

2 September 2021



Community Affairs Legislation Committee
Australian Senate
Parliament House
Canberra ACT 2600

Andrew Grech
Partner

P: (03) 9603 3000

Guy Tiffany
Lawyer

By email: Community.Affairs.Sen@aph.gov.au

P: (03) 9603 3000

Dear Committee Secretary,

Inquiry into the Centrelink Compliance Program – Questions on Notice

Representatives of Gordon Legal appeared at the Committee's public hearing on 19 August 2021.

We provide the below information by way of response to questions on notice taken during the hearing.

Breakdown of Group Member Categorisation (*as per page 37 of transcript*)

The Applicants and Group Members in the Robodebt Class Action were allocated into one of five categories based on the information relied on by Services Australia to calculate the debt and their repayment status.

A Group Member's categorisation is determinative of how they are affected by the Settlement Distribution Scheme (SDS). The below table sets out the relevant factual circumstances, and status within the SDS, for each category.

Category	Description	Refund?	Application of settlement
1	<ul style="list-style-type: none">Debt calculated wholly or partly on the basis of averaged ATO income informationNo repayments made on debt	No	<ul style="list-style-type: none">These Group Members' debts will be 'zeroed' so that they do not have to be paid back in the futureThese Group Members will receive the benefit of a declaration that the way that Centrelink raised their debt was invalidThese Group Members will not receive a settlement payment

Category 2	<ul style="list-style-type: none"> Debt calculated wholly or partly on the basis of averaged ATO income information Some or all of debt was repaid 	Yes	<ul style="list-style-type: none"> These Group Members' debts will be 'zeroed' so that they do not have to be paid back in the future These Group Members will receive the benefit of a declaration that the way that Centrelink raised their debt was invalid These Group Members will receive an additional settlement payment
Eligible category 3	<ul style="list-style-type: none"> Debt calculated wholly or partly on the basis of averaged ATO income information Debt subsequently recalculated by reference to fortnightly income information, such as payslips or bank statements The amount of debt repaid prior to the recalculation was more than the amount of the recalculated debt 	No	<ul style="list-style-type: none"> These Group Members' debts will not be 'zeroed' and they must be repaid in the future, if there are outstanding amounts on the debt These Group Members will receive an additional settlement payment to reflect the detriment they experienced as a result of paying back too much money before the debt was recalculated
Ineligible category 3	<ul style="list-style-type: none"> Debt calculated wholly or partly on the basis of averaged ATO income information Debt subsequently recalculated by reference to fortnightly income information, such as payslips or bank statements The amount of debt repaid prior to the recalculation was not more than the amount of the recalculated debt 	No	<ul style="list-style-type: none"> These Group Members' debts will not be 'zeroed' and they must be repaid in the future, if there are outstanding amounts on the debt These Group Members will not receive a settlement payment
Category 4	<ul style="list-style-type: none"> Debt calculated wholly on the basis of actual fortnightly income information such as payslips or bank statements No part of debt calculated by reference to ATO income averaging 	No	<ul style="list-style-type: none"> These Group Members' debts will not be 'zeroed' and they must be repaid in the future, if there are outstanding amounts on the debt These Group Members will not receive a settlement payment

Reasons for Group Member Ineligibility (as per page 38 of transcript)

The reasons for the ineligibility of category 1, ineligible category 3, and category 4 Group Members are as follows.

Category	Explanation
1	Although these Group Members were issued with debts calculated by income averaging, they did not repay any amount in respect of the debt. As such, they did not experience financial detriment as a result of the invalid calculation.
Ineligible 3	Although these Group Members were initially issued with debts calculated by income averaging, the debts were subsequently recalculated on the basis of fortnightly income information. As the Group Member did not repay a higher amount than the recalculated amount prior to the recalculation, they did not experience financial detriment as a result of the invalid calculation.
4	These Group Member's debts are not subject to a declaration that the calculation was invalid.

Yours faithfully

Andrew Grech
Partner
Gordon Legal