

**Senate Standing Committee on Community Affairs**

**INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM**

**PUBLIC HEARING 27 August 2021**

**ANSWER TO QUESTION ON NOTICE**

**Social Services Portfolio  
Services Australia**

**Topic:** Settlement distribution scheme

**Question reference number:** IQ21-000087

**Member:** Rachel Siewert

**Type of question:** Spoken. Hansard Page/s: 8-10

**Date set by the committee for the return of answer:** 10 September 2021

**Question:**

CHAIR: Thank you, you answered a whole lot of questions that I was going to ask all in one. How many have opted out already that you're aware of?

Mr McKellar: I would have to take the exact number on notice, but I believe it's in the order of about 5,000. I will take that on notice.

**Answer:**

As of 27 August 2021, 5,378 people have opted out of the class action.

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### **ANSWER TO QUESTION ON NOTICE**

**Social Services Portfolio  
Services Australia**

**Topic:** PII Claim

**Question reference number:** IQ21-000088

**Member:** Deborah O'Neill

**Type of question:** Spoken. Hansard Page/s: 16

**Date set by the committee for the return of answer:** 10 September 2021

#### **Question:**

Senator O'NEILL: Can I just ask a follow-up to your question. Justice Murphy was also involved in the discovery of documents, wasn't he?

Ms Haigh: I understood that it was dealt with as part of an interlocutory process in the proceedings before His Honour Justice Lee.

Senator O'NEILL: Perhaps you could take on notice to have a close look at the evidence from Mr Grech last week where he indicated that matters where the government had sought to hide documents or prevent access to documents were overturned in the course of that court process. I would like to know the documents that the government sought to hide but that the court determined should be made available for the court process.

Ms Haigh: In the course of the proceedings there were no documents that the Commonwealth sought to hide, and Justice Lee didn't make any finding to that effect. But we can take the question on notice and flesh that out.

Senator O'NEILL: Thank you very much, and it's particularly with reference to the evidence received from Mr Grech last week, so that you might put your view in contrast to his assertions there, if that's going to be the position you take.

#### **Answer:**

During the Income Compliance Program class action proceedings, the Applicants sought discovery of documents over which the Commonwealth claimed Legal Professional Privilege (LPP) and Public Interest Immunity (PII).

The Applicants challenged the Commonwealth's LPP and PII claims. His Honour Justice Lee appointed an independent referee to review the documents that were the subject of the LPP claims. The independent referee agreed with the Commonwealth's claims and stated:

*I am of the opinion that each communication identified by the Commonwealth is the subject of a proper claim for legal professional privilege.*

His Honour Justice Lee upheld the Commonwealth's LPP claim.

All of the Commonwealth's PII claims that were the subject of challenge by the Applicants were also upheld by his Honour Justice Lee.

His Honour Justice Lee ordered the Applicants to pay the Commonwealth's costs of responding to the Applicant's challenge to the Commonwealth's LPP and PII claims.

None of the interlocutory applications in relation to the discovery of documents were heard by Justice Murphy.

It is not correct to say that the Commonwealth sought to hide documents or that judges were required to make orders to coerce the Commonwealth to abandon the LPP or PII. No such orders were made.

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**PUBLIC HEARING 27 August 2021**

### **ANSWER TO QUESTION ON NOTICE**

**Social Services Portfolio  
Services Australia**

**Topic:** Staff turnover

**Question reference number:** IQ21-000089

**Member:** Deborah O'Neill

**Type of question:** Spoken. Hansard Page/s:

**Date set by the committee for the return of answer:** 10 September 2021

#### **Question:**

Senator O'NEILL: Can you more generally provide the number of public servants who were involved in Services Australia's compliance branch and the relevant area of the department from robodebt's creation in 2015 through its operation until November 2019 who are no longer there?

Ms Lees: Can I clarify: are you asking for all staff members who were involved in compliance activities from 2015 through to the end of 2019, and being able to individually comment on whether they are still employed with Services Australia? Is that your question?

