

# Senate Standing Committee on Community Affairs

## INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM

PUBLIC HEARING 31 July 2020

### ANSWER TO QUESTION ON NOTICE

Services Australia

**Topic:** Refund Instalments

**Question reference number:** IQ20-000099

**Member:** Rachel Siewert

**Type of question:** Hansard page: 3

**Date set by the committee for the return of answer:** 14 August 2020

**Number of pages:** 1

#### **Question:**

CHAIR: How many are in that situation? How many have been paid? And what's yet to pay?

Ms Musolino: We'll see if we can get the breakdown of people who will be getting an instalment. I'll see if my colleagues can actually get that for you today. If not, we could take it on notice to give you. I think I'm understanding that you want to know how many people to date have been paid in instalments—is that the question?

CHAIR: And the value of that.

#### **Answer:**

Refunds instalments paid up to 7 August 2020:

- 11,305 customers to the value of \$76.278 million.

# Senate Standing Committee on Community Affairs

## INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM

PUBLIC HEARING 31 July 2020

### ANSWER TO QUESTION ON NOTICE

Services Australia

**Topic:** Refund Cohort

**Question reference number:** IQ20-000100

**Member:** Rachel Siewert

**Type of question:** Hansard page: 3

**Date set by the committee for the return of answer:** 14 August 2020

**Number of pages:** 1

#### **Question:**

CHAIR: Okay, thank you. Can I just double-check: that 145,000, is that people, not debts?

Ms Musolino: That includes 145,000 people who may be a current customer or a former customer.

CHAIR: Some people have several debts. So that is 145,000 people being repaid how many debts? From memory—sorry, I haven't got that piece of paper directly in front of me—I think it was around 475,000 debts and 374,000 people. I'm just going back to the original media release that the minister put out.

Ms Musolino: Can we take it on notice? We may be able to answer that today, but we'll just check. You want to know how many people that corresponds with—

Ms Campbell: How many people and how many debts.

#### **Answer:**

As at 11 August 2020, 332,177 current and former customers have had their refunds processed for repayments and/or debts zeroed on 404,824 debts.

# Senate Standing Committee on Community Affairs

## INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM

PUBLIC HEARING 31 July 2020

### ANSWER TO QUESTION ON NOTICE

Services Australia

**Topic:** Random Sampling - Date

**Question reference number:** IQ20-000101

**Member:** Rachel Siewert

**Type of question:** Hansard page: 4

**Date set by the committee for the return of answer:** 14 August 2020

**Number of pages:** 1

#### **Question:**

CHAIR: The review that you commissioned, Ms Campbell, when was that undertaken?

Ms Campbell: We asked for some random sampling. I might ask my colleagues for the date. It wasn't very long ago. It was just a couple of months ago.

Ms Musolino: It wasn't long ago. I will have to come back with the exact date that we commenced that work, but, yes, it wasn't long ago.

#### **Answer:**

The review was requested on Thursday 4 June 2020 and completed on Monday 8 June 2020.

# Senate Standing Committee on Community Affairs

## INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM

PUBLIC HEARING 31 July 2020

### ANSWER TO QUESTION ON NOTICE

Services Australia

**Topic:** Minute – FOI decision

**Question reference number:** IQ20-000102

**Member:** Rachel Siewert

**Type of question:** Hansard Page 4

**Date set by the committee for the return of answer:** 14 August 2020

**Number of pages:** 1

**Question:** CHAIR: Thank you. In the Commonwealth Ombudsman's 2017 report into the automated debt-raising process, there was a statement that:

In early 2015 DHS proposed a new online approach to compliance which would allow it to review all discrepancies from 2010-2011.

I understand that that executive minute has actually been asked for under FOI and that that was refused. Can you make that minute available to us, please.

Ms Campbell: I'd have to take that on notice.

CHAIR: Why is that?

#### **Answer:**

The Minister has made a public interest immunity claim with respect to the document as revealing this information would or could reasonably be expected to disclose the deliberations of Cabinet.

