



Australian Government

Australian Government response to the
Community Affairs References Committee Report:

Design, scope, cost-benefit analysis, contracts awarded and
implementation associated with the Better Management of the
Social Welfare System initiative

September 2017

INTRODUCTION

The Australian Government welcomes the opportunity to respond to the Report of the Senate Community Affairs References Committee: *Design, scope, cost-benefit analysis, contracts awarded and implementation associated with the Better Management of the Social Welfare System initiative*. The Australian Government thanks the Committee and those individuals and organisations who have contributed to the Inquiry.

The Australian Government continues to focus on the importance of protecting the integrity of the Australian welfare system through a fair and reasonable process. With \$170 billion of welfare payments made in 2015-16 the Australian Government has a responsibility to make sure people are paid the right amount.

The Australian Government increasingly uses technology to engage with people in line with contemporary social norms. The Australian Government will continue to transform service delivery, so interactions can be undertaken through easy-to-use, secure and integrated digital channels.

The Australian Government's response is structured to include an opening preamble statement, findings by the independent Commonwealth Ombudsman followed by a response to the Chair's Report recommendations in the groups aligned with the themes as presented in the Report.

BACKGROUND

In line with community expectations about fairness, the Australian Government has developed a number of measures relating to the integrity of welfare payments to ensure people receive what they are entitled to and support is provided to those who need it most. Compliance activities are designed to protect the integrity of health, welfare and child support payment systems and to ensure the welfare system is fit for purpose and able to support people into the future.

Data-matching, sending letters and assessing and calculating differences in income and payments has been part of welfare compliance activities since the 1990's. What has changed was the introduction of the online self-service portal. The introduction of this online portal did not change how data-matching was undertaken or the way income was assessed and differences calculated. The online portal was developed with the intention to allow people the opportunity to review, update and confirm their information at a time convenient for them, quickly and simply.

The Government acknowledges the thorough investigation and report into the online system by the independent Commonwealth Ombudsman in April 2017, which recommended constructive and practical enhancements, which were agreed to in full by the Department of Human Services and have already been largely implemented.

Reasonableness of the overall initiative

The Ombudsman's investigation found that it is entirely reasonable and appropriate to ask customers to explain discrepancies following data matching. It also points out that PAYG data matching activities have been conducted since 2004, with the methodology for averaging income in the absence of detailed information being in place since the 1980's.

Calculating debt

The Ombudsman investigation also made the finding that if the customer is able to collect the income information required and enter it properly into the system the online system was capable of accurately calculating the debt. It also found that the business rules in the online system that support the debt calculation are comprehensive and accurately capture the legislative and policy requirements.

Debt recovery fee

The Ombudsman investigation noted that the debt recovery fee is no longer applied automatically where there is no contact from the customer, or the customer responds that they had personal factors which affected their ability to accurately declare their income.

Communication

The Ombudsman investigation identified that initial messaging to customers through letters and the online system was unclear. It also identified that overall communication with the online system has subsequently improved. For example, letters now include, in bold writing, the dedicated compliance number to call if people required further assistance and the customer no longer needs a myGov account to access the online system.

The Ombudsman investigation noted that the online system is now directed to people who have relatively simple employment circumstances. It also noted that all recipients can get assistance to complete their review through the online system by calling the dedicated compliance telephone line.

Challenging debts

The Ombudsman's investigation pointed out that if more information was received at any time (either online, by phone or in person) debts could be reassessed in light of the new information. It also noted that there was no limit to the number of reassessments that could occur when new information was entered and that a customer could seek an internal review via a link in the online system, in writing, by phone or in person.

Debt Recovery

The Ombudsman investigation noted that debts from the online system are now not referred to a debt collector where the person has not responded, unless the Department of Human Services was satisfied the person has received the notice but is ignoring it.

PREAMBLE STATEMENT

The Government welcomed the opportunity to provide input into the inquiry, including through the Department of Human Services' submission, supplementary submission, and through responding to over 200 'Questions on Notice'.

The Government is committed to maintaining a strong social welfare safety net. This requires that there be integrity in the welfare system. Each person should receive exactly what they are entitled to, no more and no less. This principle has been in place under successive Governments and has not changed.

The Government along with the Commonwealth Ombudsman acknowledge that communication issues with the initial rollout of the online system gave rise to potential confusion on the part of some recipients. As noted by the Commonwealth Ombudsman several changes have subsequently been made to improve the initial contact letters and messages within the online system.

