The Saturday Paper

NEWS

The government was informed of a glitch that caused more than a thousand people to be cut off from welfare payments but ignored it for more than three years because halting it would harm private providers. By *Rick Morton*.

Exclusive: Ten dead after welfare glitch ignored by government

Minister for Employment and Workplace Relations Murray Watt. CREDIT: AAP IMAGE / DARREN ENGLAND

Computer programming errors that caused welfare recipients to be wrongly cut off from income support were first discovered years before departmental officials acted to fix them – but the system was not paused for fear it could hurt the profits of privatised employment service providers.

Documents released under freedom of information reveal the Department of Employment and Workplace Relations (DEWR) first picked up on the glitch in April 2020 but did nothing about it for more than three years.

Since then, the issue has cost more than $5 million in departmental resources and compensation. Ten welfare recipients died after having their income support payments wrongly cut off. Services Australia either cannot or will not say whether these deaths were the result of suicide or the destitution brought about by the incorrect cancellation of welfare. After each cancellation, there is a mandatory wait of four weeks before people are able to reapply for support.

An attempt to fix what is now being called the "initial bug" discovered in 2020 was finally made in October 2023 – long after it had sent some 1300 people further into poverty with more than 3400 incorrectly applied financial penalties – but that patch job directly led to a new error that did the same thing to a new set of recipients.

From April 2022, while the IT system that gives effect to the Coalition-era Targeted Compliance Framework (TCF) was malfunctioning, yet another major problem arose, this time through the failure of human management.

As previously revealed by *The Saturday Paper*, amendments to the *Social Security (Administration) Act* passed that month were supposed to give the secretary of DEWR the power to continue welfare payments if it appeared cancelling them would lead to undue financial hardship. Before then, the secretary had no discretion in the determination.

Despite this amendment, and an explanatory memorandum detailing the change, the new powers were never communicated to the delegates who were actually making the decisions. There was no consideration of the hardship circumstances of an additional 1000 welfare recipients because of this change.

The department warned former employment minister Tony Burke of this new legislative issue in July last year, then entered a series of discussions with his successor, Senator Murray Watt. During this time, it still had not admitted the error in public.

Both department and minister were wary of what would transpire if they did.

A brief sent to Minister Watt with "mitigation options" outlined the concerns.

"IT changes would likely require significant government investment," it said.

"Pausing mutual obligations for an extended period [redacted] and/or public statements creating potential exposure to legal class actions all carry significant financial implications. These options would need to be properly costed with relevant departments if they were to be pursued."

That note was sent on November 5, but Minister Watt did not agree to a decision until November 18 – after Senate estimates and after the release of Workforce Australia data. It was this newspaper that told the public.

Watt even had a media release drafted in his name but it was never sent.

One of the key contacts on that ministerial brief is DEWR chief counsel Tim Ffrench, who was acting chief counsel at the then Department of Human Services in 2019 under secretary Renée Leon while two robodebt cases wound their way through the Federal Court of Australia and the organisation took almost half a year to secure the solicitor-general's opinion on the legality of the scheme.

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Fixing the Workforce Australia system would also cost a lot of money, the brief notes.

"Large and complex social services systems that rely on IT systems to operationalise their administration will always have these types of issues arise," it says.

"The TCF is very complex, integrated with other social services systems and major reform would require significant IT resources and legislative change.

"However, given this is the third major IT bug identified in the operationalisation of the TCF over the past 24 months, the Secretary has asked the department to commission an external assurance process to test that the system is operating as intended and in line with the legislation.

"This will map and verify the operation of the current TCF system to provide a greater level of assurance to the Secretary and to government."

At no point has the government been willing to suspend the whole system, even as the cascading series of errors pointed to genuine uncertainty about whether the law or the IT system was doing what it was supposed to do.

In September 2023, a month after the first bug was identified, the employment minister was told in a brief that: "An additional 55 bugs are also being investigated to determine if they have implications for the TCF, which may affect payments."

"The initial analysis suggests the majority of these bugs will not have significant impact on penalties," the brief says. "The number of participants impacted by all bugs is still under Investigation."

The simplest way to ensure vulnerable clients were not affected was to turn off mutual obligations, temporarily or permanently.

The department did not recommend this.

Nor did it recommend removing the "penalty zone" in the labyrinthine Targeted Compliance Framework, despite raising it as a fallback option.

Doing so would turn off the supply of jobseekers churned through the private network of job service providers for fees and bonuses.

These providers, halfway through government contracts worth $7 billion, make money by securing full or partial "outcome payments" for people placed into work at four, 12 and 26 weeks.

They also generate income from the case load of unemployed people who can't find work and are instead referred for mandatory activities such as Work for the Dole, employment skills training and career transition assistance.

In many cases, the providers paid to refer clients to these activities also own the training companies to which they have been referred under separate contracts.

