basic award earnings by 7 per cent in real terms between 1983 and 1990 (while increasing unemployment benefit by nearly 20 per cent). Unemployment averaged more than 7 per cent over the period and at its end the Minister for Social Security told cabinet that his department had just identified the first Australian family with three generations simultaneously on welfare. (Abbott, 2003)

However, Murray also agrees with Mead that welfare recipients must be made to be good, independent citizens. Indeed, like Mead, Murray seems to have the support of the

¹⁷ According to Murray (1982/2000, p. 96-106) social security recipients should be regarded as the "latent poor" because if they were not receiving assistance they would be living in poverty.

quasi-independent AIFS. O'Connor (2001, p. 230) observes that a recent edition of their journal *Family Matters* (1999), "promotes Murray as a welfare expert whose ideas have considerable merit". Murray's ideas are also reflected in the social conservative strain of the contemporary Liberal Party's focus on family and community (see O'Connor, 2001). He (Murray, 1982/2000, p. 103) links increases in latent poverty to "the decline in the intact husband-wife family unit, especially among blacks". Murray (1982/2000) claims the Great Society reforms in America under Kennedy and Johnson during the 1960s link poverty to the decline of the family. Newman reflects similar neo-conservative concerns in her view of the impact of long term welfare dependency on families:

New evidence is also emerging about the impact of long term welfare dependency on the next generation. Research by the Department of Family and Community Services has shown that young people from income support recipient families are much more likely than other young people to leave school early, to become unemployed and to become teenage parents. About one in six young people from income support recipient families are themselves highly dependent on income support between the ages of 16 and 18. (Newman, 1999, p. 6)

Neo-liberal based reforms in context

However, to simply say the current Australian welfare regime is essentially neo-liberal is over simplistic. This is because it does not account for the various manifestations of these ideas in different contexts. Indeed, as Mark Considine observes:

While these [neo-liberal type] common themes and justifications suggest the workings of a single 'enterprising' imagination driving the definition of public service, in practice, the organisational reforms produced according to these various imperatives are fashioned from local institutional material and born of political compromise. The same enterprising urge can beget different offspring, even if the gene pool is much the same. (Considine, 2001, p. 14)

In *Enterprising states: the public management of welfare-to-work* Considine shows that similar contemporary neo-liberal ideas like the need for citizen responsibility for their own welfare provision have been implemented differently in the United Kingdom, the Netherlands, New Zealand and Australia. For example, according to Considine, (2001, p. 16) while Australia and the Netherlands brought private organisations into the centre of the service delivery role, New Zealand and the United Kingdom attempted to make their existing public service organisations more neo-liberal.

Further, to simply say the Australian welfare regime is neo-liberal oversimplifies the process of current policy change. In Mark Considine's idea of the enterprising state, he really means the "*enterprising* of the state" [italics in original] because "this transformation is something less than a final accomplishment. Process is often more revealing than structure" (Considine, 2001, p. 1). Indeed, whether the contemporary Australian welfare state is neo-liberal/neo-conservative or not is not the point here, but the influence of such ideas on current policy change cannot be denied. The Australian welfare state is currently neo-liberalising.

This section concludes that the current Australian welfare reforms reflect elements of general-liberal influence. However, these ideas manifest themselves differently in different contexts, and indicate a process rather than a finished product. Hence, this thesis will thus accept that the current Australian welfare regime is neo-liberalising. The possible explanations for the current Centrelink breach and appeal numbers will thus "have a commonly shared conception of the" current Australian welfare regime to allow "contending arguments" to be tested (Esping-Anderson, 1990/2000, p. 154).

Conclusion

This chapter has established that the current Australian welfare regime can be understood as essentially neo-liberalising. This will provide a basis for the pending evaluation of different understandings of Centrelink breach and appeal numbers.

This was established through accommodating various complexities in categorising welfare states including the different ways welfare states are administered, different types of welfare provision within welfare states, historical variation, and different categorisations of welfare regimes. Categorisations of welfare regimes that were considered include one based on levels of expenditure, another based on residual or institutional welfare, another based on TH Marshall's three level of citizenship, another based on Esping-Anderson's three worlds of welfare capitalism, and a final categorisation based on contemporary flavours of neo-liberalism.

The next chapter will begin evaluating different explanations of the current disparity of Centrelink breach and appeal numbers with the help of the case study findings. It seems fitting that the neo-liberal approach should be considered first, since it is the most influential in current policy formation. It also seems fitting that the neo-liberals be followed by their most public opposition, the advocates.

PART B

**BEYOND THE INTERPRETATIONS OF THE NEO-LIBERALS,
THE ADVOCATES, AND THE NEW-CONTRACTUALISM
WRITERS**

CHAPTER FOUR

BEYOND THE NEO-LIBERALS AND THE ADVOCATES

The previous chapter established that the current Australian welfare system is essentially neo-liberalising. However, it does not automatically follow that a neo-liberal framework offers a convincing understanding of the current disparity of Centrelink breach and appeal figures. While awareness of the ideas behind current policies is important, such ideas may not offer a convincing understanding of what actually happens to Centrelink clients when these ideas are applied through specific social policies. Hence, this chapter will evaluate the neo-liberals' interpretation of current Centrelink breach and appeal figures in the light of the social context of neo-liberalising policies—particularly the case study of a Centrelink office. This chapter will first outline the dominant neo-liberal approach to social policy in Australia, describe its interpretation of the relationship between the current breach and appeal figures, and evaluate this interpretation according to some of its strengths and weaknesses.

The most vocal opposition to the neo-liberal view in Australia is provided by various organisations which aim to advocate for the disadvantaged. ACOSS (ACOSS, 1997a; ACOSS, 1997b; ACOSS, 2000a; ACOSS, 2000b; ACOSS, 2001a; ACOSS, 2001b; ACOSS & NWRN, 2000) and the welfare rights movement (WRAS, 1999; WRAS, 2000) have been particularly active. The writers whom I will collectively call the advocates (following Moses, 2000), will also be considered in this chapter. Their view will be evaluated after the neo-liberals', and in a similar manner.

Beyond the Neo-Liberals

Outline

As shown in the previous chapter, neo-liberal ideas permeate current Australian social policy. Hayek's (1959/2000; 1976; 1979; 1984/1948; 1994/1944) trust in market forces and individual self-reliance, Mead's (1991/2000; 1997a; 1997b) wish to help people be more self-reliant, and Murray's (1982/2000) neo-conservatism have all been shown to flavour current reforms. Mutual obligation, work for the dole, increased surveillance and the replacement of the CES with the JNAs are examples of neo-liberalising policies.

Interpretation of current breach and appeal numbers

An important element of this dominant neo-liberal approach in Australian social policy is the use of compliance measures to ensure that Centrelink clients 'participate'. For example, John Howard, in his *The Australian way* address, stressed the importance of "improving compliance" (Howard, 1999). Improving compliance was also the justification given by Minister for Immigration and Multicultural Affairs Philip Ruddock in the second reading speech for the *Social Security Legislation Amendment (Activity Test Penalty Periods) Bill 1997*. Ruddock cited the Organisation for Economic and Cultural Development Job Study's conclusion that "a priori reasoning and historical evidence both suggest that if benefit administration can be kept tight, the potential disincentive effects [for self reliance] of benefit entitlement will be largely contained" (Hansard, 1997, p. 3191-3192). McClure reinforces this dominant neo-liberal approach. The report states that:

The stark reality is that those who most need assistance are often those who have few opportunities to participate and are often the least motivated to pursue them. For this reason, the new system must engage people more actively, and to be successful that engagement must be reciprocal. Consequently, the Reference Group believes that some form of requirement is necessary. (McClure, 2000a, p. 5)

It follows from this perspective that some regime, like the breach regime, is needed to ensure compliance. Indeed, the breach regime ensures taxpayers' generosity is reciprocated by Centrelink clients' participation in social and economic activities through financially punishing those who do not (McClure, 2000a, p. 40). Thus, according to this view, the increase in breaches since 1997-1998 is good and necessary. It is a process for weeding out the 'deadwood' and minimising abuses to ensure only those who 'participate' are assisted.

Further, according to the neo-liberals, the stagnating number of appeals despite the increase in breaches is not necessarily a problem. Rather, it is used as evidence that the new breaching regime is working (Moses, 2000, p. 15)—that is, it is catching those with no grounds for appeal. Indeed, the Department of Family and Community Services (FaCS) has reasoned that “on a very conservative estimate, 27% of people who are breached do not reclaim within 6 weeks” (Moses, 2000, p. 16). They conclude that “a significant proportion must have an alternative source of income” (Moses, 2000, p. 16) and, therefore, were not legitimate recipients of payments. Further, FaCS (2001) positively views changes to the AROs because they have decreased appeal numbers. Since around 1997 AROs were placed in Centrelink offices rather than grouped together in area support offices. According to FaCS (2001, p. 106) “this puts them closer to both the customers they are making decisions about, and the decision making process itself”. They explain that:

The new approach helps customers to understand why Centrelink acted as it did, and also ensures that original decisions are made properly. In the long run, this will help cut down the number of appeals and dissatisfied customers. Feedback from the CSCs where AROs are now

based suggests the new arrangement is working well. (FaCS, 2001, p. 106)

Evaluation

The dominant neo-liberal derived perception of the relationship between breach and appeal figures has some attraction. Indeed, it does provide a strong link between current breach and appeal numbers and a policy framework for future developments (McClure, 2000a). However, this strength is overshadowed by some serious limitations.

First, the neo-liberals tend to incorrectly assume all breaches are accurately administered. However, as both WRAS (2000, p. 5) and ACOSS (2000) have observed, 43.8 per cent of Activity Test breach cases that were appealed at the SSAT in 1998-99 were over-ruled. This means that Centrelink does err. It is not administratively infallible.

Second, this approach incorrectly assumes that only those Centrelink clients with no grounds for appeal will be caught because all clients who are unhappy with a decision will appeal. However, WRAS (2000) provides anecdotal evidence that Centrelink clients with grounds to appeal do not always push for an appeal of a Centrelink decision. Interviews with Centrelink clients that were conducted for this thesis support WRAS's finding. While 19 out of 22 participants were unhappy with a decision taken by Centrelink about their case, only 11 were happy with the eventual outcome. This means that 8 Centrelink clients who participated in the study remained unhappy with both the Centrelink decision and the eventual outcome. Of those who were unhappy with both the Centrelink decision and eventual outcome, 4 said that they did not seek any appeal. Of the others who said they did seek an appeal but were still unhappy with the outcome, none had exhausted all avenues for appeal, although one was awaiting the outcome of his SSAT appeal and may continue if still unsatisfied.

Third, this approach underestimates the hardships breaches can cause. Indeed, it assumes many people who are 100 per cent breached and do not reapply have some other source of income. This is contradicted by WRAS (1999; 2000) and The Salvation Army of Australia's research (2001). For example, a census of Salvation Army clients found that every second person requesting emergency relief who had been breached by Centrelink said that this breach had caused their need to ask for assistance (The Salvation Army Australia, 2001, p. 10). This finding is supported by the case study findings. At the time of interview Jonathan was waiting for his SSAT hearing, which was in a few weeks. Jonathon said he had suffered a 100 per cent breach, and had already spent 8 weeks without pay while he was seeking an appeal. According to Jonathon he was surviving on "food hand outs from Saint Pats, one of them, I've only had one of them. And mainly off parents, borrowed money".

Jaques' experience provides another example of the hardship being breached can cause an individual. He spent six weeks with reduced pay, during which he was evicted and was homeless for 50 days. Although he was unhappy with the outcome, Jaques did not appeal beyond the original decision maker or Ombudsman, nor was he aware that he could. Below is his description of his experience:

when I expected this years payments, they weren't there, and um, I was relying on, I needed them, um, to cover [renting?] costs, and it took them six whole weeks to sort it out. During that time 'cause I couldn't even afford rent I just lived on the street for fifty days. Fifty nights on the street 'cause I couldn't afford rent.

Jaques continued:

I was on their case. I was, um, I was, um, basically in here every single day telling them to hurry up and sort it out. They just kept saying yeah they would, and I'd ring back in a couple of days and say what's happening and nothing ever got done, and it took them, four to six weeks to, um, get it sorted out, and to get my payments back on schedule.

In summary, the neo-liberals dominate Australian social policy. They draw from a belief in market forces and individual enterprise to criticise the post World War Two

welfare state for creating welfare dependence. They argue that compliance measures like breaching are needed to ensure a more participatory system. They perceive the current breach and appeal figures as a positive indicator that this approach is working. While the neo-liberal view does provide a strong link between current breach and appeal figures and a policy framework for future developments, it has serious limits. It ignores the possibility of administrative error, down plays the personal and social cost of depriving a client of an income, and wrongly assumes that Centrelink clients appeal whenever possible. Consequently, its interpretation of the current breach and appeal numbers is wanting.

The Advocacy View

Outline

The advocacy approach to social welfare policy and breaches and appeals draws from the optimism of the classic post war welfare approach of TH Marshall (1949/2000), and Richard Titmuss (1968/1979) who consider access to welfare to be a basic right of social citizenship. Examples include ACOSS's (1997a; 1997b; 2000a; 2000b; 2001a; 2001b; 2000), WRAS's (1999; 2000), and The Salvation Army of Australia's (2001) responses to the breach regime. The advocates argue that welfare recipients are some of the most vulnerable people in our society. They aim to protect people's basic right to welfare by advocating in their defence.

Interpretation of current breach and appeal numbers

Rather than view the current increase in breaches as necessary, like the neo-liberals, the advocates argue that the current increase in breach numbers reflects an

overly harsh breaching regime. They point out that since NSA and YA payments are already under the Henderson poverty line¹⁸, breaching financially penalises those who are already living in poverty (ACOSS, 2000b; 2001a; 2001b; 2000; 1999; WRAS, 2000). Furthermore, they suggest the current breach regime targets the most vulnerable of those living in poverty, such as youth. For example, Susan Lackner (2001, p. 3) observed that “young people aged under 18 to 24 are the group most affected by Centrelink breaches, with 53% of all breaches occurring in this age range”. Further, these writers observe that the most vulnerable recipients are more likely to become homeless or turn to emergency relief when state funds become unavailable (ACOSS, 2001a; The Salvation Army Australia, 2001; WRAS, 2000).

Parallel to concerns about breaches, the advocacy approach regards the current low appeal numbers as a serious problem. This is because, according to the advocates, under-utilisation of the SSAT and AAT reflects that fewer people may be protected from government error or abuse of power (WRAS, 2000).

Further, the advocates argue that the current increasing breach rate combined with the consistently low appeal rate reflects two factors. First, unlike the neo-liberals who view these figures as an indication that the breach and appeal systems are working, they argue that these figures reflect the vulnerability of the people being breached. Vulnerable people do not tend to seek an appeal of Centrelink decisions (WRAS, 2000).

Second, according to this approach, the relationship between steady appeal numbers and the increased number of breaches relates to recent policy developments. The increase in breaches since 1997-1998 reflects new, confusing policy requirements that recipients find it difficult to meet. Since 1997 there has been a steady increase in mandated activities for the unemployed especially the jobseeker diary, work for the dole, increased fortnightly employer contacts (from 2 to 8), negotiating between job

¹⁸ The Henderson poverty line is a measure of relative poverty that has been particularly influential in Australia. It was first used by the 1975 Commission of Inquiry into Poverty (Henderson, 1975) —also known as the Henderson Report and has been indexed since to be relevant to the current cost of living.

network providers and Centrelink and mutual obligation (ACOSS, 2000c). All these require the ability to perform complex negotiation between agencies, mobility and a good standard of oral and written communication skills which Centrelink clients often lack (AAT, 1995; ACOSS, 1997b; ACOSS, 2001a).

Evaluation

The advocacy approach highlights some important relationships between breach and appeal figures. It points out that the breach and appeal regime has caused great hardship for Centrelink clients, especially those who do not seek an appeal when breached. As indicated earlier, this is a more convincing account of the case study data than the neo-liberal account that plays down this hardship. Further, unlike the neo-liberals, the advocates understand that Centrelink clients do not always seek an appeal when they disagree with a breach. As discussed earlier, this fits well with the case study findings.

The advocacy approach also points out that the breach rate increased after new, confusing activity requirements were introduced. This view is supported by the case study findings. For example, some Centrelink clients that were interviewed even seemed confused about whether they had been breached. Some clients believed they had not been breached, when, in fact, it seems they have been. For example, Jasmine said her pay had been delayed a few days because Centrelink misplaced her form. She resubmitted the form, but incorrectly did not consider it a breach. Another example is Jeff who also said his pay was delayed until he returned a form. This is despite him not receiving the letter requesting the form. This would normally incur a breach. However, when asked whether Centrelink had ever penalised or breached him for any reason, he replied “No”.

In contrast, other participants seemed to think they had been breached when, in fact, they had not. For example, Jenny thought a delay when applying for her allowance might be a breach:

Lyndal: And has Centrelink ever penalised or breached you or cut your allowance at all?

Jenny: Um, Yeah, kind of.

Lyndal: What happened?

Jenny: Um, they (unclear) had to come back a few times to because they didn't think the um identification that I has was correct or something they made me get all the signed signatures and stuff from school.

Lyndal: Okay. So were they paying you at all when that happened?

Jenny: No, to get the payment that I wanted I had to go back and get.

Lyndal: Okay, so were you receiving payment and then they stopped it until you.

Jenny: No, I wanted to go get Austudy or something like that and the identification I had wasn't sufficient, what's that word, yeah it wasn't enough and so I had to go back and get signatures and stuff from school to say that I was going to school, yeah.

There are a number of possible explanations for this confusion. One possibility is that participants did not say they were breached when they actually were because they were embarrassed to admit this to me. However, if this was a general pattern, other participants would not say they were breached when they were not. Another possibility is that my questions were unclear or confusing. However, I explained the meaning of breach, and also asked separate questions about whether their payment had been postponed, reduced or cut. So I do not believe this is the case. I think the most likely explanation is that participants were actually confused about whether they were actually

breached, and that this evidences the advocates' view that the new policies are too complex and confusing.

The advocates also point out that the low appeal numbers reflect the government's targeting of the most vulnerable people, because they are the least likely to have the skills and knowledge necessary to navigate the appeals process (WRAS, 2000). This is more convincing than the neo-liberals who incorrectly assume that all those who have grounds to appeal do so. However, the case study found the clients interviewed were articulate, intelligent and had a reasonable knowledge of the appeals structure. Of the 22 participants, 18 were aware of some appeal body. This means only 4 of the 22 participants did not know of any avenue of appeal. Of the 18 participants that were aware of some appeal body, 7 were aware of one appeal body, 7 were aware of two, 5 were aware of three and 3 were aware of four appeal bodies. Also, 18 participants were aware of the possibility of appealing to the original decision maker, 14 were at least somewhat aware of the ARO, 8 were at least somewhat aware of the SSAT, 5 were at least somewhat aware of the Commonwealth Ombudsman, and 2 were aware of the possibility of approaching their local MP with grievances.

Thus most of the Centrelink clients that were interviewed had at least some awareness of the possibility of appeal and the appeals structure itself. The Wallis Consulting Group (2001, p. 62) found similar results after surveying 3003 NSA and YA (unemployed) Centrelink clients. They found that two thirds of their respondents who had been breached were aware of their right to appeal their breach. In contrast to the advocates' assumption, ignorance of the formal appeal structure does not seem to be the reason for the relatively low number of formal appeals.