# Senate Standing Committee on Community Affairs

## INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM

PUBLIC HEARING 31 July 2020

### ANSWER TO QUESTION ON NOTICE

Services Australia

**Topic:** Risk Assessment – Action taken

**Question reference number:** IQ20-000103

**Member:** Deborah O'Neill

**Type of question:** Hansard page: 6

**Date set by the committee for the return of answer:** 14 August 2020

**Number of pages:** 2

#### **Question:**

Senator O'NEILL: Ms Campbell, the fact is that this is a risk assessment that in 2015 identified, with the ICT, problems with what's now known as robodebt. If you want, you can take on notice how the department addressed this problem, because I think we're at the heart of where some of the issues might be. Is it correct that following this advice the then Treasurer, Scott Morrison, announced a new welfare crackdown during the election campaign, including \$525 million in savings from enhancing non-employment income data matching?

Ms Campbell: You haven't let me answer on what has happened. We don't know what's happened. You are making an assertion that this wasn't addressed. We don't know what's in the document. We will take it on notice and provide advice about what happened next. This is an often-confused concept around this compliance measure—that they were automatically generated and that that's the problem. The difficulty that has occurred is because averaging itself has been found to be legally insufficient. The automation element was about sending material to recipients and asking them to come back and respond. That was the automated element. It was not about the averaging—

Senator O'NEILL: Ms Campbell, if your answers are going to be so long—

CHAIR: Hang on—

Senator STOKER: Point of order, Chair.

CHAIR: I was just getting to that. The problem is that you need to listen to me when I'm trying to intervene and bear with us, because we are doing this via videoconference and teleconference, and with people in the room. Senator O'Neill, can you please let Ms Campbell finish. Ms Campbell, can I ask you to keep your answers as concise as you can.

Ms Campbell: We will take on notice what happened with this risk. I note that it is normal practice that risks are identified, as you would expect, as things are rolled out and addressed. I reiterate that the automation was not about changing the basis of the issue, which is income averaging, which we have now spoken about.

**Answer:**

It is Services Australia's (the Agency's) normal practice during the development and implementation of a system for a risk management plan to be prepared to identify risks and appropriate mitigations, and that where issues arise, they are recorded and addressed.

Prior to the implementation of the online portal in July 2016, an issue was identified that a debt assessment may not calculate correctly for certain customers with specific complicated circumstances. As per the Agency's normal practice, the issue was recorded to ensure it would be appropriately mitigated. The issue identified did not relate to the use of income averaging.

The issue was considered and addressed prior to the implementation of the online compliance system.

The issue was resolved through the introduction of a manual hand off to a staff member where specific customer circumstances were identified, for the debt calculation to be checked and confirmed or adjusted as appropriate.

Where the system did not have the assessment functionality to deal with a particular customer circumstance, those cases were not progressed through the system until the functionality was available.

# Senate Standing Committee on Community Affairs

## INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM

PUBLIC HEARING 31 July 2020

### ANSWER TO QUESTION ON NOTICE

Services Australia

**Topic:** Registered mail

**Question reference number:** IQ20-000104

**Member:** Andrew McLachlan

**Type of question:** Hansard Page 8

**Date set by the committee for the return of answer:** 14 August 2020

**Number of pages:** 1

#### **Question:**

Senator McLACHLAN: What sorts of statistics can you provide around the registered mail and how many have been returned—or 'not delivered', I suppose, is a better term?

Ms Musolino: Just to be clear, until we got confirmation that a letter had been delivered, we would not have completed a review—that was one of the enhancements that came in. So, before we commenced a review, we could be assured that a customer had definitely received the letter. I don't have figures around the number of letters returned—if that was your question, Senator?

Senator McLACHLAN: Yes; it was just whether you had any data at hand, that's all.

Ms Musolino: We don't have it to hand. We could probably see if we can get it today. Otherwise, I could take it on notice.

Senator McLACHLAN: Take it on notice. I don't have any further questions.

#### **Answer:**

Services Australia ceased sending income compliance review initiation letters from mid November 2020. In total:

- 826,809 income compliance review initiation letters were sent by registered post; and
- 71,379 income compliance review initiation letters were returned to sender.

