

## Centrelink's compliance program

### Submission to the Senate Community Affairs References Committee

September 2019



### About ACOSS

The [Australian Council of Social Service \(ACOSS\)](#) is a national voice in support of people affected by poverty, disadvantage and inequality and the peak body for the community services and civil society sector. Our vision is for a fair, inclusive and sustainable Australia where all individuals and communities have the opportunities and resources they need to participate fully in social and economic life.

ACOSS thanks the committee for the opportunity to make a submission to the Inquiry into Centrelink's compliance program.

### Recommendations

ACOSS recommends that:

1. Robodebt be immediately abolished.
2. The Federal Government convene a roundtable of experts in social security, including people affected, to redesign a fair, accurate and humane system of debt recovery.
3. The Federal Government cease outsourcing the administration of income support to private operators.
4. The Federal Government strengthen the capacity of Centrelink to meet need by increasing permanent staffing levels.

### Robodebt must be abolished

ACOSS maintains its firm opposition to robodebt, which continues to pursue hundreds of thousands of people over alleged debts that may or may not exist. ACOSS does not object to the Government recovering overpayments but it does object to it doing so in a manner that is deeply flawed and inherently unfair.

### Two major flaws in robodebt's design

There are two major flaws in the Government's robodebt scheme, which continue despite repeated calls for reform. The first is the use of averaging of ATO reported income over the period of time someone has received an income support payment, which is leading to incorrect calculations of alleged overpayments. The second is the reversal of the onus of proof onto the person affected, requiring them to prove their innocence on the basis of very limited information.

These practices are at the heart of robodebt and the harm it continues to cause across our community. It appears that the reason that the Government has not addressed these two major flaws is because to do so would greatly increase the resources required to collect overpayments at the same scale. Before robodebt commenced, the Government would typically investigate and

pursue around 20,000 overpayments each year. Under robodebt, debt collection increased to 20,000 overpayments each week.<sup>1</sup> The most recent Senate estimates suggest that around 6,000 reviews – where an alleged debt is raised – are now conducted each week.<sup>2</sup>

Robodebt can operate at this scale because the Department of Human Services (The Department) shifted the work of seeking evidence of employment income onto the person concerned. Previously, the work of verifying fortnightly income earned by an income support recipient was carried out by Centrelink compliance staff who had the power to seek employment income from employers or third parties if required. Forcing people to dig up payslips or other evidence about their income from years ago is unfair and unreasonable, causes a huge amount of stress and anxiety and is very time consuming for the person concerned. If the person affected is unable to produce evidence of employment income received during the period in question, the Department will average out the ATO income it has over the relevant period of time to calculate an alleged debt.

This process seemingly goes against the Department's debt recovery guidelines that state: "evidence is required to support the claim that a legally recoverable debt exists." In our view, the Government has insufficient evidence to claim that overpayments exist from carrying out a crude data-matching process. We believe the Government is abusing its power by claiming that thousands of debts exist on this basis, particularly when government has the power to garnish tax returns, ban international travel and charge interest on alleged debts owing. We note that the powers to ban international travel and charge interest on debts owing were legislated during the trial phase of robodebt (in the second half of 2016), before robodebt was made public.

## **Underpayments**

The Government does not assess whether it has underpaid income support recipients, and we understand that robodebt does not detect underpayments in its data-matching process. The Government has a legal obligation to collect overpayments, except where the debt has been written off or it is uneconomical to recover the debt. However, there is no obligation for the Government to address any underpayments that may exist.

## **The scheme sets people up to fail**

To add to the fundamental flaws of the scheme, robodebt shifted the goal posts for current and former income support recipients with respect to their obligations. Centrelink's previous guidelines stated that income support recipients should retain payslips for six months, but robodebt requires people to produce evidence of employment income from up to six years ago. In the first 12 months of the scheme, thousands of people first heard about having a robodebt via a debt collector because Centrelink sent the debt notice to an old address. Clearly people no longer receiving an income support payment would not have updated their address with the Department, but it issued notices to old addresses nonetheless.

We understand that Centrelink now contacts people via registered post to ensure that notices are received. However, we continue to hear reports of people finding out about alleged debts for the first time via a debt collector, which is concerning and indicates that the Department's communication methods may not work as they should. So far, one in three robodebts (173,000) have been sent to debt collectors.