The Government has carefully considered the findings and recommendations of the Senate Committee, and the information contained in submissions to the Committee. The Government agrees with the conclusions and recommendations in the Dissenting Report. In particular the Government agrees with the conclusion that input from some third parties was aimed solely at scoring political points.

The Government notes that a significant proportion of the statements relied upon as evidence in the Chair's report are not accurate. Many of the conclusions drawn in the Chair's report fail to take account of the detailed review undertaken by the independent Commonwealth Ombudsman, or account for the detailed information provided by the Department of Human Services in its submissions to the inquiry.

On this basis, the Government rejects the central conclusions and recommendations of the Chair's Report, especially the conclusion that the online system lacked procedural fairness. As the Ombudsman's investigation found it is entirely reasonable and appropriate to ask customers to explain discrepancies following data matching. Recipients are given a reasonable opportunity to provide information and explain discrepancies. Further, as noted by the Ombudsman review avenues are (and have always been) open to recipients.

Dissenting Report Recommendations

Coalition Senators recommend that DHS continue to invest in its data and analytical capabilities be further improved. This ought to include an integrated case selection methodology that draws information together from data sources such as annual tax returns, financial income, company tax, foreign pension, family day care and trust income.

Coalition Senators recommend that all changes to compliance processes be subjected to rigorous user testing with recipients to ensure that advice is as clear as possible and appropriately toned while complying with legislative requirements.

Coalition Senators recommend that DHS undertake an examination of the welfare debt recovery process and identify areas where reforms might improve the efficiency and effectiveness of debt recovery, including the customer's experience, and the cost benefit of pursuing debts.

Coalition Senators recommend that DHS continues to work with the Office of the Australian Information Commissioner to protect the privacy of welfare recipients.

Chair Report Recommendations 1 , 2 & 3 (Headline Recommendations)

Recommendation 1

6.9 The committee recommends the Online Compliance Intervention (OCI) program should be put on hold until all procedural fairness flaws are addressed, and the other recommendations of this report are implemented. If these issues are addressed, the OCI should only be continued in its new form after the new One Touch Payroll system is implemented in 2018.

Recommendation 2

6.10 The committee strongly recommends that the rollout of a redesigned system must include a robust risk assessment process, which includes consultation with relevant expert stakeholders.

Recommendation 3

6.11 The committee recommends that all people who have had a debt amount determined through the use of income averaging should have their debt amounts re-assessed immediately by a team of departmental officers with specialist knowledge of the Online Compliance Intervention program, using accurate income data sourced from employers. This re-assessment must include the full range of unpaid, partially paid and fully paid debts incurred by current income payment recipients and those debts outsourced to debt collection agencies.

There is no evidence to support the recommendation to put on hold the online system. The Government's clear position, supported by the independent Commonwealth Ombudsman Report, is that it is appropriate to ask people for information when there are differences between their income details held by the Department of Human Services and other third parties such as the Australian Taxation Office.

This principle has been in place under successive governments and has not changed. Welfare payment recipients have a responsibility to provide the most current information to maintain eligibility.

The Australian Government is committed to improving public participation and engagement to enhance policy and service delivery outcomes for Australians. The Australian Government will continue to engage with key stakeholders including the Commonwealth Ombudsman, Australian Council of Social Services and the National Social Security Rights Network.

The Australian Government will continue to invest in digital technologies to make government services simpler, faster and more efficient, making it easier for the public to work and interact with government.

The Department of Human Services is in the process of writing to all recipients who received a debt related to the online system to remind them of their review rights.

Chair Report Recommendations 4, 5 & 6 (Calculating Debt)

Recommendation 4

6.14 The committee recommends all data-matching guidelines and protocols be adhered to, including the Data-matching Program (Assistance and Tax) Act 1990, regardless of whether the department is using tax file numbers. This will require the department to halt the Online Compliance Intervention process while steps are taken to ensure compliance with all mandatory and voluntary provisions. Adherence to these provisions should be verifiable by the public in order to maintain trust in the social security system.

Recommendation 5

6.15 The committee recommends the department update its privacy policy to ensure that it does not publicly release sensitive information it holds about individuals, for any reason.

Recommendation 6

6.16 The committee recommends the department resume full responsibility for calculating verifiable debts (including manual checking) relating to income support overpayments, which are based on actual fortnightly earnings and not an assumed average.