It was this consideration that weighed heavily on the minds of bureaucrats when they advised Tony Burke in September 2023 not to halt the system or remove the penalty zone. "Implementing Option B is not recommended at this time as it is likely disproportionate to the current known issues," the brief says.

"It would remove a key element of the TCF, which is necessary to encourage engagement with employment services.

"Experience with ParentsNext (as well as existing evidence) shows removal of compliance consequences dramatically reduces engagement with requirements.

"Such a reduction in engagement is highly likely to reduce employment outcomes for individuals and have significant implications on providers (both in terms of payments – viability – and interactions with the performance framework)."

Jay Coonan, a co-coordinator at the Antipoverty Centre, tells *The Saturday Paper* that his organisation was briefed alongside the Australian Council of Social Service (ACOSS)and Economic Justice Australia, but key details about the scale of the problem were withheld from them. "What we found out, inadvertently through this FOI, is that it is so much worse than we were led to believe," he says.

"The [Department of Employment and Workplace Relations] is willing to have bugs in the targeted compliance framework and to have the system operate for long periods of time, and they're willing to give the minister advice that he could shut the system down, but it's not their recommended advice because of provider viability.

"They're more concerned about the money going to providers than they are about people who are living in poverty. It's gross that we have … a welfare system that is designed to be beneficial for people who own companies and not for people who need the support."

Of the wrongful payment cancellations discovered and still being investigated by DEWR, officials told advocacy groups that almost half were for Indigenous men.

Commonwealth Ombudsman Iain Anderson announced this month that he was acting on a referral from ACOSS, following reporting in *The Saturday Paper*, to investigate the TCF legislation and the IT system that gives effect to it.

"Noting these matters and the potential impact of the TFC [sic] on highly vulnerable people, my office will be examining the TCF to consider if cancellation decisions are being made and implemented in a manner that is lawful, fair and reasonable," he said.

Asked if the ombudsman would refer any matters to state coroners or other authorities for investigation, given 10 unemployed people died and a further 41 cannot be contacted for compensation, a spokesperson told *The Saturday Paper* it may do so.

"The investigation is focused on examining these systemic issues about the operation of the TCF, particularly because of the potential impact on highly vulnerable persons, and the impact will be considered in the investigation," the spokesperson said.

"If during the investigation, the office becomes aware of matters that are more appropriately investigated under another law or authority, the ombudsman may consider referring these matters accordingly."

Jeremy Poxon, a campaigner for the rights of welfare recipients, lodged the FOI request for these briefing documents after parts of the story were made public.

He says the details show the government knowingly put people in harm's way because it refused to "turn off the punishment tap".

"They're carrying out a project that is fundamentally designed to privately punish unemployed people, and then make a political spectacle of their punishment," Poxon says.

"And at the same time officials want to use these technological tools cheaply, bluntly and with as little human oversight as possible.

"It's a familiar story where political malice crashes into technological incompetence, to the point where the incompetence becomes indistinguishable from the malice."

DEWR conceded in internal briefing notes that the first IT bug was discovered in April 2020 and a second one that impacts payments "arose following policy changes made in December 2020 and was identified in June 2021".

"Due to COVID contingency arrangements the impact of the issues were incorrectly assessed at that time as not severe and not impacting people – and not progressed for fixing or revisited," the documents state.

"The department believes this affected participants dating back to the start of the TCF which begun in 2018.

"It was not picked up at the time, and with pauses of mutual obligation requirements due to bushfires, COVID and floods and the transition to Workforce Australia, an uninterrupted period was needed for the defect to become evident in departmental data."

On the matter of the failure to use "discretion" for financial hardship, the department is refusing to pay compensation unless the person can prove they would have been unreasonably affected by having their payment cut up to two years ago.

Kate Allingham, the chief executive of Economic Justice Australia, said while the department was attempting to be more forthcoming with advocacy groups, it had still withheld key details from them.

“The government has set aside $5 million for the remediation process, but since it’s not yet clear how this will be allocated, we’ll be following along closely and hoping DEWR acts in good faith,” she said.

“Of course, it is possible for the government to avoid an administrative nightmare – a nightmare that has the potential to exacerbate the harm already inflicted – by paying back those affected without a review.

“Fifty per cent of the people affected by these financial penalties are known to be young Aboriginal and Torres Strait Islander men. The withholding of vital income support payments is never acceptable, but the current reality is that it is disproportionately affecting groups that have long been subjected to excessively controlling and punitive measures under the guise of social security.”

DEWR said it has made more than $1.2 million in back payments and compensation payments to people affected by the IT bugs and that its highest priority is “helping participants engage and meet their obligations, gain employment and training, and ensuring their payments are not impacted by issues beyond their control”.

The spokesperson said the department had not modelled “the impact of removing the Penalty Zone on payments to providers”.