

Chapter 1

Introduction and background

I do not support or condone the abuse of the welfare system in any way, and strongly feel that anyone who wilfully rots the system by providing false information should be caught and punished. However, there may be some—as we have just heard—on variable incomes or in casual work who inadvertently have been overpaid. They need to be dealt with differently. The system of debt recovery needs to be respectful and it needs to be fair and ethical.¹

Introduction

1.1 In December 2016 and early January 2017, a number of people started raising public concerns about receiving letters saying they owed Centrelink significant debts. Media articles claimed Centrelink was operating a debt recovery system with a high error rate. The individuals and whistleblowers who approached media organisations asserted that erroneous letters were being sent to Centrelink recipients and former Centrelink recipients requiring the repayment of purported debts.² The articles maintained that the Department of Human Services (department) had removed human oversight before the purported debts were raised and an online portal had to be used to attempt to resolve the issue.

1.2 Between November 2016 and March 2017, at least 200 000 people were affected by the Online Compliance Intervention (OCI) program.³ During this period, the department sent approximately 20 000 letters per week.⁴ Because the data matching and issuing of letters was performed by an automated system, purported debts raised by the OCI came to be known colloquially as 'robo-debt'.

1.3 There appears to be broad community support for attempts to recover money from people that deliberately seek to defraud the social welfare system, as well as

1 Anne, *Committee Hansard*, 11 April 2017, p. 58.

2 See for example Christopher Knaus, 'Centrelink urged to stop collecting welfare debts after compliance system errors', *The Guardian*, 14 December 2016, <https://www.theguardian.com/australia-news/2016/dec/14/centrelink-urged-to-stop-collecting-welfare-debts-after-compliance-system-errors> (accessed 16 February 2017); Henry Belot, 'Centrelink debt recovery: Government knew of potential problems with automated program', *Australian Broadcasting Corporation*, 12 January 2017, <http://www.abc.net.au/news/2017-01-12/government-knew-of-potential-problems-with-centrelink-system/8177988> (accessed 20 February 2017); Pat McGrath, 'Leaked Centrelink memo shows staff told not to process debt disputes in person', *Australian Broadcasting Corporation*, 13 January 2017, <http://www.abc.net.au/news/2017-01-12/centrelink-memo-shows-staff-ordered-not-to-process-debt-disputes/8177652> (accessed 16 February 2017).

3 Dr Cassandra Goldie, Chief Executive Officer, Australian Council of Social Service, *Committee Hansard*, 8 March 2017, p. 1.

4 Dr Goldie, *Committee Hansard*, 8 March 2017, p. 1.

those who have simply inadvertently been overpaid. However, the way the department attempted to implement the policy created issues for recipients, frontline staff and the department.

1.4 A compelling reason for holding this inquiry was the growing public evidence of the disruption and impact to individual's lives, as well as statements from the government that the program would be expanded to assess other forms of assets and income beyond pay-as-you-go tax records, and that this expansion was likely to increasingly impact people on aged and disability support pensions.

1.5 This report is structured to follow the process of raising and resolving an OCI purported debt to understand the challenges faced by debt-letter recipients in resolving the issues.

What is the OCI?

1.6 The government has stated that the OCI is an attempt to make the social welfare system more sustainable and repair the Budget by using an automated system of data matching to recover purported overpayments from Centrelink and former Centrelink recipients.⁵ It also fulfils a Coalition election commitment called *Better Management of the Social Welfare System*.⁶

1.7 Data-matching and debt collection for the purposes of recovering income support over-payments is not a new process for the department. The Australian Taxation Office (ATO) has been providing income information to the department for the purpose of checking employment income for approximately 20 years.⁷ While the actual data matching remains largely the same, what is different in the OCI process is how that income information from the ATO is then used by the department to identify purported overpayments of income support.

1.8 What has changed in the OCI program, is that the process of checking the ATO lump sum income records against the department's fortnightly income records, a time-consuming process previously undertaken by departmental personnel, has been outsourced to the individual income payment support recipients.