The Department of Human Services conducts data-matching with the Australian Taxation Office in accordance with the Privacy Commissioner's Guidelines on Data-Matching in Australian Government Administration and the requisite Programme Protocol PAYG Data-Matching.

The Ombudsman noted that the data matching practices used have been long standing and supported by the *Social Security Act 1991*. The data matching processes have not changed as a result of the development of the online system.

The Australian Government has a strong commitment to safeguarding individuals privacy. In October 2016 the Government introduced separate pieces of legislation to amend the Privacy Act to:

- make it an offence to deliberately re-identify personal information from open government data; and
- introduce mandatory data breach notification provisions requiring Australian Government agencies, private sector organisations and certain other entities regulated by the Privacy Act that suffer data breaches to notify individuals whose personal information has been compromised.

Apportioning of income is only used when the person has failed to provide the information needed to calculate their fortnightly income. In these cases, the Department of Human Services uses the best information available to it to calculate whether the person has a debt.

Chair Report Fee Recommendations 7 & 8 (Debt Recovery Fee)

Recommendation 7

6.18 The committee recommends the department review all debt cases where the 10 per cent recovery fee was automatically imposed, and in line with procedural fairness, allow each person a fully-informed opportunity to apply to have the debt recovery fee waived.

Recommendation 8

6.19 The committee recommends personal or technical barriers to communication which impacted an individual's ability to undertake income reporting, should be included in the reasonable excuse framework for waiving the debt recovery fee.

The Department of Human Services is in the process of writing to all recipients who had a debt related to the online system to remind them of their review rights, including the application of the recovery fee.

In addition, the Department of Human Services has attempted to directly call recipients who had a debt through the online system and who had been referred to an external collection agent, to inform them of how to ask for a review which would include a review of the application of recovery fees.

In February 2017 the online system was updated to include a reference to the existence of a reasonable excuse for failing to provide relevant information, resulting in no recovery fee applying in most instances.

Chair Report Recommendations 9, 10 , 11 & 12 (Communicating)

Recommendation 9

6.21 The committee recommends Accessible Information, in particular Easy English versions, be made available in all debt recovery programs, including online portals. The committee strongly recommends this should be a whole-of-department change, to ensure that producing Accessible Information versions of all Centrelink communications material become standard operating procedure.

Recommendation 10

6.22 The committee recommends the department ensure that in the re-design of the Online Compliance Intervention system, if it continues, the new system has the necessary protocols to protect vulnerable cohorts, including people experiencing mental health issues. The committee strongly recommends this should be a whole-of-department change, including reconvening the Consumer Consultative Group, the Service Delivery Advisory Group and the Mental Health Advisory Working Party.

Recommendation 11

6.23 The committee recommends that the department provide all Online Compliance Intervention participants with the debt calculation data required to be assured any debts are correct.

Recommendation 12

6.24 The committee recommends the Department of Human Services be adequately resourced to implement all recommendations of this report, and to improve the level of service provided to Centrelink recipients. In particular, the committee recommends increased investment in communication channels and staff, to ensure calls are answered in a more timely manner. The committee strongly recommends this as a whole-of-department change.

The Australian Government is committed to making it easier for people to deal with government services, by providing clear and accessible content.

Enhancements were made to the online system in February 2017 to make it easier for people to review and update their information online, ask for more time and pause debt recovery action while debts are under review.

If a person believes a debt is incorrect they can request the Department of Human Services to undertake a formal review. Should they disagree with the formal review outcome the person has further appeal rights.

Vulnerable people have always been a priority for the Australian Government. As acknowledged by the Ombudsman, the online system was not rolled out to vulnerable people.

The Department of Human Services identifies people with vulnerabilities through information already available on their record, through conversations with them, or the Department may receive advice from a third party. When it is identified that a person is experiencing vulnerabilities, including family violence, compliance staff can consult with social workers about how to effectively interact with the person to achieve the best outcomes. These include suggesting internal and external avenues of support that staff can refer the person to, or inform them about.

The categories of vulnerable people have already been expanded as recommended by the Ombudsman, such as those with payment nominees.

Staffing resources in the compliance area have been boosted in recent years. Over 700 staff have been allocated to undertake the online system work and related compliance budget measures since October 2014. The dedicated compliance phone number is adequately resourced with the aim of having wait times of less than a minute.