# Senate Standing Committee on Community Affairs

## INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM

PUBLIC HEARING 31 July 2020

### ANSWER TO QUESTION ON NOTICE

Services Australia

**Topic:** Class Action - Pleadings

**Question reference number:** IQ20-000105

**Member:** Rex Patrick

**Type of question:** Hansard page: 9

**Date set by the committee for the return of answer:** 14 August 2020

**Number of pages:** 2

#### **Question:**

Senator PATRICK: Okay, thank you. I'm just trying to understand. You are returning money through the zeroing of the debt to people who have been subject to the initial debt that was raised. In that sense, you remedy the original decision. I presume that some other remedy is being sought in the proceedings, such as compensation. Is that correct?

Ms Campbell: The two actions are separate. One is that the government is rectifying a matter for which, it has become aware, there was a legally insufficient basis. Then there is a court case. So the two are quite separate.

Senator PATRICK: So one's an administrative action and the other is proceedings in a court?

Ms Campbell: That's correct. Because the matters are before the court, the Minister for Government Services has made a public interest immunity claim over legal advice and details about the income compliance program.

Senator PATRICK: The pleadings are public, Ms Campbell, so please don't try to make a claim in respect of the pleadings made by the party.

Ms Campbell: Yes.

Senator PATRICK: I'm just trying to get an understanding to put before the Senate of what the pleadings are—what is being sought by the—

Ms Campbell: We can talk about the pleadings.

Ms Musolino: As the secretary indicated, we're zeroing the debts for people who have a debt to be zeroed, and we're refunding money to the extent that people have repaid a debt. That's an administrative process. In the Federal Court action, there are various remedies being sought beyond that, and there are remedies being sought for a class of people beyond the people that we are refunding.

Senator PATRICK: Thank you. Can you briefly describe the remedies being sought, just in dot point form?

Ms Musolino: Yes, we may be able to table something that outlines the exact remedies because they have changed. We've had amendments to pleadings and I don't want to get it wrong, so perhaps we can just table something that outlines what remedies are currently being pled.

**Answer:**

Full details of the remedies sought are set out in the Originating Application, filed on 20 November 2019, available at <https://gordonlegal.com.au/media/1222/191120-originating-application.pdf>.

Gordon Legal, the solicitors on the record for the Applicants, have summarised on their website that the Representative Applicants are seeking:

- restitution of money paid towards or lost because of unlawful debts;
- compensation for the loss of use of the money that has been paid or that has been taken from them;
- compensation for inconvenience and distress;
- interest; and
- legal costs.

# Senate Standing Committee on Community Affairs

## INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM

PUBLIC HEARING 31 July 2020

### ANSWER TO QUESTION ON NOTICE

Services Australia

**Topic:** Income Compliance Program – Legal Advice

**Question reference number:** IQ20-000106

**Member:** Rex Patrick

**Type of question:** Hansard page: 14

**Date set by the committee for the return of answer:** 14 August 2020

**Number of pages:** 1

#### **Question:**

Senator PATRICK: Thank you. Ms Campbell, I said to you I'm trying to get to the processes that the Commonwealth went through to get to the point of initiating the program known as robodebt. Can you advise—and this is different to the question that has been put on notice—if the Commonwealth sought legal advice in the formation of that policy?

Ms Campbell: I can talk about how the system was put together, and I'll try and do that.

Senator PATRICK: I've only got three minutes. I really just want to know: did you seek legal advice?

Ms Campbell: I'm going to have to take that on notice. We didn't come with that information.

Senator O'NEILL: Do you know the answer to the question though, Ms Campbell?

Ms Campbell: Senator, I'm going to take that question on notice.

#### **Answer:**

Legal advice has been provided about various aspects of the income compliance program, including in relation to litigation involving the program.

Information about any specific advice provided, including the timing and cost of that legal advice, is the subject of a claim of public interest immunity by the Minister for Government Services, dated 29 July 2020.

The Committee indicated they would be referring the claim for public interest immunity to the Senate for consideration.

