

The Senate

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Community Affairs  
References Committee

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Design, scope, cost-benefit analysis, contracts  
awarded and implementation associated with  
the Better Management of the Social Welfare  
System initiative

June 2017

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# ABBREVIATIONS

AASW	Australian Association of Social Workers
AAT	Administrative Appeals Tribunal
ACCC	Australian Competition and Consumer Commission
ACL	Australian Consumer Law
ACOSS	Australian Council of Social Service
AFP	Australian Federal Police
APF	Australian Privacy Foundation
APP	Australian Privacy Principle
ASIC	Australian Securities and Investment Commission
ATO	Australian Taxation Office
CALD	Culturally and Linguistically Diverse
CPSU	Community and Public Sector Union
DHS	Department of Human Services
DTA	Digital Transformation Agency
FECCA	Federation of Ethnic Communities' Councils of Australia
FOI	Freedom of Information
KPI	key performance indicator
MYEFO	Mid-Year Economic and Fiscal Outlook
NSSRN	National Social Security Rights Network
OAIC	Office of the Australian Information Commissioner
OCI	Online Compliance Intervention
PAYG	Pay As You Go
QAI	Queensland Advocacy Incorporated

QCOSS	Queensland Council of Social Service
TasCOSS	Tasmanian Council of Social Service
TFN	Tax File Number



# **LIST OF RECOMMENDATIONS**

## **Recommendation 1**

**6.9 The committee recommends the Online Compliance Intervention (OCI) program should be put on hold until all procedural fairness flaws are addressed, and the other recommendations of this report are implemented. If these issues are addressed, the OCI should only be continued in its new form after the new One Touch Payroll system is implemented in 2018.**

## **Recommendation 2**

**6.10 The committee strongly recommends that the rollout of a redesigned system must include a robust risk assessment process, which includes consultation with relevant expert stakeholders.**

## **Recommendation 3**

**6.11 The committee recommends that all people who have had a debt amount determined through the use of income averaging should have their debt amounts re-assessed immediately by a team of departmental officers with specialist knowledge of the Online Compliance Intervention program, using accurate income data sourced from employers. This re-assessment must include the full range of unpaid, partially paid and fully paid debts incurred by current income payment recipients and those debts outsourced to debt collection agencies.**

## **Recommendation 4**

**6.14 The committee recommends all data-matching guidelines and protocols be adhered to, including the Data-matching Program (Assistance and Tax) Act 1990, regardless of whether the department is using tax file numbers. This will require the department to halt the Online Compliance Intervention process while steps are taken to ensure compliance with all mandatory and voluntary provisions. Adherence to these provisions should be verifiable by the public in order to maintain trust in the social security system.**

## **Recommendation 5**

**6.15 The committee recommends the department update its privacy policy to ensure that it does not publicly release sensitive information it holds about individuals, for any reason.**

## **Recommendation 6**

**6.16** The committee recommends the department resume full responsibility for calculating verifiable debts (including manual checking) relating to income support overpayments, which are based on actual fortnightly earnings and not an assumed average.

## **Recommendation 7**

**6.18** The committee recommends the department review all debt cases where the 10 per cent recovery fee was automatically imposed, and in line with procedural fairness, allow each person a fully-informed opportunity to apply to have the debt recovery fee waived.

## **Recommendation 8**

**6.19** The committee recommends personal or technical barriers to communication which impacted an individual's ability to undertake income reporting, should be included in the reasonable excuse framework for waiving the debt recovery fee.

## **Recommendation 9**

**6.21** The committee recommends Accessible Information, in particular Easy English versions, be made available in all debt recovery programs, including online portals. The committee strongly recommends this should be a whole-of-department change, to ensure that producing Accessible Information versions of all Centrelink communications material become standard operating procedure.

## **Recommendation 10**

**6.22** The committee recommends the department ensure that in the re-design of the Online Compliance Intervention system, if it continues, the new system has the necessary protocols to protect vulnerable cohorts, including people experiencing mental health issues. The committee strongly recommends this should be a whole-of-department change, including reconvening the Consumer Consultative Group, the Service Delivery Advisory Group and the Mental Health Advisory Working Party.

## **Recommendation 11**

**6.23** The committee recommends that the department provide all Online Compliance Intervention participants with the debt calculation data required to be assured any debts are correct.

## **Recommendation 12**

**6.24** The committee recommends the Department of Human Services be adequately resourced to implement all recommendations of this report, and to improve the level of service provided to Centrelink recipients. In particular, the committee recommends increased investment in communication channels and staff, to ensure calls are answered in a more timely manner. The committee strongly recommends this as a whole-of-department change.

## **Recommendation 13**

**6.29** The committee recommends that clear and comprehensive advice on the internal and external reassessment, review rights and processes are made available to all Online Compliance Intervention-impacted individuals.

## **Recommendation 14**

**6.30** The committee recommends that clear and comprehensive advice on the ability to seek an extension of time to provide income documentation is made available to all Online Compliance Intervention-impacted individuals.

