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Committee Secretary
House of Representatives Standing Committee on Social Policy and Legal Affairs
PO Box 6021
Parliament House
CANBERRA ACT 2600

By email: childsupport.reps@aph.gov.au

Dear Committee Secretary

Thank you for inviting our office to provide additional information to the Parliamentary Inquiry into the Child Support Program.

I understand that, following the appearance of staff from the Australian Taxation Office (ATO), the Committee is interested in any further comments our office might make about the data transfer arrangements between the ATO and Child Support.

At the outset, I would comment that our office does not consider there are serious systemic problems with the ATO's data transfer to Child Support. Although our submission to the Inquiry referenced data transfer difficulties, the majority of these issues arise in the interaction between the Child Support and Centrelink (Family Assistance) systems.

However, I am able to highlight three areas where concerns have been identified in the course of past investigations. Examples 2 and 3 were originally included as case studies in our written submission to the Committee of June 2014, but we have provided additional context below to shed additional light on the issues flowing from the interaction between the ATO and Child Support systems.

Example 1: Data transfer problem flowing from introduction of new ATO system

The Ombudsman's 2011-12 Annual Report included discussion of a complaint from a payee who was aggrieved by a failure to intercept the payer's tax refund for offset against his child support debt. Our investigation of that complaint identified that, in the course of converting records from its previous systems into its new system, ATO staff had failed to make the appropriate manual updates to the payer's record to trigger the interception of his tax refund for payment to Child Support.

Our office did not receive any further complaints of similar lapses, but we include this case as an example of how actions undertaken and data recorded (or not recorded, as the case may be) by the ATO may impact on the ability of Child Support to effectively manage its primary purpose of collecting and transferring child support.

Flowing from our investigation, the ATO agreed to:

1. compensate the payee for the child support she missed as a result of its error
2. negotiate a Memorandum of Understanding (MoU) with Child Support, to establish specific liaison points for dealing with complaints about issues that concern both agencies.

Example 2: Data transfer failure & legislative limitations

The Ombudsman's office received a complaint from a payer about a six-month delay in Child Support commencing a new child support assessment based on his most recent taxable income. The problem in the complainant's case arose as a result of a failure by the ATO's system to transfer data to Child Support on a particular date. Our office was advised that the same error had affected a further 2,500 records.

Even though Child Support acknowledged that the payer had lodged his return some months earlier, child support law prevented it from using income from a date prior to its formal receipt into the child support case management system. This meant that the complainant had been assessed to pay child support at a higher rate than would have been the case if his new income had been used at the earliest (otherwise correct) date.

When he sought advice of the remedies available to his circumstances, the complainant was unable to get a clear answer from either the ATO or Child Support, and was shuttled between agencies. While Child Support offered him the option to lodge an application for a 'change of assessment in special circumstances' the payer declined to do so on the basis that he was not confident it would result in his assessment being changed.

Although the facts of the matter were agreed by both agencies early in our investigation, it took 10 months before a remedy was provided to the complainant by way of compensation for the overpaid child support amount.

As in Example 1, this complaint highlighted shortfalls in the way that the ATO and Child Support were able to manage difficulties that affect their mutual customers. Both agencies gave our office an undertaking that their MoU had been further refined to address these shortfalls, and also advised that their respective compensation units would work closely on these sorts of cases in the future.

This example, along with Example 3, also demonstrates the legislative limitations imposed on Child Support in remedying the impact of errors outside the customer's or Child Support's control.

Example 3: ATO human error & legislative limitations

The Ombudsman's office received a complaint from a payer about Child Support's use of a taxable income that was significantly (and incorrectly) inflated.¹ The complainant wanted Child Support to instead use the amended taxable income subsequently issued by the ATO.

Even though Child Support acknowledged that the ATO had issued an amended notice of assessment and that original income used to calculate the payer's liability was wrong, it advised that it was unable to revise his child support assessment. This was because the child support legislation prohibits the revision of a child support assessment to account for an amended taxable income, except in extremely limited circumstances such as fraud.

¹ Case Study Eleven of our original submission stated that the incorrect income arose from an accountant's error. DHS is currently attempting to clarify whether the error was on the part of the complainant's accountant or a processing error by ATO staff.

Child Support advised the complainant of his right to lodge an application for a 'change of assessment in special circumstances' but he declined to do so, saying that he did not believe he should be required to engage in a lengthy and intrusive process to fix what he saw as the government's error.

This matter remains open with our office, while Child Support seeks policy advice from the Department of Social Services about any options for amending the complainant's child support assessment to account for his true taxable income.

We trust that the above examples provide a useful illustration of the complications that can arise in the interaction of two complex IT and legislative frameworks. In particular we would point to the limitations in child support law that prevent Child Support from easily remedying even the simplest error in information provided (or not provided) by another department.

Please contact me if you have any further questions arising from our submissions. My telephone number is , or by email to

Yours sincerely

Prem Aleema
Acting Senior Assistant Ombudsman