5 Commonwealth of Australia, *Budget Measures: Budget Paper No. 2 2015–16*, p. 116.

6 Liberal Party of Australia and The Nationals, *The Coalition's policy for better management of the social welfare system*, June 2016, <https://cdn.liberal.org.au/pdf/policy/2016%20Coalition%20Election%20Policy%20-%20Better%20Management%20of%20the%20Social%20Welfare%20System.pdf> (accessed 17 May 2017).

7 Mr Greg Williams, Deputy Commissioner, Smarter Data, Australian Taxation Office, *Committee Hansard*, 8 March 2017, p. 23. The department has been using PAYG (pay-as-you-go) statements to conduct data matching since 2004. See: Ms Malisa Golightly, Deputy Secretary, Integrity and Information Group, Department of Human Services, *Committee Hansard*, 18 May 2017, p. 24.

Overview of process

1.9 The OCI initially matched income tax data declared to the Australian Taxation Office (ATO) for the 2010–11 to 2012–13 financial years with records held by Centrelink.⁸

1.10 Where there was a discrepancy between the income declared to the ATO and Centrelink's records, a letter was automatically generated that asked recipients to use an online portal to update their details.

1.11 The algorithm used by the online portal estimated that the income was earned evenly across the financial year. Recipients were asked whether those details were correct.

1.12 In some cases, updating these details resolved the discrepancy between the two sets of data. Where the discrepancy was still not resolved, recipients were advised that an overpayment had occurred and a purported debt had been raised against them. As discussed in greater detail in Chapter 3, a wide range of problems were experienced by people trying to use the online portal to resolve their purported income discrepancy.

1.13 Attempts to communicate with Centrelink to discuss the original letter or the subsequent purported debt would initially be met with a direction to go to the online portal or phone service. This was not appropriate for some recipients, as will be discussed in greater detail in Chapter 3.

1.14 When recipients were able to discuss their purported debt with a Centrelink debt specialist or obtain a review, their purported debts were often considerably reduced. Evidence received by the committee indicated that reductions from thousands of dollars to a small sum or zero were common. For example, Michael from Brisbane had his \$3 000 debt reduced to \$50 and age pensioner Ian had a \$7 000 debt reduced to nothing.⁹

1.15 Similar stories about people's experiences with Centrelink were shared through traditional and social media and on a website called '#NotMyDebt'.¹⁰ As it became public knowledge that Centrelink debts were routinely being miscalculated, public confidence in the social welfare system was severely impacted.¹¹ The

8 Ms Malisa Golightly, Deputy Secretary, Integrity and Information Group, Department of Human Services, *Committee Hansard*, 20 October 2016, p. 183; Commonwealth of Australia, *Mid-year Economic and Fiscal Outlook 2015–16*, December 2015, p. 210, http://www.budget.gov.au/2015-16/content/myefo/download/10_AppendixA_Expense.pdf (accessed 17 May 2017).

9 Michael, *Committee Hansard*, 16 May 2017, p. 56; Ian, *Committee Hansard*, 26 April 2017, p. 58.

10 #NotMyDebt, <https://www.notmydebt.com.au/> (accessed 22 May 2017).

11 Dr Goldie, *Committee Hansard*, 16 May 2017, p. 12.

committee also received some evidence from individuals who had non-OCI debts, but remained adamant that their debt had been miscalculated.¹²

Savings targets

1.16 The government forecast in the 2015–16 Budget that it would save \$1.7 billion over five years by identifying overpayments using income data for the 2010–11 to 2012–13 financial years.¹³

1.17 The government subsequently expanded the scheme to include non-employment income and a greater span of years.¹⁴

1.18 The 2016–17 Mid-Year Economic and Fiscal Outlook (MYEFO) forecast that the government would achieve \$3.7 billion worth of savings (or \$2.1 billion in underlying cash terms) over four years from 2016–17.¹⁵

1.19 At the committee's hearing on 8 March 2017, representatives of the department informed the committee that in the first six months of the 2016–17 financial year, the department had sought repayment of \$300 million worth of purported debts and actually recovered \$24 million.¹⁶ Given such a small amount has been recovered to date, it is questionable whether the government will achieve its savings targets.