Rather than being ignorant, many interviewees perceived their relationship with Centrelink to be paternalistic. For example, Joan was perplexed and amused when asked what rights she thought she had when she disagreed with a Centrelink decision:

Lyndal: OK. Um, what rights do you think you have when you disagree with a Centrelink decision?

Joan: (5 second silence, then shrugs, pulls face and laughs)

Lyndal: (laughs) Is that because you don't want to say or you don't know what to say?

Joan: Huh? (3 second pause) Rights?

Joan was cynical despite being aware of the Ombudsman, original decision maker, and somewhat aware of the ARO and SSAT. Some Centrelink clients were concerned about what Centrelink might do to them if they sought an appeal. For example, Josh, who was aware the possibility of seeking an appeal with both the original decision maker and the ARO, explained that:

I think the more you try to push your rights the harder they'll be on you, and the more they'll try and penalise you and breach you and they'll do things to you. Make it tough for you. So you're best off, I think they make you just want to go in there and keep your mouth shut, and not argue.

Another interviewee, Jeff, who was aware of the possibility of appealing with the original decision maker and somewhat aware of the ARO and Commonwealth Ombudsman, replied when I asked whether Centrelink had ever made any decisions that he disagreed with: "No use arguing—don't get paid".

Furthermore, the advocates' emphasis on the vulnerability of Centrelink clients, who are assumed to be unskilled and unintelligent individuals, suggests paternalism. This is a problem because, as Carol Pateman (1989/2000) observed in 1979, paternalism comes at a price. Protection is offered in return for loss of autonomy. Sheila Shaver, in 2001, agrees with Pateman. Shaver states that "most troubling about Australian welfare reform is the separation it presumes between political and social policy citizenship ...

Hidden in the shift from rights to conditional support, and from sovereignty to supervision, is a withdrawal of the freedom of selfhood as the price of welfare assistance” (Shaver, 2001, p. 290).

The advocate’s approach has further important limitations. Assuming that clients do not seek an appeal because they lack the knowledge or skills, rather than because they are aware of their paternalistic relationship with Centrelink, reflects a general problem with this approach—that their pragmatic approach to social policy leads them to ignore deeper political dimensions. It does not reflect about why these harsh breaching penalties were implemented in the first place. Their policy recommendations tend to react to current government policy by advocating incremental rather than more substantial social change. For example, rather than questioning the existence of a breach regime, they accept the new incremental regime and only criticise the hefty financial penalties and complex new activity requirements (ACOSS, 2000b).

In summary, the advocacy view provides many valuable insights into how the current breach and appeal numbers reflect the vulnerability of Centrelink clients to administrative error or misuse of power in an unnecessarily harsh breaching regime. However, it has two serious limitations. It incorrectly assumes that the relatively low formal appeal rate is due to Centrelink clients lacking the necessary knowledge and skills to seek an appeal and ignores deeper political questions such as why such a harsh breaching regime exists.

Conclusion

Both the neo-liberal and advocacy approaches represent contemporary pragmatic responses to welfare in Australia and have significant strengths, but serious weaknesses, for explaining breach and appeal numbers. The neo-liberal account of current breach and appeal figures was shown to be limited because it did not account for the vulnerable position of Centrelink clients to the market. Their assumption that clients who do not

reapply after being cut have other sources of income, otherwise they appeal—was shown to be false.

On the other hand, the advocates' interpretation of breach and appeal figures was found to be limited because it dealt with the vulnerability of Centrelink clients in a paternalistic manner. It thus did not account for the vulnerability of Centrelink clients to the state, or advocacy agencies themselves. It ignores deeper political questions such as why such a harsh breaching regime exists. It also incorrectly assumes that the relatively low formal appeal rate is due to Centrelink clients lacking the necessary knowledge and skills to seek an appeal. This assumption contrasts with the case study finding that Centrelink clients may not seek an appeal for an unsatisfactory decision even if they are aware of the possibility to do so

However, other approaches go beyond the pragmatism of the neo-liberal and advocacy approaches to offer deeper and more detailed analysis of current breach and appeal figures, and the research findings. The new-contractualism writers focus on the detail of administrative changes in current Australian welfare reform. In particular, they explicate a new or quasi-contractualism in current policy changes—although different writers have different views about the utility and appropriateness of the new-contractualism. These writers are dealt with in the next chapter.

In all, three further approaches will be considered in this thesis—the new-contractualism approach, some oppressive surveillance approaches, and an approach which draws from Foucault's ideas of discipline and governmentality. Each of these approaches will be outlined, applied and evaluated over Chapters Five, Six and Seven.

CHAPTER FIVE

BEYOND NEW-CONTRACTUALISM ACCOUNTS

This chapter will consider the new-contractualism writers' contributions to understanding current Centrelink breach and appeal figures. Much recent scholarship has been concerned with explicating a new-contractualism in Australian welfare policy. According to this scholarship contemporary contractualism in social policy uses the language of classical legal contract theory, but reinterprets it. However, the nature of contemporary new-contractualism is interpreted differently by different writers, resulting in different interpretations of breach and appeal numbers. Terry Carney (1998; 1986; 1994; 1999) writes particularly about the Australian social security appeal structure, so will be considered here. Anna Yeatman has debated directly with Carney (Carney, Ramia & Yeatman, 2001, p. 1) and so will provide a contrasting approach. Carney's approach will be considered first, followed by Yeatman's. Each approach will be outlined, and its interpretation of the current disparity of breach and appeal numbers explicated. It will then be evaluated in the light of the case study findings.

Terry Carney's New-Contractualism

Outline

Carney's analysis concentrates on the growing use of individual behavioural contracts in Australian welfare provision. He links this development to the emergence of neo-liberalism in English speaking countries (Carney, 1998; 1999; see also Kerr & Savelsberg, 1999; Owens, 2001). He is particularly concerned about this development's impact on the citizenship status of welfare recipients. In particular, according to Carney,

neo-liberal based new-contractualism retracts TH Marshall type social citizenship to a citizenship based on individual agreements, such as individual activity agreements. He argues that the dominant discourse of Australian welfare policy has shifted from focusing on a citizen's right to an economic safety net with administrative safeguards of this right through the SSAT and AAT, and towards attaching payment to an individual behavioural contract. Carney is critical of this change because it is not a classical legal contract as the parties are neither equal nor particularly free. Indeed, clients are effectively coerced into maintaining certain behaviour, under threat of financial retribution, using the language and ceremony of a classical liberal legal contract.

Interpretation of current breach and appeal numbers

According to Carney's view, increased breaching by Centrelink since 1997-1998 correlates with an increased fervour for monitoring clients' behaviour through an individual contract. Indeed, although monitored social security payments are not new in Australia¹⁹, 1997-1998 marks both a new level of monitoring and the introduction of new welfare architecture to facilitate it (Carney, 1998, p. 26-35). In 1997-1998 three connected major reforms occurred—the public CES was replaced with privately contracted JNAs, the DSS was absorbed into the new Centrelink, and the current incremental breach regime was launched. The JNAs were particularly important in this final change from entitlement to contract. This is because clients must now negotiate an activity agreement with a JNA case manager to qualify for income support. Previously, such contracts were not individually negotiated. Furthermore, if the client does not comply with this contract, the case manager is required to recommend that Centrelink breach them.

Following Carney's interpretation of new-contractualism, the introduction of the JNAs is also important for understanding the current consistently low appeal numbers. While the JNAs personalise client treatment, they deny clients' administrative

¹⁹ For example, Carney (1999) observes that the work test in 1933 was a behavioural requirement for payment

safeguards. Indeed, while recipients could previously appeal CES and DSS decisions to the SSAT, AAT or the Commonwealth Ombudsman (Owens, 2001), they can now only appeal Centrelink decisions. This is because while Centrelink is a government body subject to statutory review to the SSAT, AAT, and Ombudsman, the JNAs include private organisations that are outside the appeal structure. This means that while a Centrelink decision to breach a client is appealable, the JNAs negotiation and monitoring of the activity agreement and reporting about a client is not. Thus, the space in which recipients can appeal decisions has effectively been constricted (Owens, 2001). Therefore, the corresponding stagnating number of formal appeals indicates a decline in administrative safeguards for Centrelink clients as private agencies administer individual clients' contracts and monitor their behaviour.

Consequently, according to Carney's approach to new-contractualism, the relationship between increasing breach numbers and low appeal figures is connected to the increasing use of quasi-contractual agreements in Australian social security provision. In particular, the increase in breaches after 1997-1998 corresponds with the introduction of Centrelink and the JNAs and their more individualised quasi-contract approach, while the decreasing scope for administrative appeal of welfare matters has prevented a corresponding increase in formal appeals.

Evaluation

Carney's approach to new-contractualism offers a compelling interpretation of current breach and appeal figures. Indeed, it allows the increase in breaches and stagnation of appeals to be clearly linked with changing fundamentals of social policy. In particular, he allows the increasing breach rate since 1997-1998 and the continuing low appeal rate despite the rise in breaches to be linked with new welfare architecture in Australia—especially the introduction of the JNAs and constriction of Centrelink clients' opportunities to appeal decisions that affect them.

However, Carney's new-contractualism approach has some serious limitations. While the retraction of the scope to appeal since the introduction of the JNAs might partially explain the relatively low external appeal rate, it does not accommodate the case study finding that Centrelink clients may not seek an appeal even if they are aware of the possibility to do so. It may explain why more Centrelink clients seem to appeal to the ARO than the external SSAT and AAT²⁰—because appeals are lodged with the ARO but rejected because they are JNA matters rather than Centrelink matters. However, this is only a partial account because it focuses on the general limits of the policy framework rather than its contextual embodiment. While it can show how seeking an appeal for a Centrelink decision might be more difficult for a client, it does not account for the actual effect of that difficulty on the client's behaviour. No participant said that they declined to seek an appeal because the matter they disagreed with was a JNA action rather than a Centrelink decision. Further, only 21 per cent of breaches imposed in 1998-1999 and 24 per cent in 1999-2000 were attributable to JNAs; in both years fewer than 50 per cent of all breaches recommended by the JNAs were administered by Centrelink (Moses, 2000, p. 8). Carney's account is, at best, a partial one.

Another limitation of Carney's new-contractualism approach is that while Carney (1999) does qualify that the Australian welfare system has always been oppressive, he ignores two ways in which this oppression is administered to welfare recipients. First, he seems to glorify a golden age when TH Marshall's idea of social citizenship was taken seriously. For example, he says that:

The overriding effect of the transition toward contractualism has been to partially de-legalise the system, to de-legitimate the rights of its beneficiaries, and thereby to add to the socio-economic marginalisation of the unemployed. (Carney & Ramia 1999, p. 118)

This statement implies that before current policy changes the system was legalised and legitimate. However, as we shall see in the next chapter, Fox Piven and Cloward (1971)

²⁰ See Figure 3 and Table 1 in Chapter One.

question the existence of such golden periods of social welfare²¹. Further, as we shall also see in the next chapter, Carol Pateman (1989/2000) and Sheila Shaver (2001) remind us that the paternalism reflected in Marshall's ideas offers protection in return for loss of individual autonomy, especially for women.

Second, the formal appeals process, including the AAT and SSAT, is perceived by Carney as one of the last precious remnants of this golden period. In his lament at the threatened nature of the AAT and SSAT, he implicitly accepts that they safeguard welfare recipients' right to income support. While the overt aim of the appeal system is to safeguard this right, it is in fact limited in this capacity. Indeed, the SSAT and AAT can only overturn a Centrelink decision on the individual merits of the matter (Administrative Review Council, 1995). Neither the SSAT nor the AAT can overturn a Centrelink decision because the legislative framework on which the decision is based is unfair or unnecessarily harsh. Therefore, while the SSAT and AAT can interpret both the relevant legislation and the individual merits of the matter, they are ultimately required to apply social security law—even if it might be unjust.

The appeal system itself can even be perceived as oppressive to Centrelink clients (see H. Dean, 1991). Indeed, De Maria reminds us that the social security appeal regime in Australian is not concerned about Centrelink clients, rather it is a tool of the powerful. He puts it “bluntly” as follows:

The Australian community which has fully supported the AAT since its birth could not rely on it to cut across, contradict, or question government policies which hurt the ordinary Australian ... Rather, as many would argue, Australia's history is a history of oppression perpetuated through iron-structured partnerships between government and the judiciary. (De Maria, 1992, p. 118)

²¹ Although Fox Piven and Cloward (1971) focus their analysis on the US, where the rights of social welfare recipients were less formally recognised than in Australia, the general argument that the social welfare apparatus is controlling for the poor is still relevant to an Australian context (see, for example, Bessant, 2000a).

This view is reflected in the case study findings. Centrelink clients that were interviewed by the author were mostly cynical about the appeals system's ability to protect their rights. Despite most participants being at least somewhat aware of avenues of appeal, they were generally negative when asked about their rights. When asked "what rights do you think you have when you disagree with a Centrelink decision?", 1 participant answered that she had many rights, 7 that they felt they had some rights, 6 that they had few rights, 4 that they had no rights, and 3 felt that they had variable rights. One participant's response was unclear. The only participant, Jillian, who answered positively that she had many rights, however, did not know what they were. Jillian answered that "there's plenty [of rights], but I've just never read all the garbage they send ya ... I'll read it one day if I need to". In contrast, Jonathon had appealed to every level except his local MP, which was the only appeal avenue he was unaware of. Despite being the participant with the most knowledge and experience of the appeal system, he still felt he had few rights. When I asked him what rights he thought he had when he disagreed with a Centrelink decision, he answered "Oh it's a government department so you think whoop/what? you can't go really any further than that because everything's government really".

Jasmine's response provides another example of feeling powerless despite having knowledge about the appeals system. Although Jasmine was aware of 3 avenues of appeal—the original decision maker, the ARO and the SSAT—she was unclear of her rights. When asked what rights she thought she had when she disagreed with a Centrelink decision, she said:

Well I think that, um, you should have at least fifty per cent of the rights, as a human, birthright, to be able to, um, have something reassessed that you disagree with. Um, you know, it's not saying that the department is one hundred per cent wrong, but, you should certainly be heard, you should certainly be satisfied with your meeting with them about the issue.

Thus, some Centrelink clients were, despite knowledge about the appeal system, cynical about the appeal system's ability and intention to protect their rights.

Conclusion

In summary, Carney's critique of new-contractualism offers a compelling and detailed analysis of the relationship between the increase in breaches and consistently low appeal numbers. However, like the approaches in Chapter Four, it is limited. The neo-liberals problematically assumed that all breaches were legitimate, and underestimated the hardship a breach can inflict on a person. The advocacy view ignored deeper political issues and did not account for why some clients did not seek an appeal even if they disagreed with a Centrelink decision and were aware of the possibility of appeal. Carney's new-contractualism critique also failed to account for this case study finding. Also it problematically assumed that there was a golden age of TH Marshall type citizenship in Australia where social security provided a safety net for all, and that the appeals structure in Australia, as a final precious remnant of this period, successfully protects the rights of social security recipients. Yeatman offers a different interpretation of new-contractualism in Australian welfare.

Anna Yeatman's New-Contractualism

Outline

While Carney is critical of the increasing use of quasi-contracts in Australian social welfare provision, Yeatman (2001, p. 2-3) is a little more supportive of a general culture of broad ideas of contract in social welfare as negotiated social agreement. Yeatman (2001, p. 5) says that:

If there is to be a genuine alternative to neo-liberalism, it will have to be one that is post-patrimonial [not paternalistic] in nature, one that genuinely invites all those who cannot achieve self-reliance to be individualised participants in the relationships that govern their lives.

Like Carney, Yeatman (2001, p. 3) sources the current contractualism in social welfare in neo-liberal pressure to provide choice for Centrelink clients so they can develop their capabilities to be effective citizens. However, unlike Carney, Yeatman explicates a second source of pressure for a new-contractualism in Australian welfare: social movements on behalf of the clients who are vulnerable to abuses of state power, such as the welfare rights movement. Indeed, according to Yeatman (2001, p. 3):

Unlike neo-liberalism, these movements do not think in terms of market models of freedom ... They argue for a democratisation of the relationship between the state and service users and, in particular, for policy development and design that involves users as a major stakeholder of the service relationship.

Here, Yeatman goes beyond Carney's lament about the retreat of TH Marshall's social citizenship. She attempts to accommodate Pateman's critique of Marshall as paternalistic to reach a more favourable evaluation of neo-liberalism—although Yeatman falls short of full support of neo-liberalism. According to Yeatman (2001, p. 5) “neo-liberalism, after all, works with these standards in setting up the liberal structures of self-reliance to women and to people with disability”.

Interpretation of current breach and appeal numbers

Yeatman's account of the increase in Centrelink breaching since 1997 would be similar to Carney's in some instances. She would analyse it in terms of the neo-liberal based changes in Australian welfare provision—such as the replacement of the DSS and CES with Centrelink and the Job Network—and the corresponding increase of

individual work agreements. She might even agree that the stagnating number of external appeals is due to a demise of the old ‘welfare as right’ ideas. However, here the similarities cease.

While Carney might perceive the increasing breach numbers since 1996-1997 as an inherently negative phenomenon, Yeatman would be less pessimistic. This is because she links breaching to the “deeper preferences” (Yeatman, 1999, p. 267) of clients. While the TH Marshall type paternalism often ignored clients’ vulnerability to the state, the aim of the new-contractualism agreements between the case worker and the client is to further the client’s individual needs. While Yeatman does concede that this is a new form of paternalism—she argues that it is defensible if:

The agent of government is both actually working with the deeper preferences of the client ... *and* actively engaging the client in the design and delivery of his/her program of activity. It is morally defensible policy only as long as both this premise holds *and* government commits sufficient policy effort and resources to enable the programs concerned to be effective. (Italics in original Yeatman, 1999, p. 267)

She continues to explain how “the deeper preferences of the client” can involve some coercion. This is because:

most welfare recipients want to work, this is their deeper preference, but their lack of positive work experience together with the non-work-orientated structuring of their everyday existence mean that they find it hard to act on their deeper preference. (Yeatman, 1999, p. 266)

She quotes the following extract from Mead to elaborate:

Why do requirements cause recipients to participate and work when simply offering them the chance usually does not? Most staff of welfare employment programs I have interviewed say that participation in a work program must be mandated to get recipients’ attention. Most adults on welfare would in principle like to work, but they are preoccupied with

day-to-day survival. Few will make the effort to organise themselves for regular activity outside the home unless it is required. Starting to work or look for a job must also be enforced, many staff members say, because recipients are often reluctant to seek work on their own. They may want to work, but they have usually failed to find or keep a job before, especially good jobs, and they fear to try again. Many prefer education and training because it is less threatening. It postpones the day when they must reckon with the labour market. Meanwhile, remaining on welfare is secure. (Mead in Yeatman, 1999, p. 266)

It follows that an increase in Centrelink breaching is not inherently bad, but might reflect the “deeper preference” (Yeatman, 1999, p. 267) of Centrelink clients. In other words, the post-1997 increase in Centrelink breaches might be due to the identification of clients’ “deeper preference” (Yeatman, 1999, p. 267) to be encouraged to work and discouraged from behaviour which does not increase their chances of obtaining paid employment. Further, the absence of a corresponding increase in external appeals might be used as evidence that clients’ “deeper preferences” (Yeatman, 1999, p. 267) are being recognised. Indeed, if they disagreed with the breach, wouldn’t they appeal in greater numbers? Further, even if clients do disagree with a Centrelink decision due to its day-to-day inconvenience, perhaps they do not seek a formal appeal because they believe that it meets their ‘deeper preferences’ to be forced to actively seek work—while the ‘welfare as right’ basis of formal appeals does not.