# Senate Standing Committee on Community Affairs

## INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM

PUBLIC HEARING 31 July 2020

### ANSWER TO QUESTION ON NOTICE

Services Australia

**Topic:** Legal Advice – Costs and Harm

**Question reference number:** IQ20-000107

**Member:** Rex Patrick

**Type of question:** Hansard page: 14

**Date set by the committee for the return of answer:** 14 August 2020

**Number of pages:** 1

#### **Question:**

Senator PATRICK: Okay, so you've taken my question on notice. And thank you for explaining; that's helpful. You know that I work constructively with the government, and that's predicated on them working constructively with me—I'll just precursor my next question with that statement. I just want to understand the claim of public interest immunity, and I'm trying to get further detail on it—I'm happy for you to take this on notice to get further clarification—specifically in relation to costs and the question of from whom legal advice was received and the date, which I understand are subject to the claim. I just want further information as to the harm that would be caused by the revelation of that information in respect of the current proceedings. Cognisant of the bar which is set, which is that it must substantially prejudice the proceedings, I note this matter is not before a jury, and Justice Murphy, I think, is a professional judge who would simply not have any regard to these proceedings.

Ms Campbell: I'll take that on notice and seek advice on that matter.

#### **Answer:**

On 29 July 2020, the Minister for Government Services signed a letter that claimed public interest immunity in respect of any request for information about legal advice relating to the income compliance programme.

The Minister's letter notes the specific harm to the public interest that could result from the disclosure of legal advice, and the circumstances surrounding legal advice, is undue prejudice to the Commonwealth in relation to the class action (Prygodicz & Ors v Commonwealth).

The applicants in the class action are seeking damages for negligence. It would not be in the public interest for information to be publicly disclosed that could potentially prejudice the Commonwealth's position in the litigation, and that would result in the loss of confidentiality of interactions between Government clients and their legal advisors.

# Senate Standing Committee on Community Affairs

## INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM

PUBLIC HEARING 31 July 2020

### ANSWER TO QUESTION ON NOTICE

Services Australia

**Topic:** Legal Advice – use of income averaging

**Question reference number:** IQ20-000108

**Member:** Rachel Siewert

**Type of question:** Hansard page: 14

**Date set by the committee for the return of answer:** 14 August 2020

**Number of pages:** 1

#### **Question:**

CHAIR: Yes, I was just about to say, I've given you quite a bit of leeway! I'll ask a few questions now, and then I'll throw to the opposition. Ms Campbell, I want to go to the point you made about income averaging and legal advice. My understanding is that part of this issue around income averaging is actually the way income averaging was relied on, not the fact that it was just income averaging. It was the way it was relied on in the decisions that were made over the debts. If that's the case, did you seek legal advice on that issue when the new program came into place in 2015?

Ms Campbell: I think I've taken that question on notice.

CHAIR: My understanding, the way that you answered the question from Senator Patrick, was that it was about income averaging, whereas the nuance here is the way income averaging was relied on in the new process.

#### **Answer:**

Legal advice has been provided about various aspects of the income compliance program, including in relation to litigation involving the program.

Information about any specific advice provided, including the timing and cost of that legal advice, is the subject of a claim of public interest immunity by the Minister for Government Services, dated 29 July 2020.

The Committee indicated they would be referring the claim for public interest immunity to the Senate for consideration.

# Senate Standing Committee on Community Affairs

## INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM

PUBLIC HEARING 31 July 2020

### ANSWER TO QUESTION ON NOTICE

Services Australia

**Topic:** Refund Process – Finalisation Date

**Question reference number:** IQ20-000109

**Member:** Rachel Siewert

**Type of question:** Hansard page: 15

**Date set by the committee for the return of answer:** 14 August 2020

**Number of pages:** 1

#### **Question:**

CHAIR: When we spoke to you in December, you were still going substantially through that process. When did you finalise that process?

Ms Musolino: I may have to come back with an exact date. I will say, though: that quality process is an ongoing process. So, as we're loading the debts into the system to be repaid, we're doing further quality assurance. I'll come back with an exact date, but early in May, I think, we would have substantially completed the work, but with the caveat that we're constantly quality-checking this data.

#### **Answer:**

The preliminary categorisation of income compliance review outcomes was completed around April 2020, with significant quality assurance processes occurring through May prior to the Minister's announcement on 29 May 2020 regarding refunds.