Senator O'NEILL: Yes—the number, not the identities.

Ms Lees: The number? I'd have to take on notice general information about the number of people who were involved and who may no longer—but I don't even know whether we would have that information. I'll have to take it on notice.

#### **Answer:**

3,152 Australian Public Sector (APS) employees worked in the Compliance Assurance and Debt Operations Division (and former organisational structures) for at least one day during the period 1 January 2015 to 31 December 2019.

The average headcount of APS employees in the Compliance Assurance and Debt Operations Division during the period 1 January 2015 to 31 December 2019 was 1,538 employees.

At 31 July 2021, 1,385 of those employees are no longer with Services Australia (the Agency). The staff remaining in the Agency may no longer remain in this organisational unit.

These figures do not include non-APS staff employed under contracted arrangements.

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**PUBLIC HEARING 27 August 2021**

**ANSWER TO QUESTION ON NOTICE**

**Social Services Portfolio  
Services Australia**

**Topic:** Debt pause

**Question reference number:** IQ21-000092

**Member:** Rachel Siewert

**Type of question:** Spoken. Hansard Page/s:

**Date set by the committee for the return of answer:** 10 September 2021

**Question:**

CHAIR: Are you able to take on notice how many debts have been paused?

Mr Birrer: In relation to the JobKeeper income support payment intersection activity or more broadly as part of the COVID-19 disaster areas?

CHAIR: Are you able to do it month by month from March last year?

Mr Birrer: Sorry, is that being paused or the debts being waived as a result of overpayment?

CHAIR: Debts being paused. There was a pause, and my understanding is that debt raising then continued. So if you could tell me the number of debts that have been paused, and then for the last 18 months can you give us a time line about when debt raising stopped and then when it started again, and how many when it stopped and started again. Does that make sense?

Mr Birrer: We can provide a time line. If you think about the life cycle of a particular overpayment that led to a debt, it could have gone in and out of a pause, and whether or not a customer changed their repayment arrangement was of course up to them, so maybe a timeline. But as to numbers, a debt could fall into a different category.

CHAIR: I see what you mean. They could come in and out of a series of lockdowns et cetera.

**Answer:**

<b>Date</b>	<b>Debt pause<sup>1</sup></b>
3 April 2020	National COVID-19 debt pause announced
31 October 2020	National COVID-19 debt pause ends and debt raising commences
4 February 2021	Debt pause for the two Local Government Areas (LGA) affected by bushfires in Western Australia (WA)
21 March 2021	Debt pause for the 64 LGAs affected by the New South Wales (NSW) floods
16 April 2021	Debt pause available to people in the eight LGAs affected by Tropical Cyclone Seroja in WA <sup>2</sup>
21 June 2021	Debt pause for the nine LGAs affected by the Victorian storms and floods
3 August 2021	Debt pause for the 36 LGAs of Greater Sydney, NSW and the 11 South East Queensland LGAs affected by the COVID-19 lock downs
6 August 2021	Debt pause for Victoria and the seven LGAs in the Hunter Region, NSW affected by the COVID-19 lock downs
12 August 2021	Debt pause for the whole of ACT due to COVID-19 lock down
15 August 2021	Debt pause for all remaining NSW LGAs due to COVID-19 lock down

1. There are a number of exceptions to pausing debt raising such as matters relating to fraud or serious non-compliance or where a customer requests a debt to be raised.
2. As there was a small number of customers that were impacted by Tropical Cyclone Seroja, this allowed Services Australia to contact customers in respect to pausing their debt rather than applying a single approach for the whole area.

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**ANSWER TO QUESTION ON NOTICE**

**Social Services Portfolio  
Services Australia**

**Topic:** Executive minute

**Question reference number:** IQ21-000094

**Member:** Deborah O'Neill

**Type of question:** Spoken. Hansard Page/s:

**Date set by the committee for the return of answer:** 10 September 2021

**Question:**

Senator O'NEILL: Thank you. Given the document was released to the Ombudsman in 2017 and there was, based on the evidence we've received today, no articulation at that point of time that it would be against the public interest if any disclosure were to occur, could you find out if it was at any stage indicated that the executive minute was a document related to the deliberations of cabinet?