Evaluation

An interpretation of current breach and appeal figures based on Yeatman’s explication of new-contractualism is compelling in many instances. First, it does not suffer for lamenting the decline of TH Marshall’s paternalism like Carney’s approach. A second compelling factor in Yeatman’s interpretation is that, unlike Carney, she does offer a contextual account for why Centrelink clients do not seek a formal appeal despite disagreeing with a Centrelink decision and being somewhat aware of the appeal structure. She might argue that this occurs because they know it is not in their “deeper preference” (Yeatman, 1999, p. 267) to fight their activity agreement. Some clients that

were interviewed expressed similar sentiments—while they often found Centrelink requirements inconvenient, they also saw their necessity. For example, Jackie complained about the large amount of paperwork when dealing with Centrelink, but saw it as necessary:

All the paper work, it's ridiculous. I understand that they have to do it because, um, there's a lot of people who probably are on the dole that shouldn't be on the dole. But, um, the amount of paperwork is just ridiculous that you've got to fill in all the time.

Some research has shown that many Centrelink clients support the new breaching regime, with 78 per cent of respondents supporting a reduction in payment for those who fail to meet their activity test requirements (Tann & Sawyers 2001, p. 9).

However, these strengths also indicate some serious limitations. While Yeatman criticises old bureaucratic approaches to welfare for their paternalism, she claims agencies that advocate on behalf of the vulnerable such as welfare rights groups are somehow exempt from similar paternalism. The previous chapter shows otherwise.

Further, although this approach does offer an explanation for a client not seeking an external appeal even when they know this is possible and disagree with a Centrelink decision—it is a flawed explanation. If Centrelink clients must be coerced to follow their own “deeper preferences” (Yeatman, 1999, p. 267) in one area—active job seeking—how can we be sure they are acting in their own higher interests by not appealing when breached. To claim any action which causes immediate harm to be a higher good is risky and potentially arbitrary. For example, the McClure report suggests that single parents with children over “the stipulated ages” should be coerced to seek work (McClure, 2000a, p. 38-41). To draw such arbitrary lines reflects a paternalism that Carol Pateman (1989/2000) would be alarmed at.

Although many clients that were interviewed did agree with the need for enforcing compliance, this agreement should not be considered in isolation from their other comments. They also felt that they had few or no rights when dealing with Centrelink.

Conclusion

Therefore, neither Carney's or Yeatman's account of a new-contractualism in current Australian social welfare provision provide an adequate analysis of the case study findings or current breach and appeal figures. Carney is critical of the increasing use of quasi-contracts in social welfare administration which he views as neo-liberalism writ-large. Yeatman is more optimistic about new-contractualism—although she stops short of full support. Yeatman explicates new-contractualism as not just neo-liberal—but also derived from Centrelink client advocacy groups and thus focused on clients' interests. However, she neglects that advocacy groups are often organised by social service professionals rather than the clients themselves. This reflects the paternalism that Yeatman criticised in TH Marshal type welfare. Further, Yeatman's claim that coercion (such as breaching) is needed, provided it furthers clients' deeper interests, is dangerously arbitrary. She considers the clients to be more concerned with short term issues than their long term greater good—so sometimes clients must be coerced to do something such as search for work. Even this 'tough love' style of new-contractualism does not seem to protect clients' interests—unless the short term concerns of clients are ignored as against their "deeper preference" (Yeatman, 1999, p. 267).

Perhaps the issue is not exactly what type of contract we have, as Carney and Yeatman assume, but why people seemed to have accepted this contract in the first place. This point is made by Michel Foucault about the idea of a classical social contract:

The question is often posed as to how, before and after the [French] Revolution, a new foundation was given to the right to punish. And no doubt the answer is to be found in the theory of the contract. But it is perhaps more important to ask the reverse question: how were people made to accept the power to punish, or quite simply, when punished, tolerate being so. The theory of the contract can only answer this question by the fiction of a juridical subject giving to others the power to exercise over him the right that he himself possesses over them. It is highly probable that the great carceral continuum, which provides a communication between the power of discipline and the power of the law, and extends without interruption from the smallest coercions to the longest penal detention, constituted the technical and the real, immediately material counterpart of that chimerical granting of the right to punish. (Foucault, 1977, p. 303)

The power of discipline that Foucault is referring to includes surveillance and individualisation. Both Carney and Yeatman (2001) observe surveillance and individualisation in the new-contractualism of Australian welfare. Surveillance is the continual observation of Centrelink clients. Individualisation is the process where clients are treated as individuals and expect to be treated as such. According to Yeatman (2001) these can be positive—supervision can ensure a client’s needs are being met and individualisation can ensure their unique circumstances are considered. Carney (2001) is more sceptical. He considers surveillance to be a violation of Centrelink clients’ basic rights, and individualisation to be a means by which neo-liberalism reinforces not just individual responsibility but individual fault. Individualisation, according to Carney, effectively blames the Centrelink client for their predicament and suggests it is their ultimate responsibility to change it.

Increased surveillance of Centrelink clients could lead to an increase in breaches. Further, the combination of surveillance and individualisation might lead to clients being reluctant to formally seek an appeal of a Centrelink decision for fear of blighting their record. They may fear future retribution for their challenge. Indeed, as shown in Chapter Four, many interviewees expressed this concern. Although both Carney and Yeatman mention surveillance and individualisation, they do not provide a detailed account of these concepts. This is the topic of Part C, the remainder of the thesis.

PART C

SURVEILLANCE AND INDIVIDUALISATION

CHAPTER SIX

BEYOND SURVEILLANCE AS OPPRESSION

Surveillance generally means continual monitoring (Delbridge & Bernard 1994, p. 1013), while individualisation means, generally, giving individual character to someone or something (Delbridge & Bernard, 1994, p. 489). It is possible that Centrelink clients do not appeal because they are afraid it will be recorded on their individual record and have future negative repercussions. If this is so, then it would make little difference whether the client was aware of the possibility of appeal. Here it is the fear of future reprisal that discourages the client from appealing rather than lack of knowledge of the appeal system.

As yet, no interpretation of current Centrelink breach and appeal figures considered in this thesis has been flawless. A particular challenge for them has been to explain the following finding of the case study interviews: Why don't some Centrelink clients appeal a Centrelink decision when they are both unhappy with the decision and aware of the possibility of appeal? Neither the neo-liberal nor the advocates in Chapter Four could explain this. Further, although both new-contractualism approaches in Chapter Five offered explanations—they were either incomplete or flawed. The surveillance and individualisation of Centrelink clients might hold a key to explaining why some clients don't seek an appeal, despite being both unhappy with a Centrelink decision and aware of the possibility of appeal. Part C will explore these terms' relevance to understanding the case study data.

Two general approaches to understanding surveillance and individualisation will be considered in Part C. Chapter Six will consider some accounts of surveillance as oppressive. Chapter Seven will evaluate an approach that is derived from Michel Foucault's understanding of discipline and governmentality.

Chapter Four's evaluation of the neo-liberal and advocacy explanations of current Centrelink breach and appeal numbers showed that Centrelink clients are vulnerable to both market forces and state agencies. This would be no surprise to writers who focus on the link between social welfare provision and oppression. This chapter will explore and evaluate some possible explanations for the current disparity of breach and appeal numbers, which view surveillance as oppressive.

Outline

These writers generally understand surveillance in social welfare provision to be controlling (Beilharz, Considine & Watts 1992; Berreen & Wearing 1989; Conley, 1982; Considine, 1999; McMahon et al. 2000). Unlike Yeatman, these writers view this negatively as oppressive. They do not see it as oppressive in the sense that social welfare violates peoples freedom to thrive in a market economy, as neo-liberals following Hayek might argue, but oppressive in a way that serves and perpetuates structural social and economic inequalities. Hence, rather than argue that social welfare harms the ability of the market to allow its invisible hand (Smith, 1974) to distribute wealth to all levels of society, some of these writers generally argue that the particular way social welfare manifests actually helps the market keep certain people oppressed and that this is to other people's advantage. However, these writers interpret oppressive surveillance in varying ways.

For example, Carol Pateman (1989/2000) offers an understanding of the relationship between welfare provision and patriarchal oppression. She argues that women, as the primary care givers in society as mothers, wives and daughters, effectively subsidise the welfare state through providing caring for free. Further, Pateman argues that the welfare state is so focused on the male bread winner, paid work and financial independence, that women are effectively denied social citizenship in the classical TH Marshall sense. In other words, women were effectively denied independent access to social security. In particular, personal relationship details are

often recorded because a woman is assumed to be economically dependent on a man if she is living with him in a sexual relationship. Indeed, the surveillance of personal relationships has even extended to home visits by welfare officer “sex snoopers” (McIntosh, 1981/2000, p. 119).

Other writers interpret social welfare as an oppressive function of capitalism, where the poor are oppressed by the wealthy in the interests of the market. In a seminal work in 1971, Fox Piven and Cloward (1971) demonstrated the link between social welfare provision and capitalism. Their study focused on the welfare provisions of the great depression and New Deal period in the United States of America. They argued that welfare provisions regulated labour by preventing revolution in periods of market down-turn, and depressing wages in more comfortable periods. Surveillance, through gathering information about people while they were receiving welfare provision, was one way of insuring they either accepted any work available—including very low paid work which depressed wages—during more comfortable periods, or would not revolt when unemployed during periods of market down-turn.

Many writers have argued that social welfare in Australia also favours market interests. For example, some writers show how neo-liberal values of hard work and independence but disapproval of laziness and dependence are reinforced through the social welfare system (McMahon et al. Conley, 1982; 2000, p. 166). Social welfare, according to these writers, manifests so as to distinguish between the ‘deserving’ and the ‘undeserving’. Those considered ‘deserving’ receive support while the ‘undeserving’ do not, and may even be punished. There are many examples of such social welfare policy. Many writers point to the English Poor Laws as the starting point for these policies in Australia. The Poor Laws were nineteenth century (and earlier) English statutes that regulated the poor ²². Although Australia has never had an explicit

²² The first Poor Law was in 1534 after the black death and was designed to quarantine unemployed labourers and encourage them to take any locally available work (McMahon et al., 2000, p. 165-167). Further amendments in 1531, 1536, 1572, 1597 and 1598 “combined repressive punishments for the idle and the beggar (the undeserving) with alms for the aged and the needy and work for those who were able (the deserving)” (McMahon et al., 2000, p. 165-167). These measures were formally codified in the Elizabethan Poor Law of 1601 (Trattner, 1984). From 1795, beginning in Speenhamland in

Poor Law, these writers argue that these laws have provided a legacy that is still perceivable in Australian welfare policy. Of particular significance is the distinction between the deserving nature of hard work compared to the undeserving nature of idleness, and offering social welfare in relation to whether a person is considered 'deserving' or 'undeserving' (McMahon et al. Conley, 1982; 2000, p. 166).

A very early example, from before Australia's federation, is the Benevolent Society of New South Wales, founded in 1818. Their benevolence was carefully monitored in the following manner:

For an outlay of one guinea per year, respectable persons could be subscribers, and this entitled them to recommend an applicant for relief. The Society sent its members to visit applicants in their homes, to interview them, determine whether or not their homes were respectable and well-kept, and to discover whether or not they were deserving of

the south of England, parishes supplemented low wages from parish taxes. These supplements were known as outdoor relief (McMahon et al., 2000, p. 166). However, "it was argued that the allowance system forced down wages, undermined self-help, made people dependent and drove them to pauperism" (McMahon et al., 2000, p. 166). So, a new much tougher Poor Law act was introduced in 1834. "The New Poor Law assumed that poverty and destitution were the individual's fault. Underlying this act were two important elements—the principle of less eligibility and the workhouse test" (McMahon et al., 2000, p. 166). The principle of less eligibility:

required that welfare benefits should only be offered on terms designed to make the condition of the unemployed less desirable than the condition of the lowest paid self-supporting worker in the labour market ... This principle was reinforced by a stringent workhouse test designed to force recipients to re-enter the labour market in preference to depending on charity or on the workhouse. (McMahon et al., 2000, p. 166)

The aim, according to McMahon was, to be "cruel to be kind". McMahon continues to explain that:

The allowance system, it was said, had offered the social cripple a pair of crutches and so permanently disabled him; the new Poor Law offered him nothing and so he walked again. (McMahon et al., 2000, p. 166)

relief ... The Society ... actively discouraged persons providing welfare relief without the proper scientific investigation, for it was argued that indiscriminate almsgiving encouraged pauperism by removing the incentive to work. (Conley, 1982, p. 282-283)

The stated aims of the society were:

The following ...: “That the Object of this Society be to relieve the Poor, the Diseased, the Aged and Infirm; and thereby to discountenance as much as possible, Mendicity and Vagrancy, and to encourage industrious habits amongst the indigent Poor, as well as to afford them Religious Instruction and Consolation in their Distress”. (Conley, 1982, p. 282-283)

Windschuttle (1980, p. x) points out another example of a Poor Law based policy in Australia. The social benefit provided in Australia during the great depression—known as the “susso”—was given in return for willing labour—“road works, forestry projects, or simply digging holes and filling them up again” (Windschuttle, 1980, p. x). Here the ‘deserving’ were distinguished from the ‘undeserving’ by whether they were willing to labour, and the ‘deserving’ thus received support which those who did not work were denied.

Similarly, McMahon (2000) suggests that The Harvester Judgement in 1907, the White Paper on Full employment in 1945, The Accord and state child care in 1972 also reflect the Poor Law work ethic. He states:

Just as in the British Poor Law, those who are deemed to be deserving within the welfare state are essentially those who are in work or those whose capital creates wealth. (McMahon et al., 2000, p. 167)

More recent Australian social policy changes have also been criticised for their oppressive surveillance and for distinguishing the ‘deserving’ from the ‘undeserving’ poor. For example, Robert E. Goodin (2001) criticises welfare-to-work reforms like Australia’s work for the dole for claiming to apply a type of strong paternalism where people are forced to behave deservingly. Inherent in these policies claim for legitimacy

is “a view that work is intrinsically good, and welfare is second best” (Goodin, 2001, p. 197). This view reflects the values of the Poor Laws. However, according to Goodin (2001, p. 189-190, p. 198), such a claim is like a “fig leaf” which conceals a more oppressive intention. This is because the stated moralistic intention is “clearly not” sincere:

If we seriously believed that work was good for you and that it is the state’s legitimate role to force you to do it, then we would have no grounds for confining our paternalism to the poor. Paternalistically speaking, it would be equally important to make the rich work too.

Goodin goes on to suggest that more oppressive aims like reducing public expenditure might be the real intention of contemporary work for the dole schemes, rather than justice (Goodin, 2001, p. 199-200). Or in other words, that saving taxpayers money is the real aim, at the expense of emancipative justice for welfare recipients.

Judith Bessant (2000a; 2000b) also criticises the current Australian work for the dole program. Bessant (2000a, p. 29) says it is “destructive of the unemployed person’s sense of autonomy and agency”, particularly for youth. Bessant (2000a, p. 28) argues that increased youth unemployment relates to structural economic factors like a decrease in industrial jobs, rather than young people’s lack of any work ethic. Further, she suggests that policy makers are aware of this, but admitting this means they cannot control youth through such programs as work for the dole. Bessant writes that:

If policy-makers and politicians recognise that unemployment results from structural changes in the labour market and so on, why then insist that job seekers be forced to work for unemployment benefits? (Bessant, 2000a, p. 28)

Bessant then answers this question:

Acknowledging that jobless people are disadvantaged by ‘structural’ changes in labour market (changes over which they have no personal control) weakens government claims about there being a need to ‘police’ young unemployed people on moral grounds (ie: to teach the lessons of reciprocation). (Bessant, 2000a, p. 28)

Interpretation of Current Breach and Appeal Numbers

According to this approach, the current disparity of Centrelink breach and appeal figures relates to welfare's relationship with oppressive forces like patriarchy and capitalism. In particular, the disparity might be due to the oppressive surveillance of Centrelink clients which distinguishes the 'deserving' from the 'undeserving' poor. It could be argued that more Centrelink clients are being punished for being 'undeserving' to ensure they accept even the poorest working conditions during a period of relatively comfortable market conditions (following Fox Piven & Cloward 1971). New requirements such as mutual obligation, work for the dole, and *The jobseeker diary* (Centrelink, 2000c) mean there is more intense surveillance of Centrelink clients' activities (McMahon et al., 2000, p. 170). These new requirements have been introduced gradually since 1996. This recent increase in oppressive surveillance of Centrelink clients' daily activities could be reflected in the increased number of breaches since then. According to Goodin (2001, p. 199):

The more cumbersome the process, the more people will fail to satisfy some requirement or other and be 'breached off' the program. The more times they are supposed to turn up for interviews, the better the chances they will miss one or more of them ... The more letters they have or forms they have to fill in, the more opportunities they have for failing to comply.

The view of surveillance as oppressive can also be applied to formal appeal numbers. The stagnating formal external appeal numbers, according to this approach, reflect the increased surveillance and oppressive nature of the system. In other words, Centrelink clients do not tend to seek formal appeals because they are too oppressed. Goodin (2001, p. 199-200) reflects on how oppressive surveillance applies to all Centrelink clients, not just the 'undeserving' but also the 'deserving':

Of course, there is no reason to think that only the ‘right’ people (the undeserving, and only the undeserving) will necessarily be the ones breached off. Quite the contrary ... Campaigns against welfare cheats reduce the errors of giving people benefits they don’t really deserve, but only at the cost of increasing the number of cases in which people don’t get the benefits they do deserve.

Further, the scope for Centrelink clients to appeal has effectively retracted as the JNA (many of which are community organisations) have taken over the role of the state based CES. This is because, as explained earlier, a client cannot formally appeal against a JNA decision, as only Centrelink decisions are appealable.

The formal social security appeals system in Australia can also be understood according to its relationship with the powerful (De Maria, 1992, p. 118). As explained earlier, the formal appeal system can only attempt to ensure that Centrelink officers have not made an error in the assessments of whether recipients are ‘deserving’ or ‘undeserving’ of payment. Formal appeal rulings do not question the bases of these Poor Law type judgements.

Evaluation

This approach’s interpretation of current Centrelink breach and appeal figures is compelling for many reasons. First, its interpretation of surveillance as oppressive might explain why some Centrelink clients do not seek a formal appeal when they disagree with a Centrelink decision, even if they are aware of the appeals process. According to this approach, they do not seek a formal appeal because they are too oppressed. This explanation does seem to fit with the powerlessness clients expressed in interviews. For example, Jim felt so surveyed and marginalised that he said being a Centrelink client is “like being in gaol”. Second, unlike the approaches in Chapter Four, this approach

draws on broader power inequalities. Indeed, this is the very basis of their analysis of the relationship between welfare and oppressive forces like capitalism and patriarchy.