# Senate Standing Committee on Community Affairs

## INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM

PUBLIC HEARING 31 July 2020

### ANSWER TO QUESTION ON NOTICE

Services Australia

**Topic:** Refund cohort

**Question reference number:** IQ20-000110

**Member:** Rachel Siewert

**Type of question:** Hansard page: 15

**Date set by the committee for the return of answer:** 14 August 2020

**Number of pages:** 1

#### **Question:**

CHAIR: As to the way that you said you'd segmented some of the cohorts—I'll call them that for the time being, for want of a better word—how many people were in each of those cohorts? How many of these debts are totally reliant on income averaging, and how many are partly reliant on income averaging? And how many people agreed? As I understood what you said, there's a group of people that agreed that you could use income averaging; what does 'agreed that you can use income averaging' mean? I'm sorry—that's a bunch of questions.

Ms Musolino: That's fine. I'm hoping somebody's going to come forward with the break-up, but if I don't have it soon I will take it on notice and I'll find out what that break-up is. When we talk about 'agreed', these are people who engaged with us and said, 'Yes, go ahead and average the debt.' They are still getting a refund—I just want to make that clear.

#### **Answer:**

As at May 2020, the break up was as follows:

Category	Number
Solely Averaged	300,400
Partially Averaged	78,143
Customer Agreed	15,827
ATO Averaged Debt, but no repayment made	75,559
<b>Total</b>	<b>469,929</b>

# Senate Standing Committee on Community Affairs

## INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM

PUBLIC HEARING 31 July 2020

### ANSWER TO QUESTION ON NOTICE

Services Australia

**Topic:** Legal Advice

**Question reference number:** IQ20-000111

**Member:** Deborah O'Neill

**Type of question:** Hansard pages: 16-17

**Date set by the committee for the return of answer:** 14 August 2020

**Number of pages:** 2

#### Question:

- a) Senator O'NEILL: Ms Campbell, do you know the dates legal advice was sought and provided in regard to robodebt?  
Ms Campbell: I'll take that question on notice. I don't have that material with me.
- b) Senator O'NEILL: Do you know the identity of the person, agency or firm who provided the legal advice?  
Ms Campbell: I'll take that question on notice. I don't have that material.  
Senator O'NEILL: The fact that you don't have the material with you does not preclude you from answering the question. Do you know?  
Ms Campbell: I don't know. It's been some time since I have—  
Senator O'NEILL: Made yourself familiar with these matters.  
Ms Campbell: I'm now the secretary of the Department of Social Services. The agency—  
Senator O'NEILL: But you were the secretary when this matter came into being, when this program was established.  
CHAIR: Senator O'Neill, please let the witness finish her answer.  
Ms Campbell: Senator O'Neill, this is detailed information. I don't have it readily in my mind. I'll take the question on notice.
- c) Senator O'NEILL: Do you know the costs of legal advice?  
Ms Campbell: I'll take the question on notice.
- d) Senator O'NEILL: Do you have the dates and content of any briefings or meetings, including ministerial briefings and ministerial meetings, that relate to legal advice about robodebt?  
Ms Campbell: I'll take the question on notice.
- e) Senator O'NEILL: Do you have the dates and content of any communication between ministers, departments and agencies in relation to legal advice about robodebt?  
Ms Campbell: I'll take the question on notice.
- f) Senator O'NEILL: Do you have access to, and can you provide the committee with, instructions provided to lawyers about robodebt?  
Ms Campbell: I'll take the question on notice.

g) Senator O'NEILL: Do you know of, or have, any legal advice provided in relation to the modification and enhancement of the income compliance program?  
Ms Campbell: I'll take the question on notice.

**Answer:**

Legal advice has been provided about various aspects of the income compliance program, including in relation to litigation involving the program.

Information about any specific advice provided, including the timing and cost of that legal advice, is the subject of a claim of public interest immunity by the Minister for Government Services, dated 29 July 2020.

The Committee indicated they would be referring the claim for public interest immunity to the Senate for consideration.