1.20 Part of the mismatch between the expected revenue and the amounts actually recovered is, in part, due to repayment plans. Ms Kathryn Campbell, Secretary of the department, informed the committee that people can enter into repayment plans for as little as five dollars per week, meaning that it will take them a long time to repay the debt.¹⁷ The repayment amounts start from a low level because many vulnerable people also have other debts or payments that they are also attempting to manage.¹⁸

1.21 On the other hand, as will be explained further in Chapter 4, some of the money recovered by the measure was paid by people who did not believe they owed a debt, but paid it because some found it too difficult or too stressful to challenge the purported debt raised against them, while others simply started paying the purported

12 Non-OCI debts include any debts that were raised by the department after manual checking. Usually these were older debts from years that were not covered by the compliance intervention.

13 Commonwealth of Australia, *Budget Measures: Budget Paper No. 2 2015–16*, p. 116.

14 The scheme was expanded to include PAYG income for the 2013–14 and 2014–15 financial years and non-PAYG income for the years 2010–11 to 2013–14. Commonwealth of Australia, *Mid-year Economic and Fiscal Outlook 2015–16*, December 2015, pp. 210–211.

15 Commonwealth of Australia, *Mid-year Economic and Fiscal Outlook 2016–17*, December 2016, p. 189.

16 Ms Golightly, *Committee Hansard*, 8 March 2017, p. 46; Ms Kathryn Campbell CSC, Secretary, Department of Human Services, *Committee Hansard*, 8 March 2017, p. 47.

17 *Committee Hansard*, 8 March 2017, p. 47.

18 Ms Campbell, *Committee Hansard*, 16 May 2017, p. 36.

debt because they thought the government wouldn't make a mistake and therefore didn't challenge the debt notice.¹⁹

Expansion of program

1.22 The 2016-17 MYEFO also included a measure titled 'Better Management of the Social Welfare System—assets and investments', intended to expand the OCI program as of 1 July 2017.²⁰ Currently, the OCI program only assesses earned income i.e. wages, data provided by the employer to the ATO (the pay as you go income tax file), to review whether an individual has correctly reported their income to the department and was therefore provided with the correct fortnightly income support payment amount. As of 1 July 2017, non-employment ATO data streams will also be assessed, such as share dividends or bank interest, and will therefore impact support payment types which typically do not earn an income, such as aged and disability pensions.²¹

Impact

1.23 Throughout this inquiry, the committee heard many personal accounts of the stress and distress the automated debt recovery system has caused recipients. Some of these are included in this report. One aspect that caused distress was the risk of a financial set back at a time many could not afford it. As the Australian Council of Social Service (ACOSS) explained:

The full scale of this...hit just seven weeks out from Christmas. We know that in the community this is overwhelmingly a time when financial pressure is very real for households, and most particularly for people who have interaction with the social security system—many of whom are on low incomes or in otherwise vulnerable circumstances.²²

1.24 For others, the impact was emotional, as Basic Rights Queensland Inc. conveyed:

There has been frustration at having to argue their case by talking to the computer and over the difficulty in trying to discuss this with an actual person. There has been frustration caused by the hours and hours spent on the phone trying to offload their correct information, time spent writing to Centrelink and time spent checking their records against Centrelink's. Fear

19 Ann-Marie, *Committee Hansard*, 10 April 2017, pp. 52–53. This issue was raised by a number of witnesses. See for example: Mr Ross Womersely, South Australian Council of Social Service, *Committee Hansard*, 10 April 2017, p. 27. See also Mr Mark Leahy, Welfare Rights Centre South Australia Inc., *Committee Hansard*, 10 April 2017, p. 38, Professor Karen Healy, Australian Association of Social Workers, *Committee Hansard*, 16 May 2017, p. 17, Mrs Susan Leitch, Council on the Ageing Tasmania, *Committee Hansard*, 26 April 2017, p.6.