Despite these strengths, however, this approach is limited. It does not explain why people let themselves be so oppressed. Conley, however, does offer a partial explanation:

After 150 years of daily practice under the Australian economic system, the unemployable have thoroughly internalised their labels, so they now believe they are hopeless cases and that the reason for their situation is quite possibly their own fault. Our first unemployables were much more likely to have blamed the economic system and its attendant class system for their plight. (Conley, 1982, p. 281)

However, this explanation is insufficient because it does not explain *how* the “unemployable have thoroughly internalised their labels” or *how* “daily practice under the Australian economic system” does this. She suggests that it might have something to do with “150 years of daily practice”. However, since few “unemployables” are 150 years old this does not explain *how* individuals have internalised these labels! Although many writers who consider surveillance as oppressive prefer to focus on collectivity to show the class (Fox Piven & Cloward 1971), gender (Pateman, 1989/2000), or race based nature of individuals’ experiences (Williams, 1989), this does neglect questions about *how* these processes work on the level of the individual. The case study found much evidence of processes working at the level of the individual. For example, in the *Notes for Newstart Allowance* booklet (Centrelink, 2000e) words referring to individual obligations, such as “you”, “your”, “you’ll”, “you’re” and “yourself”, occur 186 times over the 7 pages (excluding the cover). The greatest number on one page is 51 times, the smallest 15. Over the 7 pages of type the average number per page that “you” or “your” occur is 26.5 times per page. These words are also used thickly in *The jobseeker guide* (Centrelink, 2000d) and *The jobseeker diary* (Centrelink, 2000c)—an average of 11 times per page (excluding the blank jobseeker diary forms from pp. 6-37). Common phrases in the documents are “your jobsearch”, “your plan”, “your interview”, “your performance”, “your efforts to find work”, “your payment”, “your Diary”, and “your

obligations". It seems being a Centrelink client is very individually focused. Indeed, when interviewed the Centrelink clients commonly used similar phrases. They often used phrases like "my interview", "my first interview", "my pay", "my work diary", "my application", "my payments", and "I'm on the dole". Hence, this approach's account is, at best, a partial one. An approach, which engages with *both* surveillance and individualisation, is required.

Conclusion

This chapter has considered some explanations for the current disparity of Centrelink breach and appeal figures that focus on surveillance as oppressive. These approaches to social policy have been concerned with the surveillance and control of the poor through social security provision. Particularly important to approaches that focus on surveillance as oppressive are various manners of distinguishing between the 'deserving' and 'undeserving' poor that are the historical legacy of the English Poor Laws. While this approach has many strengths, it has one serious weakness—it neglects to address individualisation in its analysis. It thus cannot explain *how* oppressive surveillance works at the level of the individual.

Erving Goffman studied the effects of oppressive organisations on individuals. He focused on what he called "total institutions" such as mental asylums and prisons to show how individuals were stripped of their identities through degradation ceremonies when they entered the institution, and then reprogrammed. He explains the oppressive effect, or mortification, of this type of individualisation below:

In total institutions these territories of the self [such as body, immediate actions, thoughts] are violated; the boundary that the individual places between his being and the environment is invaded and the embodiments of self profaned. (Goffman, 1961, p. 31-32)

And:

There is, first, a violation of one's informational preserve regarding self. During admission, facts about the inmate's social statuses and past behaviour—especially discreditable facts—are collected and recorded in a dossier available to all staff. Later, in so regulating inner tendencies of the inmate, there may be group or individual confession—psychiatric, political, military, or religious, according to the type of institution. (Goffman, 1961, p. 32)

He goes on:

New audiences not only learn discreditable facts about oneself that are ordinarily concealed but are also in a position to perceive some of these facts directly. Prisoners and mental patients cannot prevent their visitors from seeing them in humiliating circumstances. Another example is the shoulder patch of ethnic identification worn by concentration-camp inmates. Medical and security examinations often expose the inmate physically, sometimes to persons of both sexes; a similar exposure follows from collective sleeping arrangements and doorless toilets. An extreme here, perhaps, is the situation of a self-destructive mental patient who is stripped naked for what is felt to be his own protection and placed in a constantly lit seclusion room, into whose Judas window any person passing on the ward can peer. (Goffman, 1961, p. 32)

Although I have found no evidence of Goffman's more extreme examples of mortification in my case study, there is evidence of violating people's personal information. Indeed, Centrelink clients are required to provide evidence of failed job applications, employment history, and past and current personal relationships. However, Goffman argues that it is the lack of individualisation that causes the problem. The processes he describes are a form of de-individualisation. However, the reverse seems to be occurring in current social welfare policy in Australia. Yeatman argues that increasing surveillance allows individuals' special cases to be considered. Carney argues that increased individualisation has led to more marginalisation of Centrelink clients. Although Yeatman and Carney differ in their approval, they agree that the current Australian welfare system is experiencing increased individualisation rather than

Goffman-like de-individualisation. As already discussed, there was evidence for increased individualisation in the case study. For example, the documents studied gave *individual character* to Centrelink clients. They did this by heavily using words like “you”, “your”, “you’ll”, “you’re” and “yourself”. Hence, if the concepts of surveillance and individualisation are to be useful for understanding the current disparity of Centrelink breach and appeal figures, they need to account for the increased individualisation of Centrelink practice. They also need to account for both surveillance *and* individualisation—unlike the oppressive surveillance writers discussed above. That is, it needs to account for *how* Centrelink clients accept such oppressive individual surveillance. This is the topic of the next chapter.

CHAPTER SEVEN

DISCIPLINE AND GOVERNMENTALITY

Much current work on surveillance and individualisation in social welfare draws from the work of Michel Foucault. Although some do consider him to be essentially a writer who deals with oppression²³, his approach is very different to those generally considered to be critical, like Marxist writers (Ransom, 1997). Foucault's criticism is not grounded in relationships to capitalism, or social collectivity in the orthodox critical manner (Ransom, 1997). Rather, through focusing on the level of the individual and individual subjectivity, he concentrates on the *how* rather than the *who for* or *who against* of the orthodox critical writer who tends to view surveillance as oppressive. This is illustrated by Foucault's particular view of power. While Foucault does argue that power may be oppressive, he says that it is also creative. According to Foucault, power, through such techniques as surveillance and individualisation, creates individual subjectivity. Perhaps Foucault's understanding of surveillance and individualisation will provide that which was lacking in the orthodox surveillance as oppressive approach of the previous chapter—an account of *how* Centrelink clients allow themselves to be breached. Consequently, we might finally be offered the previously elusive explanation for why (or how) some Centrelink clients do not appeal a Centrelink decision when they disagree with it, even if they are aware of the possibility of a formal appeal.

There are two general areas of scholarship that claim Foucault's influence and consider surveillance and individualisation—those who focus on Foucault's disciplines and those who focus on governmentality. Although these two areas could be considered

²³ Interestingly, other writers consider Foucault to be essentially conservative (see Harris, 1999, p. 27)

separately²⁴, they do overlap and interconnect and, for clarity, will be considered together in this chapter.

Outline of Discipline and Governmentality

Studies that concentrate on Foucault's understanding of discipline view surveillance and individualisation as forms of disciplinary power. Disciplinary power, according to these writers, is a small, intricate, micro-power which “ ‘makes’ individuals” (Foucault, 1977, p. 170). As Foucault explains, disciplinary power “is not a triumphant power ... it is a modest, suspicious power” (1977, p. 170). Individuals are made through “a whole set of instruments, techniques, procedures, levels of application, [and] targets” (Foucault, 1977, p. 215). These techniques include surveillance and individualisation.

Foucault is most famous for his account of surveillance, in particular “panoptic surveillance” (Foucault, 1977, p. 195-230). This term is derived from Jeremy Bentham's ideal prison—the Panopticon. It focuses on the continual surveillance and “correct training” of prisoners. Prisoners are housed in isolated cells surrounding a central surveillance tower and continually modify their behaviour because they know they may be watched at any time. Eventually, prisoners internalise this new behaviour. Or, in other words, the disciplinary power of surveillance recreates the prisoner.

²⁴ The approach taken in this thesis may not be considered properly Foucaultian by some. However, it is not the aim of this chapter, nor this thesis, to be so. Nor is it desirable to attempt to follow Foucault doctrinally. Here, please keep in mind Hunt and Wickham's (1994, p. 3) position that there “is no single starting point or grounding of Foucault's thought; it can be approached from a number of different perspectives. One particularly important consequence is that there is no ‘real Foucault’ who can be summoned. Rather, we argue that it is a useful strategy to insist that there are many ‘Foucaults’ who coexist and interact with one another. No amount of synthesis can yield a unitary body of knowledge let alone a single theory”.

Individualisation creates individuals in a similar manner, according to Foucault (1977, p. 192-194). To use the example of the Panopticon, prisoners are continually surveyed in isolated cells. Each prisoner is individually watched. They are thus individually judged and are, individually, changed into reformed law abiding individuals. By focusing the gaze of surveillance on the individual, the disciplinary power of surveillance can recreate an individual prisoner.

Other disciplinary powers also create and recreate individuals, according to this approach. These include normalisation and distribution. Normalisation provides the means by which individual prisoners are trained to know how they are expected to behave in the Panopticon and change themselves accordingly (Foucault, 1977, p. 178-180). Distribution refers to how the position of bodies and objects in space makes individuals (Foucault, 1977, p. 141-145). To use the Panopticon example again, the distribution of the cells around the central surveillance tower, and the distribution of prisoners' bodies in these cells so they can view the tower but no other prisoner, allows the other disciplinary powers to work. These walls isolate bodies and thus allow individualisation. Similarly, the distribution of the central surveillance tower and corresponding transparent front wall allows surveillance.

However, Foucault's concept of disciplinary power goes beyond the prison wall. For example, to Foucault, the disciplinary instrument called panoptic surveillance pervades all society. Indeed, to Foucault "wherever one is dealing with a multiplicity of individuals on whom a task or a particular form of behaviour must be imposed, the panoptic schema may be used" (Foucault, 1977, p. 205). Further, disciplinary techniques of power are very relevant in the context of current Centrelink breach and appeal figures in Australia. Judith Bessant observed that Centrelink clients are treated as needing correction:

Jobless people allegedly failed to become employed due to their 'bad' attitudes towards work, because they lacked discipline, could not successfully present themselves at interviews, or because they lacked the necessary skills in literacy and numeracy. (Bessant, 2000a, p. 26)

However, Foucault was criticised by his contemporaries for ignoring broader political processes such as the power of the nation state. Indeed, these critics ask: what about power inequalities, legal coercion, and economic inequalities? Foucault rebutted these criticisms with an account of politics, often called governmentality, which accounted for both intricate micro-power and wider politics (Burchell, Gordon & Miller 1991). Most political analysts only saw part of the wider picture, according to Foucault. This is because they continue to understand modern politics in terms of a sovereign or crown—despite this being outdated. Most political theory, according to Foucault (1980, p. 121), had yet to “cut off the King’s head”. While most accounts of political power are concerned with laws, coercion and who is sovereign, Foucault is also concerned with methods of counting and managing the population. Foucault envisages a triangle of contemporary governmentality which has in each corner—sovereign, discipline and government (management) (Foucault, 1991). Hence, the analysis offered by studies of governmentality differs from the type of analysis used in earlier chapters of this thesis. The approach developed by Nikolas Rose and Peter Miller (1992) has been very useful here.

In very general terms, governmentality studies analyse the “conduct of conduct” (M. Dean, 1999, p. 2). Governmentality is concerned with the “problematic of government” (Foucault, 1991, p. 87)—the *how* of governing (M. Dean, 1999, p. 2, 10-11; Foucault, 1982, p. 220-1). The problematic of government may be analysed in terms of *political rationalities* and *governmental technologies* (Rose & Miller 1992, p. 175-176).

Political rationalities are “the changing discursive fields within which the exercise of power is conceptualised, the moral justifications for particular ways of exercising power by diverse authorities, of the appropriate forms, objects and limits of politics, and conceptions of proper distribution of such tasks” (Rose & Miller 1992, p. 175). Or, in other words, political rationalities are the changing understandings of acceptable management practice. For example, Rose and Miller call the political rationality of the Keynesian welfare state “welfarism” and describe it as championing

mutual social responsibility as the preferred conduct of conduct (Rose & Miller 1992, p. 191-198). In contrast, currently, according to Rose and Miller, neo-liberal political rationality perceives markets to be the best regulators of economic activity, including welfare (Rose & Miller 1992, p. 198). It is an attempt to address a perceived problematic ‘crisis’ of the Keynesian welfare state.

Governmental technologies are “the complex of mundane programmes, calculations, techniques, apparatuses, documents and procedures through which authorities seek to embody and give effect to governmental ambitions” (Rose & Miller 1992, p. 175). Or, in simpler words, governmental technologies are the tools for managing populations. Some examples are statistics (Procacci, 1978, p. 68-69; 1991) and the government of the self through surveillance (M. Dean, 1995; 1998; 1999). For example unemployment statistics such as the number of people who are unemployed were not always recorded—this is a relatively recent practice. William Walters refers to the discovery and invention of unemployment in *Unemployment and government: geneologies of the social* (Walters, 2000, p. 12-52). He argues that the categories of employed and unemployed were created, and were not a naturally occurring phenomenon.

However, Foucault can be criticised for perceiving society as a perpetual autonomous machine. It is argued that if the techniques of power explicated above continually create human subjectivity—then there is no escape from them. If we can’t yearn for or even conceptualise an escape from them, then how are we ever to break free from them? This, however, misunderstands Foucault’s intention. Foucault does not claim these techniques always work—rather, he says they inevitably fail (see Malpas & Wickham, 1995). They are so fallible that they are more like an imagined ideal world than concrete reality. Indeed, no prison works exactly like the Panopticon. It is an ideal schema that perpetuates certain ideas—like neo-liberalism or welfarism in Australian social welfare provision.

Interpretation of Current Breach and Appeal Numbers

Through an analysis of the intricate inter-dependencies between political rationalities and governmental technologies, we can begin to understand the multiple and delicate networks that connect the individuals, groups and organisations to the aspirations of authorities in the advanced liberal democracies of the present. Patricia Harris (1999; 2000), Barry Hindess (1987; 1993; 1997a; 1997b; 1997c; 1998a; 1998b) and Mitchell Dean (1995; 1998; 1999), for example, have applied this analytic to an Australian welfare context.

Within neo-liberal political rationality “the language of the entrepreneurial individual, endowed with freedom and autonomy, has come to predominate over almost any other in evaluations of the ethical claims of political power and programmes of government” (Rose & Miller 1992, p. 200). But “through this loose assemblage of agents, calculations, techniques, images and commodities, individuals can be governed through their freedom to choose” (Rose & Miller 1992, p. 201). They aim to create “enterprising individuals” (Rose & Miller 1992, p. 196). In another example, in the political rationality of welfarism, “payment would qualify an individual to receive benefits, and teach the lessons of contractual obligations, thrift and responsibility” (Rose & Miller 1992, p. 196). The aim here is to create “responsible individuals” (Rose & Miller 1992, p. 196).

According to this approach, neo-liberal political rationality²⁵, with its championing of market forces and envisaged population of ‘enterprising individuals’, expresses its mentality in some changes to the Australian welfare apparatus (Harris, 1999, p. 44). The privatisation of the CES to become the Job Network was championed for allowing YA and NSA recipients a choice of service provider. The neo-liberal language of choice permeates the governance of the Job Network; furthermore, how Centrelink clients can be “governed through their freedom to choose” (Rose & Miller 1992, p. 201) is clearly enunciated. Indeed, recipients *must* apply for YA or NSA in

order to *choose* a Job Network provider. Also, NSA and YA recipients *must choose* at least one Job Network provider, preferably more (FaCS, 2002), in order to continue receiving payment. Further, YA and NSA recipients *must negotiate* an activity agreement with their Job Network provider.

If they *choose* to transgress their *negotiated agreement* (FaCS, 2002), they will be *financially penalised* (breached). As explained earlier, the Job Network Provider *must* report any transgression of the activity test to Centrelink, who may then impose a breach. Finally, if an ‘enterprising individual’ Centrelink client is unhappy with the service of either Centrelink or a Job Network Provider, they are *free* to call the *customer complaints* line (FaCS, 2002). Consequently, within the mentality and techniques of neo-liberal governance, breaching is tied to the discourse of individual freedom, despite being a governed punishment. Further, for an ‘enterprising individual’, the customer complaints line is the most obvious avenue through which to practice their freedom to complain, despite its inability to change decisions.

The formal administrative appeal structure for Centrelink clients was conceptualised in a welfarist political rationality, with its championing of reciprocal obligations, social solidarity and the ‘responsible individual’. It was intended to be a way of ensuring that responsible individuals were not harmed by a perceived possible excess of state power (Administrative Review Council, 1995).

According to the analytic of governmentality, the complaint line has not replaced the appeals structure. Rather, they coexist. Indeed, people do still seek appeals. However, customer complaints seem to translate more efficiently with the techniques of self-discipline that govern unemployed people through Centrelink offices and the JNAs in neo-liberal governance. According to Patricia Harris (1999, p. 43), who writes about the Australian welfare system, “clients become customers” in advanced liberal governance. Centrelink clients see themselves as customers to the extent that they complain to a customer complaint line that cannot overturn a Centrelink decision rather

²⁵ Patricia Harris (1999, p. 41-48) uses the phrase “advanced liberal governance”.

than to an administrative appeals system that can overturn Centrelink decisions. Further, they cannot seek an appeal of a JNA decision in the formal appeal system (see Chapters One and Five): as a *customer* who is an ‘enterprising individual’ they only have the *freedom* to make a *customer complaint* about a JNA.

Mitchell Dean (1995; 1998; 1999) has done much analysis of the techniques of the self in Australian social welfare. His work provides a window for understanding how Centrelink clients may be made into customers through disciplining power. According to Mitchell Dean, Centrelink clients are subjected to intense surveillance in an attempt to create their inner moral lives—in particular, to make them into active “job ready” individuals (M. Dean, 1998, p. 93). In other words surveillance, individualisation, normalisation and distribution are used to create and recreate Centrelink clients. One significant way these disciplines are applied is through the activity test. Many Centrelink clients must pass this test each fortnight to receive payment. According to Mitchell Dean (1998, p. 94-95), the activity test facilitates “intense supervision of the activities of the unemployed, by which the claimant must demonstrate not only active job searching but also training and job preparation activities”. The activity test not only allows the surveillance of a Centrelink client, but also the maintenance of an individual record about that client, and a technique to normalise a client as an active jobseeker. To evidence this point, Dean points to the focus on active job seeking manifest in the “various resumé, application, interview and job-search techniques recommended in the Job Search Kit provided by the CES” (M. Dean, 1995, p. 574). These are, “backed up by sanctions, such as the cancellation of the allowance for varying periods for various groups of the unemployed” (M. Dean, 1998, p. 95). Although these observations relate to the CES, which has been replaced by the JNAs, similar disciplinary techniques are still administered to Centrelink clients. They are also backed up by sanctions such as breaches.

Further, Hartley Dean (1992, p. 136-174) shows how individualisation can also occur in the social security appeals system. He views seeking an appeal as an individual examination. Hartley Dean uses this concept to understand the different hearings in the Social Security Appeals Tribunal in the United Kingdom (H. Dean, 1991, p. 136-174).

In his analysis of the pre-hearing process, Dean shows that while most social security recipients in the United Kingdom usually do not meet the officials who administer their case, “to appeal against the determinations of such officialdom is to invite further scrutiny” (H. Dean, 1991, p. 145). He continues; “even if it is only a minority of appellants who appear in the full light of a tribunal hearing, in the act of appealing every appellant submits her/himself for examination” (H. Dean, 1991, p. 145). Similarly in Australia, not only are Centrelink clients created into customers who are more likely to choose a customer complaint line over a formal appeal, they may also be reluctant to seek a formal appeal because it invites further individual examination. Both processes would manifest as a relatively low number of appeals, even when breach numbers are increasing rapidly.