# Senate Standing Committee on Community Affairs

## INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM

PUBLIC HEARING 31 July 2020

### ANSWER TO QUESTION ON NOTICE

Services Australia

**Topic:** Risk Management Framework - Mitigation

**Question reference number:** IQ20-000112

**Member:** Deborah O'Neill

**Type of question:** Hansard page: 17

**Date set by the committee for the return of answer:** 14 August 2020

**Number of pages:** 1

#### **Question:**

Senator O'NEILL: Thank you, Chair. Can I return to the line of questioning—the risk management framework that we were discussing some time ago. Ms Campbell, can I draw your attention to two parts of the document. One part relates to the line of questioning that I was undertaking about the risk that was identified by the ICT department. This is an extensive document. It says: 'ICT raised concerns of accuracy of the debt calculated if manual step is not included within the process. Additional manual effort required if solution includes manual step.' That was known four years ago in the department's own risk assessment. Further on in the document, at attachment B, which is a 'consequence descriptor table', it talks about program integrity, legislation and legal liability. It describes extreme outstanding consequences for a failure of program integrity of the program that you established as the secretary of the department that would lead to widespread and systemic serious noncompliance, with administered program payment accuracy of 80 per cent or below. Do you accept, Ms Campbell, that history has now proven that the payment accuracy was way below 80 per cent? In fact, you've had to remove all of these debts for hundreds of thousands of Australians.

Ms Campbell: I think the term 'payment accuracy' is not the same as debt. Can I clarify that, as part of the normal operations of a department, there would be at risk management plans. They would identify risks—

Senator O'NEILL: And they did.

Ms Campbell: and mitigations are often implemented. This document—

Senator O'NEILL: But they weren't.

Ms Campbell: is a snapshot in time. We don't know—I don't have those papers to the table, and we will take it on notice—whether mitigations were made to these. We would find many risk management programs—and this would be what we would expect from staff who are implementing programs—identify the risks and then mitigate the risks.

#### **Answer:**

Please refer to the response to QON IQ20-000103.

# Senate Standing Committee on Community Affairs

## INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM

PUBLIC HEARING 31 July 2020

### ANSWER TO QUESTION ON NOTICE

Services Australia

**Topic:** Incorrect debt notices

**Question reference number:** IQ20-000113

**Member:** Deborah O'Neill

**Type of question:** Hansard page: 18

**Date set by the committee for the return of answer:** 14 August 2020

**Number of pages:** 1

#### **Question:**

- a) Senator O'NEILL: Thank you. Can I ask my next question, please. Is it correct the department knew from October 2016 that officials conceded about 2,700 people were sent an incorrect debt?

Ms Campbell: I cannot recall that. We can take that on notice.

Ms Musolino: I think the evidence we've given previously is that we didn't concede that a letter sent to someone where a debt was raised and on reassessment or review of the AAT when further information was brought forward was an error. That's the system working as its meant to work. It is how administrative decision-making works.

- b) Senator O'NEILL: Can you take on notice how that concern of 2,700 people being sent an incorrect debt was addressed and changed.

#### **Answer:**

a) and b)

An ICT system issue was identified on 21 October 2016 which caused up to 2,700 customers to have an incorrect debt amount raised. The ICT system issue was fixed on 24 October 2016 and it was confirmed that the ICT system was working correctly. While all of the affected customers owed a debt, the ICT system issue caused the debt to be incorrectly calculated.

The ICT system issue meant that the correct process, whereby an assessment would be referred for manual checking to a staff member before issuing a debt, had not occurred as expected.

The manual hand off process should have passed the review to a staff member, where specific customer circumstances were identified within the period of the debt. This process did not occur for this group of customers.

All affected customers were contacted, advised of the error, provided with an apology, and advised that corrective action had been taken.

# Senate Standing Committee on Community Affairs

## INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM

PUBLIC HEARING 31 July 2020

### ANSWER TO QUESTION ON NOTICE

Services Australia

**Topic:** Legal Advice

**Question reference number:** IQ20-000114

**Member:** Deborah O'Neill

**Type of question:** Hansard page: 19

**Date set by the committee for the return of answer:** 14 August 2020

**Number of pages:** 1

#### **Question:**

Senator O'NEILL: Did you receive legal advice to ensure you operated in a legal manner?

Ms Campbell: I will take on notice issues revolving around legal advice, but it was my view, when we introduced this, that it was legal.

#### **Answer:**

Legal advice has been provided about various aspects of the income compliance program, including in relation to litigation involving the program.

Information about any specific advice provided, including the timing and cost of that legal advice, is the subject of a claim of public interest immunity by the Minister for Government Services, dated 29 July 2020.

The Committee indicated they would be referring the claim for public interest immunity to the Senate for consideration.