20 Commonwealth of Australia, *Mid-year Economic and Fiscal Outlook 2016–17*, December 2016, p. 189.

21 Ms Golightly, *Committee Hansard*, 18 May 2017, pp. 24-25.

22 Dr Goldie, *Committee Hansard*, 8 March 2017, p. 2.

is a significant consequence. They have been very afraid of the whole thing. They were concerned about the impact on their credit rating if debt collectors became involved...Anxiety is a consequence. They were very anxious about the risk of defaulting on their mortgage repayments and losing their home...²³

1.25 This view was echoed by LawRight:

In our submissions we have expanded on the impact that this Centrelink robo-debt scheme has had on our clients, particularly emotionally. These are people who really are at their wits end in life and they are going through a lot. To get a letter from Centrelink saying, all of a sudden, they have this debt they will have to pay back, can be incredibly distressing for our clients, and it can compound the vulnerabilities that they are already experiencing in life.²⁴

1.26 Witnesses told the inquiry they were not advocating that incorrectly claimed payments should not be pursued, but that greater consideration should be afforded to the people from whom the purported debts are being recovered. As a representative of the Australian Association of Social Workers (AASW) said:

...fiscal responsibility is a legitimate goal for the government. Nevertheless, there are many ways to achieve this...Our members have observed the distress and financial hardship that the automated debt recovery scheme has caused for vulnerable people. The government chose a process which places [the] onus of proof on the most vulnerable welfare recipients, thereby reversing the presumption of innocence. The AASW objects strongly to the lack of procedural fairness that this decision represents. It denies natural justice to vulnerable people.²⁵

1.27 The committee received evidence that the groups attempting to assist individuals do not necessarily oppose the use of automation, but they highlight that greater checks and balances are required in debt recovery to restore care and respect. ACOSS argued that:

We believe that data matching, if done well, can absolutely have the potential to mitigate the risks of a debt being incurred by a social security recipient and to avoid a large debt arising without the person being aware that that is in fact what is occurring. However, it is absolutely essential that all the right checks and balances are in place, recognising the significant and, in some cases, unique powers that the Commonwealth government has to raise a debt and to pursue debt recovery processes. It must also recognise that human oversight is fundamentally embedded within the design of any use of data matching and that the onus of proof that a debt is indeed owed

23 Ms Georgina Warrington, Director, Basic Rights Queensland Inc., *Committee Hansard*, 16 May 2017, p. 3.

24 Ms Paula Hughes, Policy Lawyer, LawRight, *Committee Hansard*, 16 May 2017, p. 30.

25 Professor Karen Healy, *Committee Hansard*, 16 May 2017, pp. 11–12.

must rest with the Department of Human Services and the Commonwealth government.²⁶

1.28 Mr Mark Henley, Chief Executive Officer of the Queensland Council of Social Service, summed up a view that was heard throughout this inquiry from both individuals and organisations:

QCOSS supports the recovery of incorrect income support payments. These are public funds and there must be a level of accountability. The public expects that, but it also expects that the government will treat all people with an appropriate level of respect and in a dignified manner. I would argue that the Centrelink debt recovery process has fallen well short of that expectation.²⁷

1.29 The impact on individuals is a key focus of this inquiry, and each chapter includes evidence of how all aspects of the OCI program have had a profoundly negative impact on the lives of thousands of Australians.

Report structure

1.30 Following this introductory chapter, this report consists of five subsequent chapters:

- Chapter 2 examines the debt calculation process: from the initial data matching, the process of seeking clarification and the process of raising a debt;
- Chapter 3 examines the language used in letters issued by Centrelink and some of the challenges faced by recipients in communicating with Centrelink, both by phone or via the online portal;
- Chapter 4 examines the process of challenging purported debts, the onus that is placed on individuals and the possible avenues to appeal a debt;
- Chapter 5 considers the purported debt recovery process, and
- the final chapter contains the committee's conclusions and recommendations.