Evaluation

This interpretation of breach and appeal figures stands up well in relation to the case findings. This will be shown by locating evidence for how various governmental technologies create individual Centrelink clients who can be governed through their freedom to choose. Much evidence was found for the disciplining techniques of surveillance, individualisation, normalisation and distribution. As we shall see, much of the evidence adds flesh to this approach rather than challenges it.

However, the depth of an analysis of Centrelink breach and appeal figures according to discipline and governmentality would stop around here. It would not seek to ask who does the training, who suffers through this failure, or who benefits. Nor would this approach ask if our current regime is particularly prone to failure. Rather, as explained earlier, it views power as more diffuse than this—there is no agent who orchestrates these disciplinary techniques. Further, failure is a characteristic of all rationalities of government and their techniques—not any particular one. According to this approach there is no hidden agenda or deeper meaning. This has led Gavin Kendall and Gary Wickham to describe Foucault’s analysis as “a rather ‘flat’ description”

(Kendall & Wickham 1999, p. 124). However, they do not mean this as a criticism. This is because they believe it is a deliberate attempt by Foucault to distance himself from established ideas, particularly Marxism. According to Alan Hunt and Gary Wickham:

A central feature of Foucault's project lies in the distinctive form of his engagement with the legacy of Marx ... What Foucault does is to 'use' Marx to set up a negative pole against which to elaborate his alternative. He did this as a strategic reaction to the significant influence of Marxism in French intellectual life. (Hunt & Wickham 1994, p. 33-34)

Foucault's deliberate distancing from Marx also means that he focuses principally on power as positive and creative rather than negative and oppressive. Hunt and Wickham explain that Foucault's:

critical step is the equation and conflation of negativity with repression; the result is that in order to avoid a negative conception of power he first down plays (but does not exclude) the repressive capacity of power and then proceeds to elaborate an account of the modern forms of disciplinary power which is founded on non-repressive forms of domination. In order to secure this objective he sets out to purge all those elements associated with negativity and repression. (Hunt & Wickham 1994, p. 34)

In analysing the case study findings for this section, different (but interconnected) disciplinary techniques were used as analytical categories. Research by Wright and Gore was particularly useful here. They adopted techniques of power derived from *Discipline and punish* as categories for analysing the disciplining of the human body in a classroom (Gore, 1998; Wright, 2000). Wright (2000) recorded and transcribed a girls gym class lesson and analysed the text according to the following categories: surveillance, normalisation, exclusion, classification, distribution, individualisation, totalisation, and regulation. The categories of surveillance, individualisation, normalisation and distribution were useful in this research. This section will outline operational definitions of these categories, and then detail evidence for each category.

Surveillance. Gore's operational definition of surveillance is "supervising, closely observing, watching, threatening to watch or expecting to be watched" (Gore, 1998). Wright extends Gore's operational definition to include instructions for subjects "to become involved in the monitoring of their own performance" (Wright, 2000, p. 156). This includes panoptic surveillance where, according to Foucault:

He who is subjected to a [continuous] field of visibility, and who knows it, assumes responsibility for the constraints of power; he makes them play spontaneously upon himself; he inscribes in himself the power relation in which he simultaneously plays both roles; he becomes the principle of his own subjection. (Foucault, 1977, p. 202-203)

Evidence of surveillance from my study included the 'fortnightly' form (Centrelink, 2 May 2000), *The jobseeker diary* (Centrelink, 2000c), and repeated warnings that Centrelink may take any means necessary to investigate the accuracy of a client's claims.

Individualisation. Surveillance works on the level of the individual. According to Foucault (1977, p. 193) in a disciplinary regime "individualisation is 'descending'" (Foucault, 1977, p. 193) rather than ascending. This is in contrast to, for example, feudal society where "the more one possesses power or privilege, the more one is marked as an individual, by rituals, written accounts or visual reproductions" (Foucault, 1977, p. 192). He explains that:

As power becomes more anonymous and more functional, those on whom it is exercised tend to be more strongly individualised; it is exercised by surveillance rather than ceremonies, by comparative measures that have the 'norm' as reference rather than genealogies giving ancestors as points of reference; by 'gaps' rather than by deeds. (Foucault, 1977, p. 193)

Gore defined individualisation as “giving individual character to oneself or another” (Gore, 1998, p. 242). Wright (2000, p. 157) elaborated it to be naming, using “you”, individual treatment, or using “I”. I found much evidence of this in my research. Phrases like “your jobsearch”, “your obligation”, and “your interview” occurred throughout the documents.

Individualisation can also incorporate Foucault’s concept of “the examination” (Foucault, 1977, p. 185, 192). Examples of individual examination include medical examination and scholarly examination. The examination is like a personal interview which implements “within a single mechanism, power relations that make it possible to extract and constitute knowledge” about an individual (Foucault, 1977, p. 185, 192). The examination is a mechanism that makes the subjected individual visible and objectifies them (Foucault, 1977, p. 187), documents them (Foucault, 1977, p. 189), and “makes each individual a ‘case’” (Foucault, 1977, p. 191). In short, it “establishes over individuals a visibility through which one differentiates them and judges them” (Foucault, 1977, p. 184). As stated earlier, Hartley Dean uses this concept to understand the Social Security Appeals Tribunal in the United Kingdom (H. Dean, 1991, p. 136-174). In his analysis of the pre-hearing process, Dean shows that “in the act of appealing every appellant submits her/himself for examination” (H. Dean, 1991, p. 145). Evidence of such examination in Australia includes claimants’ personal, private interviews with a Centrelink officer when they apply for payment.

Normalisation. Normalisation means, generally, the detailed and personal categorisation of ‘normal’ as distinct from ‘abnormal’ behaviour, with the aim of correcting abnormal behaviour or maintaining normal behaviour. Here “the non-conforming is punishable”, and “disciplinary punishment” is “essentially *corrective*” (Foucault, 1977, p. 179). Further, “punishment is only one element of a double system: gratification-punishment” (Foucault, 1977, p. 180). According to Foucault, “the power of normalisation [not only] imposes homogeneity; but it individualises by making it possible to measure gaps, to determine levels, to fix specialties and to render the differences useful by fitting them one to another” (Foucault, 1977, p. 178). Thus, in my research evidence of normalisation was threefold.

First was evidence of setting a criterion for normal behaviour—“invoking, requiring, setting or conforming to a standard—defining the normal” (Gore, 1998). Evidence included defining “Centrelink approved activity” (Centrelink, 2 May 2000), outlining “steps you can take to help open the doors to employment” (Centrelink, 2000c, p. 1), and “other things you need to do” such as “provide information requested by Centrelink” (Centrelink, 2000c, p. 2).

Second was the training of “docile bodies” to maintain normal behaviour through repeated, specific activity (Foucault, 1977, p. 135-169). There was much evidence of such repeated behavioural training. Examples of this training included continual job searching and repetitiously signing a pledge to look for work.

Third, this training may involve a system of rewards and punishments for normal or other than normal behaviour. Evidence included what Gore (1998) and Wright (2000, p. 158) consider “regulation” and define as rules, restrictions, sanction, rewards and punishment, expressed in words like “must”, “need to”, “have to”, “should”, and “required”. An example of such regulation in my research was the common threat to reduce a Centrelink client’s payment if a particular task was not completed properly.

Distribution. According to Foucault, “discipline proceeds from the distribution of individuals in space” (Foucault, 1977, p. 141). This might include some of the following specific technologies: “*partitioning*” individuals into separate categories where “each individual has his own place; and each place its individual” (Foucault, 1977, p. 143); and “*functional sites* ... particular places were defined to correspond not only to the need to supervise, to break dangerous communications, but also to create a useful space” (Foucault, 1977, p. 143-144). Also included is “*rank*: the place one occupies in a classification” (Foucault, 1977, p. 145). Gore and Wright defined distribution simply as pertaining to space (Gore, 1998; Wright, 2000). This thesis found evidence of distribution where Centrelink warned clients to obtain permission to change address, because if they move to an area with a lower employment rate their payment

may be reduced or stopped. Other evidence included the architecture of the Centrelink office: placement of desks, and location of interview rooms. Case study evidence for each disciplining technique is detailed below.

Surveillance

As we will see, surveillance for a Centrelink client might occur at various levels, often simultaneously. They might be simply watched continually through such techniques as the ‘fortnightly’ form (Centrelink, 2 May 2000). However, a Centrelink client might also be threatened to be watched through continual reminders that they may be observed at any time, perhaps even without their knowledge. It follows that clients might also expect to be watched and alter their behaviour accordingly. Furthermore, a client might actively watch themselves on behalf of Centrelink. These different levels of surveillance will be detailed below with some of the practices that render them possible.

Centrelink clients are continually *being watched*. Centrelink recipients must subject themselves to significant surveillance to receive, and continue to receive, payment. The most obvious form of this surveillance is through the extensive and repetitive filling out of forms that clients must complete to receive payment. Indeed, recipients may be required to complete an application for payment form fortnightly, and *The jobseeker diary* (Centrelink, 2000c) every 12 weeks. These forms don’t just require a client to request payment; they require detailed personal information—including who a client is living with and their relationship with this person, whether they went overseas for a holiday, what job they applied for and how they contacted the potential employer. For example, the ‘fortnightly’ form states in question 8 that “you must tell us if any of the things below happened in the period” and lists thirty specific things such as “you started living with a partner”, “you separated from your partner”, and “you and your partner are intending to go overseas (even for a short period)” (Centrelink, 2 May 2000). Similarly, both the ‘fortnightly’ form (Centrelink, 2 May 2000) and *The jobseeker diary* (Centrelink, 2000c) require details about an individual’s behaviour. For example, the diary requires the Centrelink client to write details of every contact with a potential

employer—including name, contact details, person contacted, how they were contacted, when, and the type of position.

Centrelink's gaze is not confined to the A4 oblong of a form, however. Centrelink can also "make any inquiries necessary to help us [Centrelink] work out how much we should pay you" (Centrelink, 2 May 2000). Further, anyone is encouraged to watch Centrelink clients and, if in doubt of their legitimacy, report them on Centrelink's web page (Centrelink, 2002). One person interviewed, whom I will call Jillian, even experienced being watched by her ex-husband:

Jillian: Oh, I'm just trying to think what it was. It was, um, the parenting allowance. Yeah, um, and they received information from somebody else (background noise).

Lyndal: Somebody who wasn't you?

Jillian: Yeah.

Lyndal: About your case.

Jillian: Yes. Yep.

Lyndal: Oooh.

Jillian: Yeah. My ex-husband, so, but anyway, they fixed it.

Centrelink clients are not simply observed, but they are continually *reminded that they are being observed*, maybe even without their knowledge. Below are four examples of clients being reminded of the gaze of Centrelink.

First, on forms and fliers, the client is frequently reminded that they are being watched. On all documents analysed in this research²⁶, clients were reminded that they were being watched at least once on each page, usually more often. Phrases used include “this Diary is an important document and must be kept in a safe place. You may be asked to provide it to Centrelink at any time” (Centrelink, 2000c, p. 1), and “you must tell Centrelink of any changes that may affect your payment” (Centrelink, 2000e, p. 6). In *The jobseeker guide* (Centrelink, 2000d), clients are even reminded about their appearance during an interview. Under the title “appearance” they are told that “personal appearance is important”, “plan your clothing in advance”, “be careful with your choice of clothing—but be comfortable with what you wear”, and “appear well groomed” (Centrelink, 2000d, p. 7).

Second, Centrelink clients are also reminded that they may be observed at any time without their permission and without being aware of it. Indeed, every fortnight on their ‘fortnightly’ form, after the declaration and signature, clients are reminded that “we [Centrelink] can make any inquiries necessary to help us work out how much we should pay you” (Centrelink, 2 May 2000). Similarly, in *The jobseeker diary* they are reminded that “Centrelink may check with employers you list to make sure you approached them for work” (Centrelink, 2000c, p. 3).

Third, Centrelink clients are even reminded that they are being watched as they line up at their Centrelink office. Indeed, the researcher observed a large sign in the Centrelink office which read:

²⁶ As detailed in Chapter Two this includes:

- *Application for payment of Newstart Allowance* (Centrelink, 2 May 2000) (also known as the ‘fortnightly’ form),
- *The jobseeker guide* (Centrelink, 2000d),
- *The jobseeker diary* (Centrelink, 2000c) (also known as the ‘dole’ diary),
- *What we can do to help each other: customer charter* (Centrelink, September 2000),
- *Claim for Newstart Allowance* (Centrelink, 2000b), and
- *Notes for Newstart Allowance* (Centrelink, 2000e).

WARNING
VIDEO SURVEILLANCE
IN OPERATION
BY AUST GUARD

“WARNING” was in bold white type on a red background, while the other text was bold black on a white background. There was also a large convex mirror near the entry. This made it obvious to Centrelink clients that the staff could survey them easily from behind their desks.

The fourth example of Centrelink clients being reminded that they are being observed is the act of completing the forms themselves. As people disclose personal information to Centrelink by writing it on a form, they are reminded that Centrelink is watching them.

Centrelink clients are not only watched, reminded of being watched, but they *expect to be watched*. Indeed, the Centrelink clients that were interviewed expected to be watched. They made constant reference to filling out forms, needing to obtain correct documentation, and being assessed by Centrelink officers. A vivid example of a Centrelink client’s awareness of being watched was expressed by a young man, Jack. When asked to reflect on his rights when disagreeing with a Centrelink decision he mused about how different institutions seemed to share information and said “Yeah. Big brother is watching. Anyway”.

In addition to Centrelink clients being watched, being reminded of being watched, and actually expecting to be watched, they facilitated Centrelink’s surveillance of themselves. In short, not only did Centrelink watch them, but they also *watched themselves*.

This self-surveillance was encouraged by *The jobseeker guide* (Centrelink, 2000d). Here, Centrelink clients were advised that “You may wish to make notes about your job search. These notes are for you to keep and may help you with your job search in the future” (Centrelink, 2000d, p. 14). Four of the eighteen pages are provided for the client’s personal notes on themselves (Centrelink, 2000d, p. 13-16).

Also, every time a Centrelink client discloses their personal details on a form and submit it to Centrelink, they are effectively watching themselves for Centrelink. Indeed, interviews with Centrelink clients provided many examples of people watching themselves on behalf of Centrelink’s gaze.

One interviewee, Jack, when asked if Centrelink had made any decisions he disagreed with, succinctly stated “No. I follow the system and they don’t really stuff you around”. This reveals self-surveillance in two ways. First, Jack says that since he, “personally” follows the system, he does not find Centrelink difficult to deal with. And, provided he ensures that he follows the system himself, this will continue. Second, Jack implies that because he follows the system, including providing all information (documentation) required, then Centrelink will not make trouble for him. Indeed, all interviewees actively watched themselves by completing the forms required. When a Centrelink client discloses their personal details in a Centrelink form, they are actively participating in their own surveillance. They are helping Centrelink watch them.

In a further example, a common complaint among interviewees was Centrelink claiming they had not received forms that clients had submitted. Although the complaint was usually about the loss or delay of income, it demonstrates how actively clients participate in their own surveillance. For example, Joe felt some Centrelink officer had taken a personal dislike to him and kept ‘losing’ his form. In other words, he felt that the officer was doing him an injustice by sabotaging his self-surveillance (and thus denying him payment). Joe expressed his experience this way:

Okay. They didn't like me. A personal dislike towards me. I mean if a person doesn't really like the person on the other side of the counter or that person has enemies that that person knows you're in shit. I might be an exception to the rule but it's true 'cause like I could even go into the forms like the Q10 forms and what not which are rent assistance forms they've s'posed to be lodged you do a free thing and I lodged the same one three weeks running and they still reckon it didn't get put in.

So, Centrelink clients are subjected to intense surveillance. They are continually watched, reminded of being watched and facilitate Centrelink's gaze by watching themselves. They are thus created into individuals who can be governed. However, surveillance affects the individual Centrelink client. Thus surveillance is linked to processes of individualisation.

Individualisation

As Foucault states, while in the past only the powerful (such as monarchs, with pomp and ceremony) were individualised, now “those on whom it [power] is so exercised tend to be more strongly individualised” (Foucault, 1977, p. 193). The techniques of ascribing individual character to each Centrelink client—individualisation—can be demonstrated on many levels. Centrelink clients are continuously spoken of as individuals, they are also assigned activities and obligations that can be fulfilled only by themselves, individual personal records are kept, and they are repeatedly examined through individual interviews with Centrelink officers. Evidence for each level of the process of individualisation is detailed in this section.

As explained in Chapter Six, the documents studied gave *individual character* to Centrelink clients. They did this by heavily using words like “you”, “your”, “you'll”, “you're” and “yourself”.

The documents did not just give individual character to the client, but also explicated *individual actions and responsibilities* that the client alone was required to take. This is illustrated in page one of *The jobseeker diary*:

This Jobseeker Diary is for *you* to record *your* efforts to find work. It can aid *you* in *your* search for work and will be used to show Centrelink that *you* are meeting *your* obligations to actively seek work. (Italics not in original Centrelink, 2000c, p. 1)

Indeed, stating “your obligations”, “your efforts to find work” and “your search for work” reinforce that it is this individual activity that is a personal obligation to Centrelink. This personal individual obligation is reinforced by stating the diary is for “*you* to record *your* efforts” to show that “*you* are meeting *your* obligations”. Further, it is a Centrelink client’s individual responsibility to avoid being breached. The above quotation is followed by an “**IMPORTANT!**” reminder that payment “depends on *you* meeting *your* obligations. If *you* don’t we may have to reduce *your* payment or even stop payment. Help us to avoid this” (Bold in original, italics not in original Centrelink, 2000c, p. 3). Not only are you reminded that you will be punished if you do not meet your obligations but you are told that it is your responsibility to make sure this does not happen. You must “help us to avoid this” because we may “have to reduce your payment” even though we don’t want to—it’s up to *you* not Centrelink to ensure your payment continues!

Not only are clients given individual character, given individual required behaviour and responsibility, but they are also required to help Centrelink maintain their *individual records*. Indeed, very personal and individual information about the recipient is continually recorded. Through the ‘fortnightly’ form (Centrelink, 2 May 2000), this occurs every two weeks. Clients are warned that “If you want this payment to continue” then you must “answer all the questions”. They are asked to disclose their fortnightly earnings and information about their personal relationships. In question 8, which engulfs a quarter of the space of the entire form, it states “you must tell us if any of the things below happened in the period”. The question encompasses “income”,

“relationships” such as “you started living with a partner”, “children” such as “a child under 16 left your or your partner’s care”, “rehabilitation”, “prison”, “studies”, “approved activity”, “bank details”, “rent”; and for “youth allowance only”, “parents/guardian/s” and “brothers and sisters”. Further, Centrelink recently ran an advertising campaign to remind clients that “when *your* circumstances change, don’t forget to tell Centrelink” because *you* must “support the system that supports *you*” (Advertisement, 2002).

A Centrelink client is not only ascribed individual character, given individual responsibility, and their personal details stored, but they are also often required to undertake an *individual examination* with a Centrelink officer, where their individual record is reassessed. Individual examination is compulsory for receiving NSA. Generally a claimant must subjugate themselves to an examination, in the form of a personal interview with a Centrelink officer, in order to qualify for payment. The *Notes for Newstart Allowance* (Centrelink, 2000e, p. 2) illuminate some of the characteristics of this interview. These notes include a list of “4 easy steps” to “claim” NSA. Step four is titled “interview” and has the following instructions²⁷:

Contact Centrelink in 131021 to make a time for your interview.