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<sup>1</sup> Amie Meers, Suseela Durvasula, Thomas Newton, Louise Macleod (2017) 'Lessons learnt about digital transformation and public administration: Centrelink's online compliance intervention' Commonwealth Ombudsman, p.1

<sup>2</sup> Department of Human Services (2019) Evidence provided at Senate Estimates, Community Affairs Legislation Committee, Friday 5 April, [https://www.aph.gov.au/~media/Estimates/ca/bud1920/Hansard/Community\\_Affairs\\_Legislation\\_Committee\\_2019\\_04\\_05\\_7050.pdf?la=en](https://www.aph.gov.au/~media/Estimates/ca/bud1920/Hansard/Community_Affairs_Legislation_Committee_2019_04_05_7050.pdf?la=en) p.129

## 10% recovery fee

To add insult to injury, most of 114,000 people contacted by the Department would have paid a 10% recovery fee on top of the alleged debt that they may not owe, as it was automatically applied to robodebts prior to June 2017 (71% of all robodebts at the time had the 10% recovery fee applied).

We urge the Government to review its application of the 10% recovery fee to alleged overpayments. It would appear that this fee has been applied to overpayments without determining if the person refused or failed to provide information, or knowingly or recklessly provided false information as stipulated by the guide. Any recovery fee that has been received by the Government without meeting this test should be refunded.

## Garnishing tax returns

The Government should only garnish people's tax returns (or take other action against the person) if it has been made certain that a debt is owed. If the alleged debt is under review, no action should be taken against the person in relation to the alleged debt.

## Real-time data matching

ACOSS welcomes measures that will reduce the incidence of overpayments. If Single Touch Payroll (STP) results in real-time reporting of employment income to the Department, it should greatly reduce the number of debts accruing because it removes the guess work required under the existing system. Many debts are incurred because people must forecast earnings fortnight to fortnight if they work irregular hours and do not receive their pay on the day they must report. The introduction of STP along with reform of reporting requirements should go a long way to addressing this problem.

We do not have the full detail of how the Department will address issues like irregular payment periods (for example, where people are paid monthly). We will continue to work with the Department on these issues to help ensure real-time employment income reporting results in a fairer system for people receiving income support payments.

## High error rate

Around 20% of alleged debts raised thus far (about 100,000) have been reduced or waived.<sup>3</sup> The actual number of alleged debts that are inaccurate is likely to be much higher. Unless people challenge their robodebt – and the majority have not – there is no way of knowing how many robodebts are incorrect. Therefore, it is safe to assume that many people have repaid money to the Government that they did not owe.

The Government knows that averaging will lead to inaccurate debt calculations. The Department's own debt recovery guidelines warn that averaging will result in mistakes because unless income earned was consistent each fortnight throughout the year, averaging will produce an incorrect assessment.<sup>4</sup> Despite this, the Department does not record the number of debts raised that were

<sup>3</sup> Senate community Affairs Legislation Committee (2019) 'Budget Estimates 2019-20 – 5 April 2019: Answer to question on notice' Department of Human Services, Question reference number HS 7 (SQ19-000113).

<sup>4</sup> Department of Human Services (2019) 'Acceptable documents for verifying income when investigating debts 107-02040020' <http://operational.humanservices.gov.au/public/Pages/debts/107-02040020-01.html>

calculated using averaging. This is also deeply concerning and shows that the Government is disregarding its collection of alleged overpayments that are likely incorrect.<sup>5</sup>

## Negative impact on the community

The robodebt scheme has caused serious distress for many in the community.

As at March 2019, around one million income discrepancy notices had been issued, resulting in the raising of about 500,000 alleged debts. No one should underestimate the stress and anxiety caused by these notices and alleged debts. Alleged debts have been sent to people experiencing depression, anxiety, and trauma; families of people who have died; people who receive income support payments and live on extremely low incomes; people in financial hardship and people who are homeless.