# Senate Standing Committee on Community Affairs

## INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM

PUBLIC HEARING 31 July 2020

### ANSWER TO QUESTION ON NOTICE

Services Australia

**Topic:** Tax Garnishee Debts

**Question reference number:** IQ20-000115

**Member:** Rachel Siewert

**Type of question:** Hansard pages: 26-27

**Date set by the committee for the return of answer:** 14 August 2020

**Number of pages:** 2

**Question:**

CHAIR: I'd suggest that the people whose tax returns have been garnished for illegal debts would not agree with you, and a lot of other Australians would not agree with you on that point. They'd like that double-check in there. Anyway, that's my opinion based on contacts I've had from people. Thank you. In terms of the actions you've taken, I'm trying to think of the right terminology given that you're saying it's actually the other departments that are doing the garnishing. For debts since November, how many debts have you garnished as a result of requests from Services Australia? I understand you're not garnishing the averaged debts, but how many actions have been taken to enable departments to garnish tax returns for debts?

Ms Smith: Probably the best way for me to answer that is to talk about how many indicators are on clients' accounts, which has significantly dropped. In July last year, there were about 240,000 indicators on clients' accounts. In January, that was down to about 160,000.

Currently, I think it's close to 10,000 accounts which have an indicator on them. That would mean that, if and when that client is due a refund, we would advise Services Australia of that.

CHAIR: Okay. I take it that the drop is because the income averaged debts have come out. Is that what you're saying?

Ms Smith: That would be a question to Services Australia as to the change in client accounts. We don't know what debt exists for those people or why.

CHAIR: Okay. So currently there are 10,000. Is that correct?

Ms Smith: Slightly over. It's about 11,000.

CHAIR: Okay. Can I go back, then, to Services Australia and ask about those 11,000 debts?

Ms Musolino: Obviously, the debt pause has come into effect, and, as I talked about, we've also redeployed the staff who would normally be doing this work.

CHAIR: Yes, I understand that.

Ms Musolino: That would probably explain why there's been that downward trend.

CHAIR: Yes.

Ms Musolino: You had a question about the 11,000?

CHAIR: As to those 11,000 debts, what debts do they relate to?

Ms Musolino: We'll have to take that on notice. I haven't got that.

**Answer:**

The 11,000 indicators would have been notified to the Australian Taxation Office (ATO) by Services Australia prior to the implementation of the national debt pause. From 3 April 2020, when Services Australia implemented the national debt pause on certain social welfare debt raising and recovery activities, including tax garnishee actions, there has been no debt recovery through tax garnishee.

As set out in SQ19-000151 (QoN 6) to the public hearing on 3 October 2019, the process once an indicator is placed on the record of a Client of Interest is that when an eligible tax refund/ credit becomes available, the ATO notifies Services Australia. Since the implementation of the national debt pause, in all cases where notification was received, Services Australia has given a nil response, which means no tax garnishee action has been taken.

# Senate Standing Committee on Community Affairs

## INQUIRY INTO CENTRELINK'S COMPLIANCE PROGRAM

PUBLIC HEARING 31 July 2020

### ANSWER TO QUESTION ON NOTICE

Services Australia

**Topic:** Legal Advice – Senate Inquiry

**Question reference number:** IQ20-000116

**Member:** Rachel Siewert

**Type of question:** Hansard page: 27

**Date set by the committee for the return of answer:** 14 August 2020

**Number of pages:** 1

#### **Question:**

CHAIR: If you could, thank you. Can I just go back to something. Ms Campbell, we've had some very significant discussions about the issue of income averaging and how it has been used for a long time. In 2017, the Senate inquiry very clearly pointed out that there were issues with income averaging. We very clearly articulated that, as did all those people that spoke to us during those hearings. Following that inquiry, did you seek legal advice, or did it provoke the department to seek legal advice about income averaging, or to even consider seeking legal advice?

Ms Campbell: I think this goes to the issue we discussed earlier, and I'll take it on notice.

#### **Answer:**

Legal advice has been provided about various aspects of the income compliance program, including in relation to litigation involving the program.

Information about any specific advice provided, including the timing and cost of that legal advice, is the subject of a claim of public interest immunity by the Minister for Government Services, dated 29 July 2020.

The Committee indicated they would be referring the claim for public interest immunity to the Senate for consideration.