What you should bring to your interview:

- Your completed claim form;
- Your completed looking for work form; and
- All the additional forms and documents you were asked for in the claim form (see the checklist at the back of the claim form). (Bold in original Centrelink, 2000e, p. 2)

²⁷ Please note that a client may claim for the Newstart Payment without filling out the *Claim for Newstart Allowance* (Centrelink, 2000b) form. However, to do this they must contact Centrelink to claim payment.

Further instructions follow:

If you have been given an interview time, please arrive at the reception on time. Otherwise a new interview time will need to be made. **If you do not attend your interview, you may not get your payment.** [picture of a telephone is here] If you are asked to come in for an interview but you cannot attend, please phone **131021** for another interview time. (Bold in original Centrelink, 2000e, p. 2)

Here, not only must the client individually attend this private interview, but also individualisation is reinforced by being told it is “*your* interview” and you must bring “*your* completed claim form” and “*your* completed looking for work form”. It is also the individual Centrelink client’s responsibility to reschedule the interview if unable to attend. Being subjected to the gaze here are both the individual and the personal details on their forms. This gaze will become part of the permanent record of this client.

However, an individual examination is not a singular experience for a Centrelink client. When a client personally lodges their ‘fortnightly’ form, they generally line up to hand it personally to a Centrelink officer. The officer then checks their details again before accepting the form. Individual Centrelink clients are examined and re-examined often. Jane was so accustomed to individual examination through her permanent record that when asked what rights she felt she had when she disagreed with a Centrelink decision, she replied:

I don't know, like get as much back up into why you're right, you need back up of course. Document, show that you're correct, and why they're wrong, you know (unclear, background noise) you need, yeah, proof, why, cause if you ain't got any proof, no matter what you say, they're just not going to take notice of you, 'cause they've got documents to show that why your wrong. And that's what you do.

Centrelink clients are so individualised that not only are Centrelink decisions directed to them personally, but any disagreement or appeal may be added to their

individual permanent record. Consequently they are disciplined to accept the decisions made about and for them by Centrelink. Thus Centrelink client Jim referred to his permanent record as his “slab”—as something solid, hard, and permanent. Jim explains vividly how he feels incidents are recorded:

On, on my record, my slab, my record. I got it sticking on me. I should have been in fucking gaol. Why not put me in gaol over this, and finger print me and photograph me. It sticks on that too.

However, not only is appealing a Centrelink decision an individual experience that may affect a client’s personal record, but to appeal formally is to invite even further individual examination. As Hartley Dean points out about the Social Security appeals system in the United Kingdom, “to appeal against the determinations of such officialdom is to invite further scrutiny” (H. Dean, 1991, p. 145). John, who had never sought a formal appeal, was aware of his right to appeal and described the process as follows:

Um. Fill out a form I think ... make an appointment. I’ve never had to do it but I mean if they start breaching me or cut me off I would.

Despite viewing the appeals process as inviting extra scrutiny through new documentation and interviews, John was still willing to seek an appeal if he felt he needed to. Another interviewee, Jonathon, who was awaiting an SSAT hearing when interviewed, but felt he had few rights, described some of the extra scrutiny he had experienced as follows:

I just filled out the thing and they go over the statement of what I said happened, they went over it and sent me a letter saying no, if you want to take it further you can go to appeals.

Jonah saw the extra examination more positively, although he still felt he had few rights. When asked what rights he felt he had when he disagreed with a Centrelink decision, he answered:

Um. Not a lot really ... um you know if you disagree with something, normally you've got a specific person you can speak to, like the person that, who's done all your forms when you go in, and stuff like that, and so like the guy that I've got has said that if I ever have any problems, speak to him personally and, he'll do his best to sort it out because, I s'pose that's more interpersonal relationship that we've got going through the ... interview, which was, which was good. So yeah.

Hence, Centrelink clients are made into individuals who can be governed through individual treatment. However, Centrelink clients are individually watched according to specific criteria of appropriate behaviour—according to “normalising judgement” (Foucault, 1977, p. 177-184).

Normalisation

Centrelink clients are surveyed continually according to particular criteria of what is normal behaviour and what is not normal. The aim of this judgement is to maintain normal behaviour among Centrelink clients, or correct abnormal behaviour so clients behave appropriately. This process, which Foucault names “normalisation” (Foucault, 1977) might consist of three stages, although these stages do not necessarily occur in this order, and could be simultaneous. The first stage is a normalising judgement—the criteria of normalcy are applied to a Centrelink client. Next, a client is trained to maintain appropriate behaviour. Finally, this training might involve a system of reward and punishment that encourage correct behaviour and discourage inappropriate behaviour. Each of these stages of the process of normalisation is detailed in this section.

So, by what criteria might a Centrelink client be *judged as normal* or other than normal? An important criterion is revealed in the customer charter (Centrelink, September 2000), ‘fortnightly’ form (Centrelink, 2 May 2000), *The jobseeker guide* (Centrelink, 2000d) and *The jobseeker diary* (Centrelink, 2000c). Indeed, all these papers explain that a Centrelink client must be judged to be a ‘genuine jobseeker’. Indeed, *The jobseeker diary* states that:

To make sure you keep getting your payment, Centrelink has to know that you are actively looking for work. It ensures that money goes to those who are genuine jobseekers. To demonstrate this you must satisfy the activity test and meet other obligations. (Centrelink, 2000c, p. 2)

Centrelink clients must demonstrate that they are a ‘genuine jobseeker’. To show Centrelink you are a ‘genuine jobseeker’, you must demonstrate that you abide by the activity test, do Centrelink approved activities and do other required activities. If you do not do the above, you will be judged to be something other than a ‘genuine jobseeker’.

The jobseeker diary continues to list things you “should” do and “other things you need to do” (Centrelink, 2000c, p. 2). These include being willing to take any work or training Centrelink deems suitable (including part time and casual work) and administrative requirements such as “fill in this Diary”, “provide information requested by Centrelink” and “attend Centrelink appointments” (Centrelink, 2000c, p. 2). This implies, among other things, that a person must abide by Centrelink administrative requirements or be considered to be something other than a ‘genuine jobseeker’.

So, what governing practices allow a Centrelink client to be judged normal or otherwise? The ‘fortnightly’ form (Centrelink, 2 May 2000) and *The jobseeker diary* (Centrelink, 2000c) provide the information for this judgement. For example, the ‘fortnightly’ form directly asks Centrelink clients to state whether they did a “Centrelink approved activity in the [previous fortnightly] period”, where an approved activity includes “study, training, voluntary work, language courses and intensive assistance” (Centrelink, 2 May 2000, p. 2). Similarly, *The jobseeker diary* explains that:

The details you write in this Diary will be used to ensure that:

- you're applying for enough jobs;
- you're looking for different types of jobs (that is, any work you are **able** to);
- you're looking for work beyond your immediate area (eg. up to 90 minutes travel from your home); and
- you're not relying too heavily on only one or two methods of finding work (eg. only phoning employers may not be enough). (Bold in original Centrelink, 2000c, p. 3)

The normalising judgement that Centrelink clients are subjected to is not a singular event. Rather, it is *repeated to train clients to behave in the correct manner*. This is exemplified by the 'fortnightly' form (Centrelink, 2 May 2000), and *The jobseeker diary* (Centrelink, 2000c). The last question on the 'fortnightly' form requires a personal declaration and signature from the client:

9. Declaration and signature

I declare that I was willing to work and that I was actively looking for work, or doing a Centrelink approved activity (including full time or concession study) or was exempted from seeking work or had an incapacity for which I have provided a medical certificate. The information I have given is correct. (Bold in original Centrelink, 2 May 2000, p. 2)

Generally, every two weeks a client is reminded of the correct behaviour and personally signs their name against it. A Centrelink client is reminded of this every time they complete this form and fulfil any of its requirements, including accurate completion of this form. Similarly, *The jobseeker diary* (Centrelink, 2000c), if assigned to a client,

must be completed continually and regularly. Clients are required to complete the details of each job application in the diary, including the date they contacted each potential employer. An explanatory box attached states “complete your diary on the day you apply for the job” because “if you don’t, you may forget some of the details” (Centrelink, 2000c, p. 5). This implies that you need to include all details and be organised enough to fill in the form on the same day as the activity. This correct behaviour must be repeated until the client successfully finds work.

Centrelink clients are not simply judged to be normal or otherwise, and trained to improve and maintain appropriate behaviour. They are also managed through a system of *gratification and punishment*. The documents studied clearly imply that engaging in the correct behaviour will lead to gratification while incorrect behaviour will bring punishment.

Gratification for correct behaviour can take many forms. The most obvious is to receive payment. Another common form of gratification is to increase one’s employment prospects. For example, *The jobseeker diary* states that such gratification is yours if you plan your job search:

There are steps that you can take to help open the doors to employment. One of the most important is to plan your job search. With a plan you increase your chances of finding work. **Make use of the Jobseeker Diary and Guide.** (Bold in original Centrelink, 2000c, p. 1)

Further, actually completing your job search records properly, according to *The jobseeker diary*, can lead to the gratification of increasing your employment prospects:

This Jobseeker Diary is for you to record your efforts to find work. It can aid you in your search for work. (Centrelink, 2000c, p. 1)

In addition, threats of punishment for incorrect behaviour pervade the documents. For example, *The jobseeker diary* states that:

You must complete your Diary and you must provide it when asked. If you don't we may have to reduce your payment or even stop payment. Help us to avoid this. (Centrelink, 2000c, p. 1)

Similarly, the customer charter warns that “you need to do these [following] things or your payment may be affected”:

You need to:

- tell us as soon as you know that your circumstances are about to change e.g. your address, income or relationship arrangements
- reply to our requests on time
- meet any mutual obligation requirements for the services or payments you are receiving. (Bullet points in original Centrelink, September 2000)

These threats were common in the documents studied. Indeed, the word “must” is used four times on the ‘fortnightly’ form (Centrelink, 2 May 2000). It is also stated five times that a client may be penalised for not completing a particular task properly. The social security law is mentioned directly once. Further, in the *Notes for Newstart Allowance* (Centrelink, 2000e), clients are threatened to complete an activity properly or be penalised eight times over the seven pages of text. Of these eight times, the law is mentioned four times, and social security law is mentioned a further three times.

Further, legal justification is continually given for these punishments. For example, in the top right hand corner of the ‘fortnightly’ form (next to box for placing a client’s name and address) it states:

If you want this payment to continue:

- Fill in and return this form 02 MAY 2000
- Payment will stop if this form is returned late

Answer all the questions (use a pen) ...

This is an information notice given under the social security law. (Bullet points in original Centrelink, 2 May 2000)

Here the client is told that they must complete this form by the date and do it properly or their payment will not continue, and also that Centrelink is legally able to do this.

Further, at the end of the form, a client is reminded that “there are penalties for providing false or misleading information” and that “we [Centrelink] can make any inquiries necessary to help us work out how much we should pay you”. Not only are Centrelink clients reminded that they may be punished for not filling in the form accurately, but they are told that Centrelink can do anything to catch them out—implying that this is also legally sanctioned.

So, Centrelink decisions are inextricably connected to a judgement of normalcy and the process of normalisation. To be normal is to behave like a ‘genuine jobseeker’ by passing the activity test, doing Centrelink approved activities, being willing to undertake any work or training and complying with Centrelink’s administrative requirements. Indeed, complying with Centrelink is normal appropriate behaviour, which Centrelink clients are trained to accomplish and maintain through repeated behaviour and rewards (both promised and realised). Hence, through normalisation Centrelink clients are made into individuals who can be governed.

All the governing practices shown so far in this thesis—surveillance, individualisation and normalisation—are facilitated by the layout of the Centrelink office. The effects of particular arrangements of Centrelink clients' bodies in space are collectively the subject of the next section.

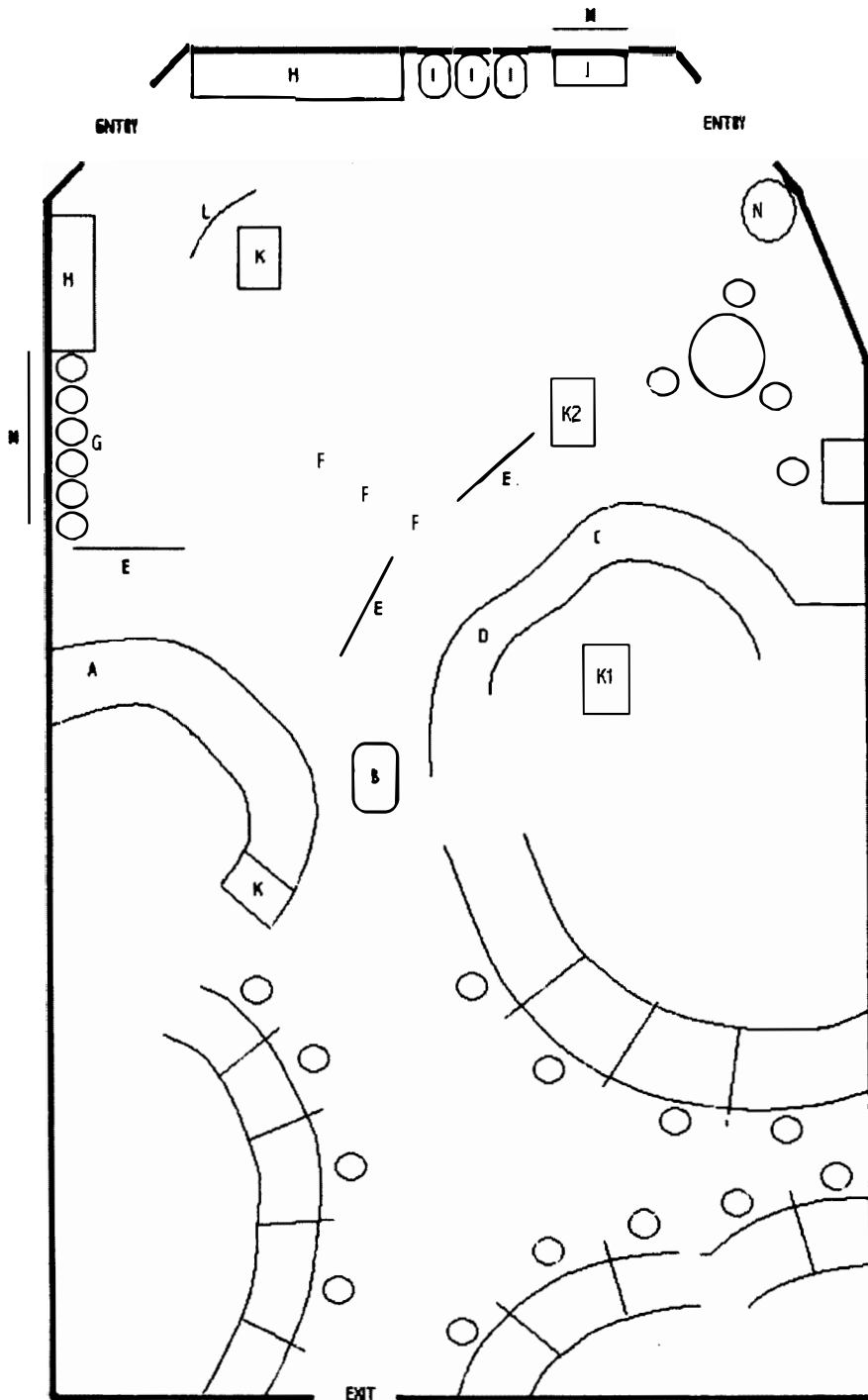
Distribution

This section details some practices of distribution that discipline Centrelink clients and allow them to discipline themselves. Centrelink clients may be disciplined, and self disciplined, through the distribution of their bodies in space in many ways. Although Centrelink clients are not geographically trapped in a fishbowl cell, like the prisoners in Bentham's Panopticon, they are spatially governed. For example, clients are requested to obtain permission from Centrelink to shift to a new house. Every fortnight recipients are asked if they changed their home address with the "IMPORTANT" explanation that: "You may reduce your prospects of getting work if you change your address. Your payments may also be cancelled. Check with Centrelink before you move" (Capitalisation in original, Centrelink, 2 May 2000). Similarly, overseas trips and rental leases are also scrutinised. Generally a client is asked every two weeks whether they or their partners have gone overseas or intend to, and provide details about this (Centrelink, 2 May 2000). Also, Centrelink requires details about your lease, the people you live with and their relationship with you if applying for rent allowance. However, most of this section will focus on the spatial governing practices within a Centrelink office visited by the writer in early 2002. The layout of a Centrelink office may include many different disciplining techniques. Spaces might be partitioned for specific activities and people. Also, spaces might provide a specific function for disciplining a Centrelink client. For example, a particular space might be used for surveillance of clients, or to minimise political communication among clients. Space might also be organised hierarchically, where people of different rank occupy different spaces. Each of these practices of distribution will be detailed below.

The space in the Centrelink office studied in this thesis was divided into three general *partitions* (Foucault, 1977, p. 143). The first partition was the client area (see Map 2). I call it the client area because it was the only area in the office that clients could access without special permission. It was where clients lined up (behind the yellow and red tape on the floor (see E on Map 1), sat to wait to be called for their appointment, looked for jobs at the jobsearch computer screens, collected and completed forms and used the resources provided to look for work.²⁸

²⁸ The client area was also the vantage point from which I drew the map of the office. The staff ignored my map drawing, despite being the last 'client' to leave for the day at 4:45 pm.