Conduct of the inquiry

1.31 On 8 February 2017 the Senate referred the design, scope, cost-benefit analysis, contracts awarded and implementation of the Better Management of Social Welfare System initiative to the Senate Community Affairs References Committee (the committee) for inquiry and report by 10 May 2017 with the following terms of reference:²⁸

26 Dr Goldie, *Committee Hansard*, 16 May 2017, p. 21.

27 Mr Mark Henley, Chief Executive Officer, Queensland Council of Social Service, *Committee Hansard*, 16 May 2017, p. 10.

28 *Journals of the Senate*, No. 25, 8 February 2017, pp. 853–854.

- (a) the impact of Government automated debt collection processes upon the aged, families with young children, students, people with disability and jobseekers and any others affected by the process;
- (b) the administration and management of customers' records by Centrelink, including provision of information by Centrelink to customers receiving multiple payments;
- (c) the capacity of the Department of Human Services and Centrelink services, including online, IT, telephone services and service centres to cope with levels of demand related to the implementation of the program;
- (d) the adequacy of Centrelink complaint and review processes, including advice or direction given to Centrelink staff regarding the management of customer queries or complaints;
- (e) data-matching between Centrelink and the Australian Taxation Office and the selection of data, including reliance upon Pay As You Go income tax data;
- (f) the process of awarding any contracts related to the debt collection system;
- (g) the error rates in issuing of debt notices, when these started being identified and steps taken to remedy errors;
- (h) the Government's response to concerns raised by affected individuals, Centrelink and departmental staff, community groups and parliamentarians;
- (i) Centrelink's Online Compliance Intervention (OCI) and its compliance with debt collection guidelines and Australian privacy and consumer laws;
- (j) the adequacy of departmental management of the OCI, including:
 - (i) the adequacy of staff numbers to manage the workload associated with the OCI, including customer complaints,
 - (ii) what impact the roll-out of the OCI has had on other areas of work and whether resources have been diverted from other areas,
 - (iii) training and development provided to staff who are working on this program or in related areas (for example, telephony and complaints),
 - (iv) how the Department of Human Services and Centrelink are tracking the impact of the OCI rollout on staff, including stress and incidents of customer aggression,
 - (v) any advice and related information available to the Department of Human Services in relation to potential risks associated with the OCI and what action was taken as a result, including feedback arising from system testing and staff, and

(vi) decisions taken in relation to IT systems and service design that may have contributed to problems experienced by Centrelink clients; and

(k) any other related matters.

1.32 On 23 March 2017, the Senate agreed to extend the committee's time to report to 21 June 2017.²⁹

Handling of submissions

1.33 The inquiry was advertised on the committee's website and the committee wrote to stakeholders inviting them to make submissions.

1.34 The committee invited submissions to be lodged by 22 March 2017. After the Senate agreed to extend the committee's reporting date, the committee re-opened its call for submissions until 19 April 2017.

1.35 The committee received 156 submissions and more than 1 400 emails from individuals. A list of submissions provided to the inquiry is available on the committee's website and in Appendix 1.

Media releases

1.36 The committee also issued media releases to promote public awareness about ways individuals could engage with the inquiry. Media releases were published on the committee's website and were tweeted using the @AuSenate handle.

Public hearings

1.37 The committee held nine public hearings at locations around the country:

- 8 March 2017 — Canberra;
- 10 April 2017 — Adelaide;
- 11 April 2017 — Melbourne;
- 19 April 2017 — Sydney;
- 21 April 2017 — Perth;
- 26 April 2017 — Hobart;
- 27 April 2017 — Launceston;
- 16 May 2017 — Brisbane; and
- 18 May 2017 — Canberra.

1.38 At each public hearing (with the exception of the committee's initial hearing on 8 March in Canberra) opportunities were provided to members of the public to make a short statement to the committee, either publicly or in private. To protect the

29 *Journals of the Senate*, No. 34, 23 March 2017, p. 1150.

identity of debt letter recipients, the committee resolved that only first names would be used to identify members of the public.

1.39 A list of witnesses who provided evidence at public hearings is available at Appendix 2.

Notes on references

1.40 In this report, some references to *Committee Hansard* are to proof transcripts. Page numbers may vary between proof and official transcripts.