The Government exempted certain cohorts from robodebt following a backlash to the scheme in 2017. ACOSS understands that farmers are exempt,<sup>6</sup> as well as people with a vulnerability indicator on their Centrelink record, age pensioners and people in remote areas. We understand that the Government is now looking to include some of these groups in order to meet revenue targets.<sup>7</sup>

People have reported their life being ruined as a result of robodebt. People have experienced breakdown, anxiety, depression requiring medication, sleeplessness, stress causing physical illness, and fear. Many have reported suicide ideation, and there has been at least one story of someone committing suicide after receiving a robodebt.<sup>8</sup>

The stress caused by receiving a robodebt is exacerbated by the design of the scheme as it leaves people on their own to clear their name with very limited information. People have had to lodge Freedom of Information requests to get basic information about how their debt was calculated. It is deplorable for the Department to raise a debt against someone without providing adequate information about how it was calculated. The Government is failing in its duty of care to people who receive or have received income support payments.

## Cost of the program

Latest data show that robodebt has collected \$326.6m as at March 2019. For the same period, the amount in alleged debts raised under robodebt is \$1.25 billion.<sup>9</sup> Between 2015/16 and 2017/18, the Government spent \$375 million administering the scheme.<sup>10</sup> The Government has therefore spent more on administering this scheme than it has collected in alleged overpayments.

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<sup>5</sup> Leon, R. (2019) Evidence provided at Senate Estimates, Community Affairs Legislation Committee, Friday 5 April, [https://www.aph.gov.au/~media/Estimates/ca/bud1920/Hansard/Community\\_Affairs\\_Legislation\\_Committee\\_2019\\_04\\_05\\_7050.pdf?la=en](https://www.aph.gov.au/~media/Estimates/ca/bud1920/Hansard/Community_Affairs_Legislation_Committee_2019_04_05_7050.pdf?la=en) p.128

<sup>6</sup> Fierravanti-Wells, C. (2018) Questions without notice: additional answers – Centrelink, Senate, 16 August [https://www.aph.gov.au/Parliamentary\\_Business/Hansard/Hansard\\_Display?bid=chamber/hansards/0aa85734-4639-470b-84d1-7f0442765e04/&sid=0213](https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=chamber/hansards/0aa85734-4639-470b-84d1-7f0442765e04/&sid=0213)

<sup>7</sup> Henriques-Gomes, L. (2019) 'Robodebt could target pensioners and 'sensitive' groups, leaked documents show' *The Guardian* 23 August, <https://www.theguardian.com/australia-news/2019/aug/23/robodebt-target-pensioners-sensitive-groups-leaked-documents>

<sup>8</sup> Emily McPherson (2019) 'Queensland man took his own life after learning of Centrelink debt, mum says' *Nine News*, 30 July, <https://www.9news.com.au/national/centrelink-robodebts-queensland-man-took-his-own-life-over-debt-mum-says-australia-news/e31e6f28-2e4b-4d3f-9095-d8f74e00cbc1>

<sup>9</sup> Senate Community Affairs Legislation Committee (2019) Answer to Question on Notice (HS 7 (SQ19-000113)) – Online Compliance Intervention – South Australia

<sup>10</sup> *Ibid.*, HS 9 (SQ19-000022), Online Compliance Intervention – Costs and Saving

## Privatisation of Centrelink

Centrelink frontline workers assisting people with their income support payments must be skilled and have a high level of expertise to ensure that people's right to social security is upheld. ACOSS remains very concerned about the outsourcing of DHS frontline work to private operators, particularly in the area of compliance, because we fear these operators will not have an acceptable level of expertise. ACOSS has received anecdotal reports that the outsourcing of frontline work has led to poor service provision because private operators lack the skills and knowledge to help people with their Centrelink case. We have heard that staff at these private centres only receive several weeks' training, which they deem totally inadequate to prepare them for the work at hand.

We are alarmed at media reports of staff being publicly shamed in workplaces about the number of compliance reviews that they have finalised each day.<sup>11</sup> Social security is a critical piece of social infrastructure and its administration should prioritise accuracy and treating people fairly and humanely; it should not be centred on meeting targets as alleged by media reports.

ACOSS does not support outsourcing of Centrelink to private operators. Centrelink must be adequately staffed and operate in the best interests of all who need income support. ACOSS calls on the Government to increase the number of permanent Centrelink staff to meet demand.

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<sup>11</sup> Jonathan Kearsley and Emily McPherson (2019) 'Whiteboard of shame': Robo-debt compliance officers 'worked to targets' Sydney Morning Herald, 9 August, <https://www.smh.com.au/politics/federal/whiteboard-of-shame-robo-debt-compliance-officers-worked-to-targets-20190809-p52foq.html>