Map 1. The layout of the Centrelink office in early 2002

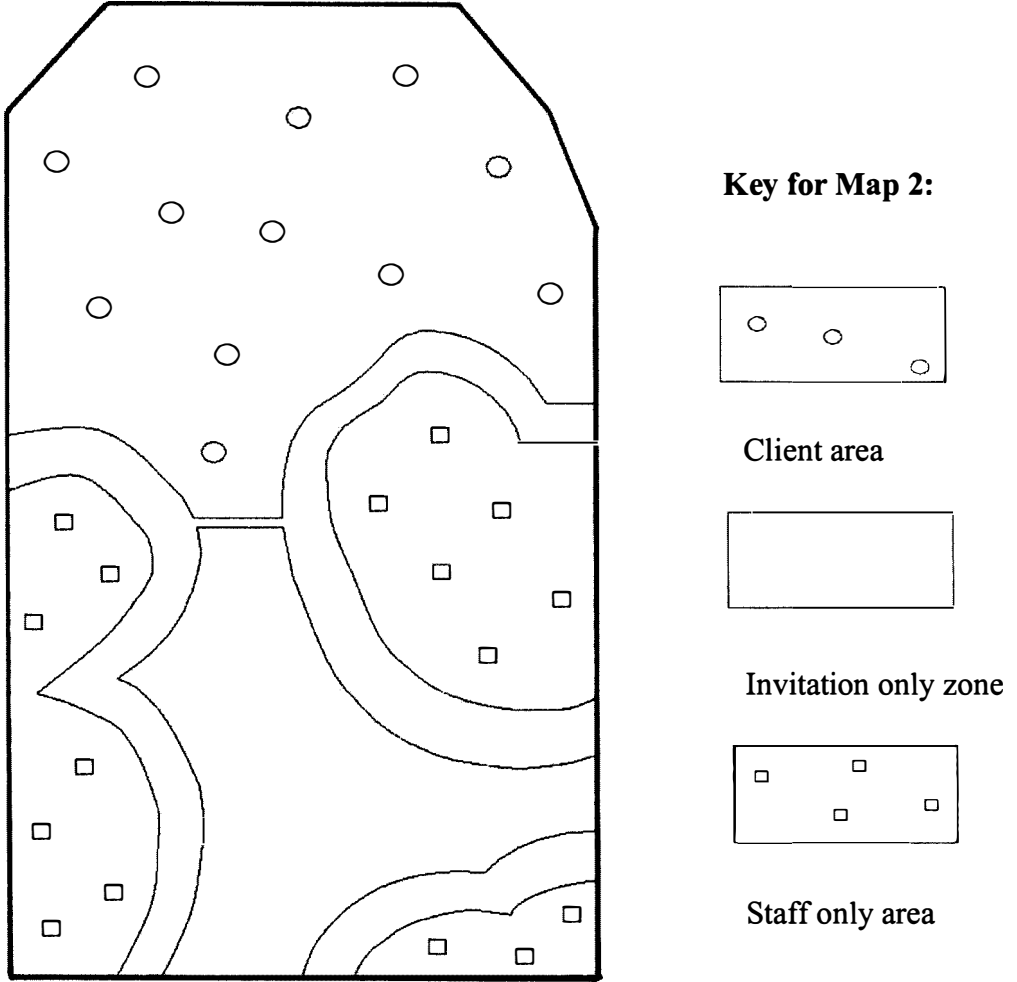


Key for Map 1:

- A "Forms lodgement"
- B Comments and suggestions box
- C "Reception. Youth and Student"

- D “Reception. Employment Services”
- E Yellow or red coloured wide tape on floor for people to queue behind
- F Potted plants
- G Small circles indicate chairs
- H High desk
- I Job search computer screen
- J Photocopier
- K Approximately 50 cm wide blue supporting pillars
 - 1 “WARNING. VIDEO SURVEILLANCE IN OPERATION BY AUSTGUARD”
 - 2 “Welcome to Job Network Access. The equipment in this area is for you to use, free of charge, to help you look for a job as well as write resumes and applications.”
- L Stand alone directory, bolted to floor facing entry
- M Notice board on wall
- N Large convex surveillance mirror above entry

Map 2. The partitions of the Centrelink office in early 2002



I call the second partition the ‘invitation only zone’ (see Map 2). Only invited Centrelink clients could enter this zone. When I was drawing my map, a person sitting beside me on the chairs near E (see Map 1) was called for their interview, and then proceeded past the comments and suggestions box at B (see Map 1) and into the invitation only zone (see Map 2). Also, I was given permission to exit through this area. The front doors were already closed for the end of the day when I followed the last client out the back door after gaining eye contact with a staff member and receiving a nod as I passed her. This area consisted of open floor space and partitioned interview desks. During a prearranged interview a client sits on a chair in the invitation only section, while the interviewing staff remain inside the semi-circular desk.

The third partition will be called the ‘staff only area’. It was the area inside the semi-circular desks where the staff work (see Map 2). Although a staff member may enter the other zones to greet and direct an interviewee, at all other times they spoke with clients over the desk. This area was barricaded in two ways. First, the semi-circular desks formed a barricade between the client and Centrelink staff. Each area was like an island that appeared to have only one entry point, which seemed to be on the furthest side from the clients’ entry. Second, the desks seemed to be different heights, depending on the level of ‘barricading’ required. The desks in the client area were chest high, providing a barrier that was nearly impossible for a client to jump over. Since this is where any client (or member of the public like myself) could enter without invitation, and the bulk of clients were served, perhaps extra protection for staff was desired. In contrast, the desks in the invitation only area were waist high. Both the client and Centrelink officer could sit during an interview. It seems less protection for Centrelink staff was desired here—fewer and only invited clients could enter, the risk of a violent occurrence was thus reduced.

Within the client area of the office there was further partitioning according to type of allowance and task. Indeed, at C (see Map 1) the following sign hung from the ceiling, its orange and white type legible throughout the client area “Reception. Youth & Student”. At D (see Map 1), a similar sign read “Reception. Employment Services”.

Finally, at A, a similar sign read “Forms lodgement”. It seemed that NSA recipients were separated from Austudy or YA recipients. These clients were further partitioned from those lodging forms. There were even separate places to line up for each of these categories—indicated by the coloured tape on the floor at E and potted plants at F (see Map 1). It seems those clients who simply lodged their forms, without requiring special attention, were partitioned from clients who were either applying for allowance or required special assistance. Further, perhaps the clients who required special attention (or are applying for the first time) were being shown that they were different and require special supervision. Indeed, the surveillance warning sign was behind the “Youth and Student” and “Employment Services” desks rather than the “Forms lodgement” desk.

Different sites inside the Centrelink office may also provide different *disciplining functions*. *Supervision* seemed to be an important function of the client only area. The staff at desks A, C, and D could view the entire ‘client’ area of the Centrelink office (see Maps 1 and 2). All the service desks formed a physical barricade between the client access areas and the staff only work areas. Also, a large sign which warned clients that they were under video surveillance was clearly readable throughout the ‘client’ area (see Map 2). The sign was positioned at K1 so a client would see it most clearly from the desk near C and D (see Map 1). The only passage for clients from the ‘client’ area area, besides the exit to the street, was at B (see Map 1). Here there were two high semi-circular desks that formed a small passage through which clients may be invited.

“*Break[ing] dangerous communications*” (Italics not in original Foucault, 1977, p. 143-144) also seemed to be a disciplining effect of the layout of the Centrelink office studied. Although clients frequented the Centrelink office, it seemed to be designed to discourage communication among them. Indeed, there were few chairs in the client only area—only six office chairs along the wall near E (see Map 1) and a few in the job network access work area (K2 on Map 1). Clients were required to stand while using the job search computer screens, fill out forms (at H, see Map 1) and stand in line to be served at desks A, C or D (see Map 1). There were no meeting places, and clients were constantly surveyed while inside. This office was not designed for lingering or meeting people socially. There were metal benches outside the office, sheltered from the wind

and rain. However, it was uncomfortable to sit on these for a long period of time (as I discovered while conducting interviews) and, forming a single row along the wall, did not facilitate group discussions.

The partitioned areas discussed above also suggest a “*rank*” (Italics in original Foucault, 1977, p. 145) order—from potentially dangerous for staff (client area, see Map 2), to moderately dangerous for staff (invitation only area, see Map 2) to safe for staff (staff only area, see Map 2). The clients who posed the greatest perceived threat were in the client area closest to the entry (see Map 2). Also, a rank order was implied whenever a client was served at a desk. The client was outside in the higher danger area, while the staff member was in the ‘safe’ area. Furthermore, clients at C and D (see Map 1) seemed to be ranked lower than those simply lodging a form, because, through a large sign (K1 on Map 1), they must be warned of being surveyed.

So, a client’s social behaviour and inner ethical life are not the only things disciplined; also disciplined is each client’s body in space. Where they live, with whom they share a bedroom, and where and how long they travel is managed. Even within a Centrelink office clients are disciplined. They are disciplined when they queue for service, when they wait for partners, when they require an invitation to enter. They are governed to stand for certain tasks (queuing and service in the client only area) and sit for others (an interview in the invitation area). Centrelink clients are also physically placed in a hierarchy. The location and posture of the clients’ bodies are supervised throughout their visit to the Centrelink office. What a Centrelink client does with their body outside the office is also important. They must physically attend any job interview, they must actively write job applications and phone or visit potential places of employment. They must present and posture themselves in an employable manner (see above). They must locate and move their bodies like an ‘active jobseeker’ (see above).

Most importantly, since Centrelink clients are a geographically dispersed group, the Centrelink office is one of the few places where they might meet other clients with similar experiences of Centrelink decisions. Since the office layout does not facilitate communication among Centrelink clients, they are governed (and self-governed) to

keep their experiences to themselves. It appears unlikely that clients will discuss Centrelink decisions, or any experience of challenging a decision. Their bodies are governed (and self-governed) to minimise such communications. Even the layout of the Centrelink office seemed to discipline Centrelink clients to become governable individuals.

Mechanism failure

However no governing practice is perfect or complete (see Malpas & Wickham, 1995). Inherent in any mentality of governing is failure. Thus, the governing practices of surveillance, normalisation, individualisation and distribution are inevitably limited. Interviews with Centrelink clients revealed many failures of the practices that attempt to govern them and train them to govern themselves.

Surveillance of Centrelink clients meant not only the supervision of their behaviour, but also the threat to watch them at any time, so that clients expected to be watched and watched their own behaviour and attitude. However, interviews with Centrelink clients revealed one way in which this intense surveillance has failed. Some clients were so aware of the potential of being watched that they expected their rights to be violated. They distrusted Centrelink as an institution:

Jack: Oh, none at all. Um. No. You can argue all you like but no, you don't really have any rights at all. I don't believe you have. From what I understand is that all your information goes to some private organisation actually. Centrelink send them all their information (unclear). They say that they don't disclose that information but I know for a fact that they must of because for some reason the electoral roll found me.

Lyndal: Oh. Okay.

Jack: Yeah. I was over in Sydney and they found me over here. And it wasn't until I actually enrolled in Centrelink.

L: (unclear)

R: Yeah. Big brother is watching. Anyway.

Jay saw the surveillance administered by Centrelink as more ambivalent:

Oh. Not too bad. It's just a bit mechanical. It just, it's not really humane if you know what I mean it's just here are the rules, which box do I tick for you? They're not really out to hurt you but they're not really out to help you either. It's just like OK fill out this form do you know what I mean it's just like which form do you fit into. That's about as far as it goes. Which is a bit of a pain because sometimes your situation isn't in one particular category but you're like more like do you know what I mean

Further, Jemma related the limited amount of rights she felt she had to the intense bureaucratic surveillance by Centrelink. Jemma replied, when asked what rights she thought she had when she disagreed with a Centrelink decision:

Umm, probably depending on (unclear) because they've got a lot of paperwork that they have to go through and a lot of agreements that they have to go through and so basically there's not much room to move/for any, umm

Through normalisation, Centrelink clients are also judged, trained, and rewarded or punished so that they adopt and maintain appropriate job seeking behaviour. However, this can go wrong in many ways. For example, on both the 'fortnightly' form (Centrelink, 2 May 2000) and *The jobseeker diary* (Centrelink, 2000c), clients are required to record their job search. The names and contact details of employers contacted, and the type of position applied for, are recorded. Effectively, this means a Centrelink client is required to record details of their job rejections. A possible unforeseen consequence of this is that it is not really the job search that is repeated here,

but the recording of each job rejection. The training may not just be to diligently record the search for work, and appropriate job searching behaviour, but to get used to being rejected.

Similarly Jackie described how the administrative requirements of Centrelink often embarrassed her. Jackie was very “embarrassed” to complete her jobseeker diary and “dole form”. She found the direction to get a Centrelink form stamped by the interviewer at a job interview so humiliating that she said “there is no way that I’m going to go to a teaching interview and then say here’s my dole form can you stamp it please”. Complying with Centrelink administrative requirements does not mean being an ‘active jobseeker’ to Jackie, it means being humiliated. It seems such intense surveillance can lead Centrelink clients to associate compliance with shame rather than jobseeking.

Also, punishment for non-compliance was not simply a reduction or temporary suspension of payment for some clients. For Jaques the punishment was homelessness. He was evicted from his home when unable to pay rent due to a reduction in his payment. His punishment was living on the street for 50 days.

Not only are punishments potentially harsh, but many Centrelink clients perceive them as random. They do not associate being breached with any action of theirs, but with a Kafka (1925/1999) like sinister random quality in Centrelink administration. This was vivid in Jaques’ statement about problems with Centrelink; “Hopefully nothing else happens this year, any day I’m expecting” and “every day (laugh) I wouldn’t be surprised if something turned up”.

Jonah provided another example: “Um, mainly 'cause I've only just started getting payments so I haven't been postponed as yet. Touch wood. (Laughs)”. Despite only being a Centrelink client for a short period of time, and being generally happy with the experience, Jonah still felt the need to “touch wood” that he would not have his payments postponed. He also implied that his payment had not been postponed yet

because he had only been receiving payments for a short time—Centrelink had had too few opportunities yet.

In a slightly different example, Jacinta was aware of the policy which led to her incurring a breach, but it seemed absurd to her. She explains how she incurred a breach when Centrelink took too long to change her payment type, only to have them applied much later when her allowance was changed again:

Jacinta: Oh, 'cause I was changed from pension to New Start and which I got breached which I should never have got breached. You know. Centrelink pension section was supposed to change me over to the pension before I got breached in New Start and they didn't so they were a bit late so I got two breaches on me from that

Lyndal: Yow.

Jacinta: and the when I went from pension back onto New Start that's when they found two breaches against my name so I was cut money because of that.

Lyndal: What did you do about it?

Jacinta: Um. Went and argued with them (laugh). (unclear) until they fixed it up (unclear) without pay. But I had to argue with them.

If Centrelink clients do not connect punishment with their behaviour, they will not make an effort to behave according to Centrelink's expressed criteria for appropriate 'jobseeker' behaviour.

Not only has connection between punishment and non-compliance been severed, but also some Centrelink clients connect compliance with a lack of rights rather than reward or gratification. For example, Jasmine replied, in an assured voice, when asked what rights she thought she had when she disagreed with a Centrelink decision "Well, I think that, um, you should have at least fifty per cent of the rights, as a human,

birthright”. Jenny replied even more negatively to the same question “Um, none really, it’s their decision and what they say goes I guess”.

Surveillance and normalisation work on the individual Centrelink client through ascribing individual character to clients, assigning individual responsibility to each client, keeping each client’s personal record and examining them repeatedly—that is, through individualisation. However, this focus on the individual Centrelink client fails to make individuals governable. Most importantly, governing practices are so intensely focused on each individual Centrelink client that three related failures may occur. First, individual treatment is so targeted to different clients with different needs, that some clients feel Centrelink is unsystematic and potentially vindictive. For example, Josh explained that:

I lose my temper in there because they just, I don’t know, very slow and don’t seem to want to help or that much. Unless you sort of make friends with someone in there then they tend to be a bit more helpful, you know, and they start to tell you a few of the loopholes, and ways to get money, and yeah, they’re a strange lot.

Second, clients are treated so individually, and their allowances can change so much due to individual circumstances, that they might not know what type of allowance they are actually receiving or where to locate themselves in the system. Jackie, Jemima and Jock were all unsure what payment they were receiving.

Third, individual practices are difficult to administer en masse—mistakes are made. For example, Jemima said she and her partner were breached due to not receiving mail that Centrelink officers claim they sent.

The spatial distribution of Centrelink clients’ bodies in a Centrelink office governs them through partitioning special zones for particular people, special functions such as supervision and minimising communications among clients, and hierarchal

zones. However, these practices also imperfectly govern (and self-govern) Centrelink clients. For example, the queuing that clients endure to consult with a Centrelink officer about a problem with their payment, discourages them from complaining. Indeed, Joe tried to question a Centrelink decision but “the lines were so long and it takes so long to get to see anyone that I had to go to work, I didn’t have time to do it”.

Also, while the layout of the Centrelink office did seem to prevent clients from communicating with each other, its supervising function allowed them to observe each other’s behaviour. This means that other clients observe both compliant and non-compliant behaviour. Most importantly here, clients can see other clients “blowing off”, “losing it” or “getting aggro”—they see that other clients are frustrated and angry at Centrelink decisions. This might not occur if the Centrelink office was not spatially designed for surveillance. Jim provides a vivid example of watching other clients’ violent behaviour. He explains how, when most inquiries were taken in cubicles before the current office design was implemented:

This is before they done all this up and that, they had the old cubicles, and I, ah, had a bit to say. Mind you I’ve watched the guy next to me beat the shit out of the cubicle next to me. I wasn’t too bad I just abused the shit, I just threaten to drag them over the counter. That wasn’t too bad, this guy wrecked the counter, ah, the cubicle ... so mine wasn’t too bad. He was only gunna get dragged over the counter.

If this occurred in the current open plan office, Jim would have been able to observe the other client’s violent behaviour from further away than the next cubicle.

Hence, analysing Centrelink breaches and appeals according to discipline and governmentality has much to offer. The case study data adds flesh to this framework, rather than challenges it. A particular strength of this approach is its rich detail about the micro-management of Centrelink clients. Such details are lacking in the other approaches considered. Also, unlike the approaches considered previously, it does offer a convincing account of the case study finding that Centrelink clients do not always

seek an appeal for an unsatisfactory decision even if they are aware of the possibility. It shows that this is both a success and failure of the disciplines. It is difficult to say whether the breach and appeal figures in Chapter One indicate a success or failure of the governmental technologies of surveillance, individualisation, normalisation, and distribution. It is also difficult (and somewhat off the point) to say which governmental rationality is most dominant. However, a conclusion that can be made is that the various governmental technologies can have unpredictable outcomes in relation to Centrelink breaches and appeals. This challenges the confidence of neo-liberalising based mutual obligation reforms.

This forms the tentative conclusion of this thesis because, of all the different approaches considered in this thesis, this approach provides the most convincing account of the case study findings. Unlike the neo-liberal account, it does account for the vulnerability of Centrelink clients. It also does not suffer the neo-liberal's false assumption that clients who do not reapply after being cut have other sources of income, otherwise they appeal.

Also, unlike the advocacy account, it does not deal with the vulnerability of Centrelink clients in a paternalistic manner. Also, it does not incorrectly assume that the relatively low formal appeal rate is due to Centrelink clients lacking the necessary knowledge and skills to seek an appeal. Also, unlike the advocate's approach, it does not limit its criticisms to the effectiveness of the current policy regime.

Ziguras, Dufty and Considine (2003) also argue, from an advocacy perspective, that mutual obligation fails the most vulnerable Centrelink clients. They even found, in their research on Centrelink clients' experiences of mutual obligation, that particular activity test requirements, including the 'fortnightly' form and *The jobseeker diary* failed to improve the most vulnerable clients' employment prospects. For example, they found that:

Continuation forms ['fortnightly' forms] were clearly seen by job seekers as a mechanism for demonstrating compliance with job search requirements and of little help in themselves. It was clear that people

sometimes wrote down jobs, even if they were not really interested in them, simply to complete the requirements. (Ziguras et al., 2003, p. 35)

Similarly, they found:

Just over half of those who had been given a Jobseeker Diary felt it was primarily a bureaucratic requirement rather than a source of assistance. Jobseekers often found the diaries frustrating and annoying. (Ziguras et al., 2003, p. 35)

Both findings are similar to the mechanism failure found in this thesis. However, there are important differences between Ziguras, Dufty and Considine's research and the conclusion of this thesis. These differences reflect the limitations of the general advocacy position that were identified in Chapter Four. While they did find that mutual obligation activity requirements failed to improve the employability of the most vulnerable Centrelink clients, they also said that it may succeed if it is administered better. They are not critical of the idea of mutual obligation as a basis for current social welfare administration:

In effect, then, the system operates for many disadvantaged job seekers not as 'welfare to work' but 'welfare as work'. This is a poor outcome for all concerned: job seekers fail in meeting their goal to find work, and governments bear the continued cost of providing social security payments and an ineffective service system. (Ziguras et al., 2003, p. vi)

However, rather than criticise the mutual obligation basis of the current policy, they offer advice about improving the current policy's effectiveness for making Centrelink clients more active. They offer a list of reforms needed for a "more effective active labour market policy" (Ziguras et al., 2003, p. vi). They merely say that the problem lies with the current application of mutual obligation. In contrast, this thesis concludes that neo-liberal governmentality inherently fails, as do all political rationalities (Rose & Miller, 1992).