Commonwealth Ombudsman investigation

1.41 Concurrent to this inquiry, the Commonwealth Ombudsman conducted an investigation into the operation of the OCI system of automated debt recovery. The Ombudsman initiated the own-motion investigation in January 2017 in response to an increase in the number of complaints made to that office from people who had incurred debts under the OCI system.³⁰

1.42 The report of the investigation was released on 10 April 2017 and made eight recommendations to the department to improve the operation of the OCI system. These recommendations are summarised below. It is important to note that the Ombudsman's investigation was limited to purported debts raised under the OCI, and specifically did not comment on the policy rationale behind the OCI system, the department's broader debt raising and recovery program or the use of external debt collection agencies.³¹

Ombudsman recommendations:

1.43 In summary, the Ombudsman recommended that the department:

- Review past debts that were charged an automatic 10 per cent debt recovery fee.
- Improve the language of the initial letter, including better contact details, information on income averaging and its impact, and advice on seeking an extension of time to respond.
- Expressly inform individuals if they do not clarify income data, ATO annualised data will be averaged and this may result in a debt.
- Assist individuals to gather income data where they are genuinely unable to do so themselves.

30 Mr Richard Glenn, Acting Ombudsman, Office of the Commonwealth Ombudsman, *Committee Hansard*, 19 April 2017, p. 54. See also: Office of the Commonwealth Ombudsman, 'Ombudsman publishes report on Centrelink's automated debt system', *Media release*, 10 April 2017.

31 Commonwealth Ombudsman, *Centrelink's automated debt raising and recovery system*, April 2017, http://www.ombudsman.gov.au/_data/assets/pdf_file/0022/43528/Report-Centrelinks-automated-debt-raising-and-recovery-system-April-2017.pdf (accessed 13 June 2017).

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- Improve communication by better promotion of the helpline phone number, how-to guides on how to obtain income evidence, ensuring adequately trained and available specialist department staff to assist individuals, and review complaints to improve the OCI system from the customer's perspective.
 - Expand the list of customers who received staff assisted intervention beyond those with 'vulnerability indicators'.
 - Expand the assistance provided to the above individuals, such as outbound calls to individuals who do not respond to letters, and consultation with relevant stakeholder groups.
 - Undertake an evaluation of the current form of the OCI, and give consideration to risk mitigation for debt over-recovery before the OCI is expanded and that further rollout should be done incrementally.

Department response

1.44 The department advised that it had accepted all eight recommendations of the Ombudsman's report. As at June 2017, approximately half of the recommendations had been implemented and implementation of the remainder had commenced and was expected to be completed by August 2017.³²

Key responses to recommendations

1.45 During the course of hearings for this inquiry, the committee asked expert organisations for their views on the Ombudsman's report and its recommendations.

1.46 Organisations were generally supportive of the Ombudsman's report but a number noted that the scope of the investigation limited the report to implementation matters and did not go far enough to address fundamental flaws with the OCI system.³³

1.47 The National Social Security Rights Network commented that even if all of the Ombudsman's recommendations are implemented, the OCI system will remain fundamentally flawed and should be abandoned.³⁴ #NotMyDebt submitted a supplementary submission focused solely on the Ombudsman's report, and critiqued the investigation as being 'mainly centred around the technical design itself and the interface of the system.' #NotMyDebt raised particular concerns that issues of procedural fairness were only lightly touched upon and stated the 'investigation was

32 Department of Human Services, *Submission 66.1*, p. 1.

33 See Answers to questions on notice from National Council of Single Mothers and Their Children, Legal Services Commission of South Australia, Fair Go For Pensioners, Victoria Legal Aid, National Social Security Rights Network, Financial Counsellors Association of Western Australia, Council on the Ageing Tasmania available at http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Social_WelfareSystem/Additional_Documents.

34 National Social Security Rights Network, Answers to questions on notice, 19 April 2017 (received 5 May 2017).

devoid of any formal recommendations regarding time limitations and natural justice.³⁵