Mr Birrer: We'll take that on notice.

**Answer:**

On 29 July 2020, the then Minister for Government Services made a public interest immunity claim with respect to the Executive Minute. The current Minister for Government Services reiterated that claim on 10 August 2021.

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### **ANSWER TO QUESTION ON NOTICE**

**Social Services Portfolio  
Services Australia**

**Topic:** Documents provided to the Ombudsman

**Question reference number:** IQ21-000096

**Member:** Rachel Siewert

**Type of question:** Spoken. Hansard Page/s:

**Date set by the committee for the return of answer:** 10 September 2021

#### **Question:**

CHAIR: Can I ask a broader question there, though. I understand what you're saying is that you don't know about this particular instance, but perhaps the department could take on notice: what is the procedure overall about documents that are provided to the Ombudsman? Mr Birrer: Yes. Senator, we—

CHAIR: Are they routinely recalled? Have there been other previous occasions where that has occurred?

Mr Birrer: We do, in that we engage very fully with the Ombudsman's reports, with the own-motion reports, such as the one published in 2017, the one in 2019 on the income compliance program and the most recent one this year. We also work with the Ombudsman's office in providing information—including documents, where it's relevant—around individual matters raised by members of the public with the Ombudsman's office. So it's part of our overall process of transparency in cooperating with the Ombudsman's office, because, once again, we actually value the perspectives that they provide to help us to improve our services and how we deliver these services.

CHAIR: I understand that, and you said before that you cooperate, but do you routinely recall documents once you've provided them to the Ombudsman?

Mr Birrer: I'm not personally aware of that.

CHAIR: Could you take on notice, please: What is the procedure? And has it occurred before? Mr Birrer: Yes.

#### **Answer:**

Services Australia has no record or practice of recalling documents that it has provided to the Office of the Commonwealth Ombudsman.



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**PUBLIC HEARING 27 August 2021**

### **ANSWER TO QUESTION ON NOTICE**

**Social Services Portfolio  
Services Australia**

**Topic:** Refund process - resourcing

**Question reference number:** IQ21-000097

**Member:** Deborah O'Neill

**Type of question:** Spoken. Hansard Page/s:

**Date set by the committee for the return of answer:** 10 September 2021

#### **Question:**

Senator O'NEILL: It sounds pretty complex to me. It sounds like it was a pretty complex process, and I'm sure that there was a lot of analysis about how things were to be undertaken and the costs and time et cetera. Did the department actually estimate the amount of resources that were required to make the assessments about refunds and process refunds?

Ms Lees: It's probably best to characterise the process as comprehensive and detailed, rather than necessarily complex in and of itself. In terms of your question, I think your question was: did we estimate the amount of resources required to complete that task? Was that your question?

Senator O'NEILL: Yes—refunds and process refunds.

Ms Lees: I expect that, at the time when the decision was taken for the refunds to be made, we would have needed to determine what level of resourcing was required to complete that work in a timely manner

Senator O'NEILL: If you could provide on notice that work that you did to determine that and the premise on which that was constructed—I'd be keen to know on what basis that estimate was actually made and what systems that Services Australia took into account in its calculations. Are you able to shed any light on that today?

Ms Lees: I don't have that information available to me today, and I'm not sure what would exist, but, of course, I can take that question on notice.

#### **Answer:**

Services Australia (the Agency) forecast the resourcing required to complete the refund process in a timely manner and managed resource allocation flexibly to address actual demand.

All expenditure in assessing and processing refunds was undertaken within the Agency's existing budgets and resources.