Also, Foucault's account of discipline and governmentality provide a basis for a more appropriate account of the case study findings than the new-contractualism accounts offered by Carney and Yeatman. Unlike Carney's approach, it offers a relatively convincing account for the case study finding that some clients did not seek an appeal even if they disagreed with a Centrelink decision—because they were

disciplined not to, and because attempts to make them governable individuals failed to make them into active citizens. It also does not problematically assume that there was a golden age of TH Marshall type citizenship in Australia where social security provided a safety net for all, and that the appeals structure in Australia, as a final precious remnant of this time, successfully protects the rights of social security recipients. Also, unlike Yeatman's approach, it does not neglect that advocacy groups are often paternalistic themselves.

Also, unlike the approaches that focus on surveillance as oppression, the approach in this chapter does not neglect to address individualisation in its analysis. It thus offers an explanation for *how* oppressive surveillance works at the level of the individual.

Conclusion

Chapter Seven elaborated the usefulness of the concepts of surveillance and individualisation for explaining current breach and appeal numbers. The analysis that ensued relied heavily on the work of Michel Foucault, particularly his work on discipline and governmentality.

Governmentality, according to this approach is concerned with the *how* of governing. Surveillance and individualisation are, according to this approach, imperfect techniques of disciplinary power which, along with a number of other techniques such as normalisation and distribution, imperfectly make Centrelink clients into governable individuals. The case study data provided much evidence for surveillance, individualisation, normalisation and distribution, and also their failure.

The current breach and appeal figures reflect both the intention of neo-liberal political rationality to create governable individuals from Centrelink clients, and its failure to do so. Most importantly, it shows, through an analysis of the case study data, that governmental technologies have unpredictable outcomes. This challenges the confidence of neo-liberal based mutual-obligation reforms.

CHAPTER EIGHT

CONCLUSION

As established in Chapter Three, the current Australian social welfare system is essentially neo-liberalising. This neo-liberalising conservatism argues that the values of the market and competition should be upheld, and it is individuals' lack of self motivation that has led to their poverty. Hence, governmentality should train people to be motivated and competitive enough to be able to compete successfully in a market economy. The current Australian policies of mutual obligation where Centrelink clients must not just seek work but take part in other activities that give back to society and prepare them to 'actively participate', fall within this framework. So does the recent (but not new) concern about welfare dependence in the McClure report (2000a; 2000b) and parliamentary addresses in Australia (Hansard, 1997; Hansard, 2000). The argument for the need for some coercive measures to ensure compliance, such as administering financial penalties known as breaches, also falls within this conservative neo-liberal framework. All these measures aim to manage Centrelink clients so they behave in a certain manner, and adopt certain values and self-perceptions. This thesis has shown that this is a somewhat overconfident aim. It has shown that the results of various social policies often have unforeseen results that fail to create governable Centrelink clients. This means that social welfare policies that aim for more control over the lives, and, as Mitchell Dean (1998) argues, ethical lives of social welfare participants are inherently flawed. In a local political climate of very confident neo-liberalising conservatism, this conclusion challenges the very basis of many current policy reforms. However, please note that this analysis also applies to other political positions (see Leonard, 1997). This conclusion was reached through an exploratory analysis of current Centrelink breach and appeal figures using a case study of a Centrelink office. This occurred in the following steps that comprised the chapters of this thesis, which were organised into Parts A, B and C.

Part A, comprising of Chapter One, Two and Three, provided the groundwork for the thesis. Chapter One revealed a growing disparity of Centrelink breach and appeal numbers between 1996-1997 and 2000-2001. This thesis then explored some possible explanations for this disparity. However, as explained in Chapter Two, these numerical figures alone provided insufficient evidence for any relationship between breach and appeal numbers. Therefore, a case study of a Centrelink office was conducted to obtain more information about the social context of Centrelink breaches and appeals. Information was collected via interviews with Centrelink clients, documents obtained from the office, and direct observation. Some limitations inherent in the study were also considered here. Having established in Chapter Three that the current Australian welfare regime can be understood as essentially neo-liberalising, Parts B and C evaluated possible explanations for the disparity of breach and appeal numbers in the light of the case study findings. Part B considered the contemporary pragmatic approaches of the neo-liberals and the advocates in Chapter Four. New-contractualism accounts were considered in Chapter Five. In Part C, some approaches that elaborated ideas of surveillance and individualisation were evaluated in relation to the case study findings. Chapter Six evaluated accounts the view surveillance as oppressive, while Chapter Seven covered an account of surveillance and individualisation that drew from Foucault's analysis of discipline and governmentality.

Chapter Four in Part B considered the neo-liberal and advocacy approaches. The neo-liberals (Hansard, 1997; 2000; 2000a; McClure, 2000b) dominate Australian social policy. They draw from a belief in market forces and individual enterprise to criticise the post World War Two welfare states for creating welfare dependence. They argue for a more participatory system that, through measures such as breaching, punishes those who do not participate. They perceive the current breach and appeal numbers as a positive indicator that this approach is working. The advocacy view (ACOSS, 2000b; ACOSS, 2001a; ACOSS, 2001b; ACOSS & NWRN, 2000; The Salvation Army Australia, 2001; WRAS, 1999; WRAS, 2000) provided many valuable insights into how the current breach and appeal figures reflect the vulnerability of Centrelink clients to administrative error or misuse of power in an unnecessarily harsh breaching regime.

Both the neo-liberal and advocacy approaches represent contemporary pragmatic responses to welfare in Australia and have significant strengths, but serious weaknesses, for explaining the breach and appeal figures. The neo-liberal account of current breach and appeal figures was shown to be limited because it did not account for the vulnerable position of Centrelink clients with respect to the market. Their assumption that clients who do not reapply after being breached have other sources of income—otherwise they appeal—was also shown to be false.

On the other hand, the advocate's interpretation of the breach and appeal figures was found to be limited because it dealt with the vulnerability of Centrelink clients in a paternalistic manner. It thus did not account for the vulnerability of Centrelink clients to the state, or advocacy agencies themselves.

Chapter Five in Part B considered the new-contractualism writers' applicability to the case study findings. According to this scholarship there is a contemporary contractualism in Australian social policy which uses the language of classical legal contract, but reinterprets it. Carney and Yeatman represent different general approaches in this literature that offer different understandings of this reinterpretation of the contract.

Carney (1998; 1999; 2001) is critical of current new-contractualism which he argues is neo-liberalism embodied. He is particularly concerned that contemporary neo-liberal based new-contractualism retracts TH Marshall type social citizenship to a citizenship based on individual agreements, such as individual activity agreements between a JNA officer and a Centrelink client. This is not a classical legal contract because the parties are neither equal or free. According to Carney's new-contractualism, the relationship between increasing breach numbers and low appeal numbers is connected to new administrative arrangements. In particular, the increase in breaches after 1997-1998 corresponds with the introduction of Centrelink and the JNAs and their more individualised quasi-contract approach, while the decreasing scope for

administrative appeal of welfare matters has prevented a corresponding increase in formal appeals.

Carney's interpretation of current breach and appeal figures was shown to be compelling. Indeed, it clearly linked the increased number of breaches and stagnation of appeals with changing fundamentals of social policy. In particular both the increase of breaches since 1997-1998 and the continuing low number of appeals, despite the rise in breaches, was linked to new welfare architecture in Australia, especially the introduction of the Job Network.

However, this new-contractualism approach had some serious limitations in relation to the case study data. It failed to account for why some Centrelink clients did not seek a formal appeal even if they disagreed with a Centrelink decision and were aware of the possibility of appeal. It also incorrectly assumed that the appeals structure is entirely benevolent.

Yeatman (2001; 1997; 1998; 1999) offers a different interpretation of new-contractualism in Australian welfare. While she does locate the new-contractualism in contemporary Australian social policy within neo-liberalism, she partners this with a second influence—social movements on behalf of social welfare client groups. Although Yeatman stops short of supporting neo-liberalism, she is less critical of new-contractualism than Carney because she views it as a less paternalistic development of neo-liberalism.

An interpretation of current breach and appeal figures based on Yeatman's explication of new contractualism was shown to be compelling in many instances. First, it does not optimistically accept the benevolence of the appeals system like Carney. Second, unlike Carney, Yeatman does account for why Centrelink clients do not seek a formal appeal, despite disagreeing with a Centrelink decision and being somewhat aware of the appeal structure—because they know it is not in their “deeper preference” (Yeatman, 1999, p. 267) to fight their activity agreement. Indeed, some research has

shown that Centrelink clients ultimately agree with being breached because it means they remain active. Further, some clients that were interviewed expressed similar sentiments—while they often found Centrelink requirements inconvenient, they also saw their necessity.

However, although this approach does offer an explanation for a client not seeking an external appeal even when they know this is possible and disagree with a Centrelink decision—it is a flawed explanation. If Centrelink clients must be coerced to follow their own “deeper preference” (Yeatman, 1999, p. 267) in one area—active job seeking—how can we be sure they are acting in accordance to their own “deeper preference” (Yeatman, 1999, p. 267) by not appealing when breached. To claim any action to be a higher good is potentially arbitrary and, thus, risky.

Although some clients interviewed did agree with the need for enforcing compliance through breaching, this agreement should not be considered in isolation from their other comments. They also felt that they had few or no rights when dealing with Centrelink.

However, perhaps the focus should not be on what type of contract we have, as Carney and Yeatman assume, but why people have accepted this contract in the first place. In particular, the surveillance and individualisation of Centrelink clients might hold a key to explaining why some clients don't seek an appeal, despite being both unhappy with a Centrelink decision and aware of the possibility of appeal. Surveillance generally means continual monitoring, while individualisation means, generally, giving individual character to someone or something. Two general accounts of surveillance and individualisation were considered in Part C—accounts of surveillance as oppressive in Chapter Six and an account that drew from Foucault's work in Chapter Seven.

According to accounts which view surveillance as oppressive (De Maria, 1992; Fox Piven & Cloward, 1971; McMahon et al., 2000; Pateman, 1989/2000), the current disparity of Centrelink breach and appeal figures relate to welfare's relationship with

the powerful. In particular, the disparity might be due to the oppressive surveillance that Centrelink clients are subjected to.

This approach's interpretation of current Centrelink breach and appeal figures was compelling. This interpretation of oppressive surveillance might explain why some Centrelink clients do not seek a formal appeal when they disagree with a Centrelink decision, even if they are aware of the appeals process—because they are too oppressed. This explanation does seem to fit with the powerlessness clients expressed in interviews. For example, Jim felt so surveyed that he said “It's [being a Centrelink client] like being in gaol”.

Despite these strengths however, this approach does not explain why people let themselves be so oppressed. Conley offers a partial explanation, that they have internalised their labels (Conley, 1982, p. 281). However, this explanation is insufficient because it does not explain *how* this occurred. Although many oppressive surveillance writers prefer to focus on collectivity to show the class (Fox Piven & Cloward, 1971) (or gender (Pateman, 1989/2000), race etc) based nature of individuals' experiences, this does neglect questions about *how* these processes work on the level of the individual. Hence, an approach which engages with both surveillance and individualisation was shown to be required.

Much current work on surveillance and individualisation in social welfare draws from the work of Michel Foucault (1977; 1980; 1991). This approach was considered in Chapter Seven. Surveillance and individualisation are, according to this approach, imperfect techniques of disciplinary power which, along with other techniques such as classification, normalisation and distribution, imperfectly make Centrelink clients into governable individuals. The case study data provided evidence for each of these disciplinary techniques, and also their failure.

Governmentality, according to this approach is concerned with the *how* of governing. The current breach and appeal figures reflect both neo-liberal political

rationality to create compliant job seeking customer citizens, and its failure. Breaches and appeals reflect both the success of disciplinary techniques and their ability to create cynical Centrelink clients who expect their rights to be violated and do not appeal a decision even if they disagree with it and know of the possibility of appeal.

This approach was shown to offer the best interpretation of the case study findings. Unlike the other approaches that were considered, it does offer a convincing account of the finding that Centrelink clients may not seek an appeal, even if they both disagree with a Centrelink decision and are ware of the possibility of an appeal. That this is both a result of their training to become compliant jobseekers, and the failure of disciplinary techniques to do so. A compliant jobseeker accepts punishment as deserved and thus would not seek an appeal. However these techniques may also create Centrelink clients who expect their rights to be violated and do not appeal when breached—even when they both disagree with a Centrelink decision and are aware of the possibility of formal external appeal. Thus, the current disparity of breach and appeal figures might also reflect the failure (or incomplete governance) of neo-liberal political rationality. It might reflect cynical Centrelink clients who expect their rights to be violated and disassociate breaches with their own non-compliance—not competent customer citizens. Such clients are more likely to accept a Centrelink decision rather than seek a formal appeal—even if they disagree with a decision Centrelink has made about them and are aware of the possibility of external appeal.

Hence this thesis tentatively concludes that the current disparity of Centrelink breach and appeal figures might reflect neo-liberal political rationality and its governing techniques and, also, its incompleteness or failure. Or, in other words, when we pull down breaches (or appeals) for further analysis, the neo-liberalising conservatism that currently dominates Australian social policy reforms appears over confident about its potency to control individual Centrelink clients' and their subjectivities.

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Legislation

- A New Tax System (Medicare Levy Surcharge - Fringe Benefits Amendment) Bill 2000 (Cwth)*
- Administrative Review Tribunal Bill 2000 (Cwth)*
- Administrative Review Tribunal (Consequential and Transitional Provisions) Bill 2000 (Cwth)*
- Australians Working Together and other 2001 Budget Measures Act 2003 (Cwth)*
- Social Security Legislation Amendment (Activity Test Penalty Periods) Bill 1997 (Cwth)*

APPENDICES

Appendix A: Interview schedule

Opening

“Hello, My name is Lyndal and I’m a postgraduate student with Edith Cowan University doing a study on why people do or do not formally question Centrelink decisions.

Could you spare me 10-20 minutes of your time to answer a few questions? Your answers will be treated as confidential. I needed you to read this so the university knows I am interviewing you with your informed consent.”

Decisions Made by Centrelink

“Thinking about your dealings with Centrelink, have there been any decisions taken which you have disagreed with?”

Yes No Not Sure

If “Yes”—

“What did you do when you disagreed with the Centrelink decision?”

“What rights do you think you have when you disagree with a decision taken by Centrelink?”

“To what extent are you aware that you have a right to have decisions of Centrelink subject to a review by an Authorised Review Officer?”

I _____ I _____ I _____ I _____
 Very aware Somewhat Aware Not Sure Not Aware

“To what extent are you aware that you have a right to have decisions of Centrelink subject to a review by an appeal to the Social Security Appeals Tribunal?”

I _____ I _____ I _____ I _____
 Very aware Somewhat Aware Not Sure Not Aware

“Have you ever taken a decision by Centrelink to a review by an Authorised review officer or to the Social Security Appeals Tribunal?”

ARO SSAT Neither

If “yes” to either ARO or SSAT

How did you find out about the ARO/SSAT?

About You

“To make sure that the people I interview are representative it would help if you would answer some questions about yourself. Please keep in mind that your answers are treated as confidential.”

First can I ask you what kind of Centrelink payment you are receiving?

- Disability Support Pension
- Sickness Allowance
- Newstart Allowance
- Youth Allowance
- Supporting Parent Payment
- Aged Pension
- Family Allowance/Family Payment
- AUSTUDY/ABSTUDY
- Special Benefit
- Other (please specify) _____

Into which age category do you fall?

15 - 21

21 - 24

25 - 34

35 - 44

45 - 54

55 - 59

60 - 64

65 +

Interviewer to complete:

Male

Female

Do you have children living with you?

Yes

No

If "Yes" how many and what ages are your children?

Child 1 Age _____ years

Child 2 Age _____ years

Child 3 Age _____ years

Child 4 Age _____ years

Were you born in Australia?

Yes

No

What Language do you speak at home?

English

Other, please specify _____

Are you a person with a disability?

Yes

No

If "Yes" what is the nature or type of disability(s)?

Are you of Aboriginal or Torres Strait Islander decent?

Yes

No

What suburb or town do you live in ?

_____ Postcode: _____

Thank you very much.

If you have any difficulties in dealings with Centrelink or wish to questions their decision you do have the right to do so. You can either talk to someone at Centrelink and request a review by an Authorised Review Officer, make a complain to the Commonwealth Ombudsman (Ph. 9220 7541) or contact the Welfare Rights and Advocacy Service (08) 9328 1751

Appendix B: Statement of disclosure and informed consent

This study asks why unemployed people rarely challenge Centrelink when it breaches them. To answer this question, I wish to ask unemployed peoples themselves, by conducting unstructured interviews with unemployed people who have been breached. This will only take 10-20 minutes of your time and will be tape recorded. This research hopes to help make Centrelink accountable to how it treats its clients. Participation in the interview is strictly confidential and voluntary. You are free to decline to participate or withdraw from the interview at any time.

Any questions concerning the project entitled: "Pulling up their 'breaches': a Foucaultian discourse analysis of the power processes that lead unemployed people to accept 'breaches'" can be directed to Lyndal Sleep of the School of Community Services and Social Sciences on (.....)

If you have any concerns about the project or would like to talk to an independent person, you may contact the research ethics officer on (.....)

✂

CONSENT FORM

Project (working) Title: "Pulling up their 'breaches': an exploratory analysis of current Centrelink breach and appeal numbers from 1996-97 to 2000-01".

I (the participant and parent or guardian of the participant if under 18 years old) have read the information above and any questions I have asked have been answered to my satisfaction.

I agree to participate in this activity and for the interview to be tape recorded, realising I may withdraw at any time.

I agree that the research data gathered for this study may be published provided I am not identifiable.

Participant or authorised representative Date:

Investigator Date:

Appendix C: List of interviewee pseudonym and brief description

Table 3: Interviewee pseudonym and brief description

Pseudonym	Age group and gender
John	15-21 year old male YA recipient
Jock	21-24 year old male, thinks he's on YA, but not sure
Jack	21-24 year old male NSA recipient
Joe	25-34 year old male NSA (intensive assistance) recipient
Josh	25-35 year old male AUSTUDY recipient
Jenny	15-21 year old female YA (student) recipient
Jemma	21-24 year old female NSA recipient
Jed	25-34 year old male AUSTUDY recipient
Joan	25-34 year old female has two children
Jebidiah	35-44 year old male NSA recipient
Jemima	21-24 year old female, thinks she's on NSA, Supporting Parent and Family Allowance, but not sure, one child
Jay	21-24 year old male NSA recipient
Jacinta	21-24 year old female NSA recipient with two children
Jaques	25-34 year old male AUSTUDY recipient, approached me and asked to be interviewed while I was interviewing another, period of homelessness
Jackie	25-35 year old female, thinks she's on NSA, but not sure

Jonathon	25-35 year old male NSA recipient, currently seeking an appeal at the SSAT
Jasmine	25-35 year old female NSA recipient
Jeff	35-44 year old male NSA recipient
Jillian	35-44 year old female NSA recipient
Jim	45-54 year old male long term unemployed
Jane	21-24 year old female YA recipient
Jonnah	15-21 year old male NSA recipient