Chair Report Recommendations 13, 14, 15, 16 & 17 (Challenging Debts)

Recommendation 13

6.29 The committee recommends that clear and comprehensive advice on the internal and external reassessment, review rights and processes are made available to all Online Compliance Intervention-impacted individuals.

Recommendation 14

6.30 The committee recommends that clear and comprehensive advice on the ability to seek an extension of time to provide income documentation is made available to all Online Compliance Intervention-impacted individuals.

Recommendation 15

6.31 The committee recommends that community legal service funding be reviewed in the next budget, to ensure community legal services are able to meet the community need for legal advice relating to Online Compliance Intervention matters.

Recommendation 16

6.32 The committee recommends the operating budgets for the Administrative Appeals Tribunal be reviewed to plan for an increased workload on Online Compliance Intervention-related matters, to ensure these cases are progressed within appropriate timeframes.

Recommendation 17

6.33 The committee strongly recommends that an outstanding debt should not exclude a person from advance payments needed for essential goods and services.

The Australian Government is committed to protecting the integrity of the welfare system through a fair and reasonable process.

As stated above, the Department of Human Services is in the process of writing to all recipients who had a debt related to the online system to inform them of their review rights.

People using the online system have always been able to request two extensions of 14 days online and a further 14 days through phone contact with the Department of Human Services.

The Australian Government recognises the important role of the legal assistance sector in providing access to justice to the most vulnerable Australians. The Commonwealth contribution to the legal assistance sector is now a record \$1.77 billion over five years to 2020. This includes \$55.7 million over the next three years to community legal centres (\$39 million) and Aboriginal and Torres Strait Islander Legal Services (\$16.7 million) in the 2017-18 Budget. State and territory governments are responsible for allocating Australian Government funding for community legal centres, alongside state funding contributions, using evidence-based collaborative service planning processes.

The rate of Administrative Appeals Tribunal appeals for online compliance cases is currently 0.2 per cent. This is lower than for cases processed manually for the budget compliance measure, which is 0.8 per cent. The Administrative Appeals Tribunal will continue to be funded at a level which ensures it can manage its workload in a timely manner.

The Australian Government is committed to assisting people with repaying debts by providing flexible ways to make payments. Where a person has difficulties repaying a welfare debt, the Department of Human Services organises a repayment arrangement that ensures they are not put in serious financial hardship.

Chair Report Recommendations 18, 19, 20 & 21 (Debt Recovery)

Recommendation 18

6.36 The committee recommends the department voluntarily undertake to be bound by all debt collection and consumer law legislation and guidelines, and ensure regular external scrutiny to ensure compliance. This should explicitly include the actions of external contractors working on behalf of the department.

Recommendation 19

6.37 The committee recommends the department ensures an independent review of internal and external debt collection practices is undertaken, to ensure all procedures are adhering to industry standards, such as the suspension of debt collection where debt liability is disputed, and the provision of accurate and relevant information to debtors.

Recommendation 20

6.38 The committee recommends the department consider adoption of the principles of the Victorian Judgement Debt Recovery Act which precludes debt collection to be made from Centrelink payments that are recognised minimum payments required for food, shelter and other life essentials.

Recommendation 21

6.39 The committee further recommends the department develop guidelines on appropriate levels of debt repayment to income ratios, to ensure that debt repayment amounts do not impact any individual's ability to purchase life essentials.

The Australian Government supports a flexible, fair and realistic approach to debt collection. This approach is documented in the *Debt Collection Guideline for Collectors & Creditors* produced by the Australian Competition and Consumer Commission and Australian Securities and Investments Commission.

As provided in evidence to the Committee, the Department of Human Services has used external debt collectors since 1996, and it is a contractual requirement that external debt collection agencies follow these guidelines.

The Department of Human Services takes any allegations against its contracted debt collectors seriously. The Department of Human Services investigates complaints and has comprehensive processes in place to monitor its contracted debt collectors' actions, including through call recording and other quality monitoring activities. This was provided in evidence to the Committee from both the Department of Human Services and the external debt collection agencies.

The Australian Government is committed to ensuring debt repayment amounts are tailored to an individual's circumstances. In determining the amount of a deduction for non-current recipients the debtor's financial circumstances must be considered in some detail to determine an appropriate rate of recovery. This could be as little as \$5 per week.