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**PUBLIC HEARING 27 August 2021**

### **ANSWER TO QUESTION ON NOTICE**

**Social Services Portfolio  
Services Australia**

**Topic:** Refunds process – income managed customers

**Question reference number:** IQ21-000100

**Member:** Deborah O'Neill

**Type of question:** Spoken. Hansard Page/s:

**Date set by the committee for the return of answer:** 10 September 2021

#### **Question:**

Ms Lees: I might just add that for some of our current customers, who had circumstances where we felt that they needed a more targeted or personalised approach—for example, those who might have been on income management or had a cashless debit card—we did take a little bit of a different approach and sought to contact those individuals and talk to them about the money that was coming to them and how they might receive that money. Further to what Mr Birrer said, I just thought I'd include that there were some current customers for whom we did take a more personalised and targeted approach given their circumstances.

Senator O'NEILL: How many are in that group that you just referred to? How many people did you try to contact?

Ms Lees: Of those who were income managed or had a cashless debit card, there were around 1,800.

Senator O'NEILL: That's both of those categories combined?

Ms Lees: That's correct.

Senator O'NEILL: Do you have a further breakdown?

Ms Lees: Let me just see if I have that here. Not that I can see that I have here.

Senator O'NEILL: If you're happy to take that on notice, I would be interested. Thank you.

#### **Answer:**

At the time they received a refund, approximately 780 of the income managed customers had a Basics Card and approximately 1,060 had a cashless debit card.

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**PUBLIC HEARING 27 August 2021**

### **ANSWER TO QUESTION ON NOTICE**

**Social Services Portfolio  
Services Australia**

**Topic:** Refunds process – staff resourcing

**Question reference number:** IQ21-000101

**Member:** Deborah O'Neill

**Type of question:** Spoken. Hansard Page/s: 40

**Date set by the committee for the return of answer:** 10 September 2021

#### **Question:**

Senator O'NEILL: How long could you be a learner staffer working in this program? And how many staff did you have working on this?

Ms Lees: I will see whether Mr McKellar has detail of the number of staff. We may need to take that on notice. In terms of the experienced compliance officers involved in this and how long it might take to achieve proficiency, I'm not sure that we would have that specific information. In terms of this particular piece of work, staff had to meet minimum proficiency requirements, and those were—as Mr McKellar mentioned—checking of 10 cases with nil errors. Then, once they were proficient, they were subject to ongoing random case selection. In this instance, it was two cases per day. To your question in relation to how long it might have taken the experienced compliance officers to reach proficiency for this particular piece of work: I'm not sure that we would have that information available.

Senator O'NEILL: You could take that on notice. Through the process—because it was kind of an all-hands-on-deck situation, as I recall from evidence we received at the time—was it just a matter of necessity that you had to have learner staff assessing and processing refunds because the scale at the time was so enormous?

Ms Lees: Just to clarify: it wasn't all hands to the deck with this work and it wasn't learner staff per se. We used experienced compliance officers, who needed to show that they had achieved proficiency through this process, just as, if they were moving to another work type, whether it was processing a new payment type or not, it was standard practice for people to need to be quality assured before they were deemed to be proficient. So I just wanted to be clear that we did not use inexperienced staff; they were experienced compliance officers; they were people who were compliance officers, not generalist service officers, who were involved in this work.

Senator O'NEILL: So, if it wasn't all hands on deck, how many people were in this particular task force?

Mr McKellar: We don't have the exact numbers with us today. I do recall that we have provided answers around similar questions, if not to this committee then to the estimates committee. So I think we will need to take that on notice. My recollection is that it was not a matter of all hands on deck, but it was a matter of a phased approach whereby there were times when we had a significant number of staff conducting reviews because we were dealing with volume, and then, at different stages, that number either increased or decreased, depending on the volumes we were dealing with. And certainly, towards the later stages of the process, it would have been smaller

numbers of staff engaged, because we were conducting a quality assurance activity rather than assessing the vast bulk of customer records that had been completed by late February 2020. So the numbers would have varied over time. But we will take it on notice, as my recollection is that we have provided similar information to the Senate before.

**Answer:a**

Please refer to the Agency's response to SQ20-000071.