## **Recommendation 15**

**6.31** The committee recommends that community legal service funding be reviewed in the next budget, to ensure community legal services are able to meet the community need for legal advice relating to Online Compliance Intervention matters.

## **Recommendation 16**

**6.32** The committee recommends the operating budgets for the Administrative Appeals Tribunal be reviewed to plan for an increased workload on Online Compliance Intervention-related matters, to ensure these cases are progressed within appropriate timeframes.

## **Recommendation 17**

**6.33** The committee strongly recommends that an outstanding debt should not exclude a person from advance payments needed for essential goods and services.

## **Recommendation 18**

**6.36** The committee recommends the department voluntarily undertake to be bound by all debt collection and consumer law legislation and guidelines, and ensure regular external scrutiny to ensure compliance. This should explicitly include the actions of external contractors working on behalf of the department.

### **Recommendation 19**

**6.37 The committee recommends the department ensures an independent review of internal and external debt collection practices is undertaken, to ensure all procedures are adhering to industry standards, such as the suspension of debt collection where debt liability is disputed, and the provision of accurate and relevant information to debtors.**

### **Recommendation 20**

**6.38 The committee recommends the department consider adoption of the principles of the Victorian Judgement Debt Recovery Act which precludes debt collection to be made from Centrelink payments that are recognised minimum payments required for food, shelter and other life essentials.**

### **Recommendation 21**

**6.39 The committee further recommends the department develop guidelines on appropriate levels of debt repayment to income ratios, to ensure that debt repayment amounts do not impact any individual's ability to purchase life essentials.**

# 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 rorts 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.<sup>1</sup>

### 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.<sup>2</sup> 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.<sup>3</sup> During this period, the department sent approximately 20 000 letters per week.<sup>4</sup> 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

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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.<sup>5</sup> It also fulfils a Coalition election commitment called *Better Management of the Social Welfare System*.<sup>6</sup>

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.<sup>7</sup> 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.

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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.<sup>8</sup>

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.<sup>9</sup>

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

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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](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.<sup>12</sup>

### *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.<sup>13</sup>

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

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.<sup>15</sup>

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.<sup>16</sup> 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.<sup>17</sup> 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.<sup>18</sup>

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

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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.<sup>19</sup>

### ***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.<sup>20</sup> 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.<sup>21</sup>

### ***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.<sup>22</sup>

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

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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...<sup>23</sup>

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.<sup>24</sup>

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.<sup>25</sup>

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

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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.<sup>26</sup>

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.<sup>27</sup>

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:<sup>28</sup>

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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.<sup>29</sup>

### ***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

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<sup>29</sup> *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.<sup>30</sup>

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.<sup>31</sup>

### ***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.

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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](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).

- 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.<sup>32</sup>

### ***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.<sup>33</sup>

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.<sup>34</sup> #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

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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](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.<sup>35</sup>

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35 #NotMyDebt, Supplementary Submission 110, p.2.



## Chapter 2

### Data matching

Raising a debt is no small matter. Most Centrelink customers rely upon income support for their survival. To make them pay money back can result in significant financial hardship and social problems. That is why Centrelink, prior to the robo-debt regime, had procedures in place to ensure that they could be satisfied a debt had occurred before issuing a debt notice. That is not to say mistakes were not made, but the procedures minimised risk.<sup>1</sup>

What the robo-debt process does is shift the onus onto the client to prove their innocence, and that is unusual. Data-matching is not new. The problem with the system as it stands is that, rather than Centrelink making the inquiries when there is perhaps evidence to suggest a person has underreported their income, they turn it over to the client to contact them.<sup>2</sup>

2.1 As outlined in chapter 1, data-matching with Australian Taxation Office (ATO) records and subsequent debt collection to recover income support overpayments is not a new process for the Department of Human Services (department). What is different in the Online Compliance Initiative (OCI) program, is how the lump sum income information data from the ATO is subsequently checked against actual fortnightly income support payments, to determine if overpayments have been made. As noted in Chapter 1, this process has largely been outsourced to the individual income payment support recipients under the new OCI program. This change in process has had a significant impact on the accuracy of the department's advice to income payment support recipients regarding purported debts incurred as a result of income support overpayments.

2.2 This chapter will outline the debt calculation process from the initial data matching, to seeking clarification from individuals where there is a discrepancy in income data, up to the point when a formal decision is taken by the department that there is a purported debt amount owing. This chapter will also outline the relevant laws and provisions which govern how this should be undertaken.

#### Overpayment data matching

2.3 Centrelink income support payments are subject to an income test which means that a recipient's fortnightly payment may be reduced once their income reaches a specific threshold. The more income a recipient earns, the greater the rate

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1 Mr Mark Leahy, Manager, Welfare Rights Centre South Australia, Inc., *Committee Hansard*, 10 April 2017, p. 33.

2 Mr Ian Turton, Solicitor, Illawarra Legal Centre, *Committee Hansard*, 19 April 2017, p. 43.

that their fortnightly payments are reduced. The rate at which the payments are reduced depends on the individual's circumstances.<sup>3</sup>

2.4 Centrelink payment recipients must report their income fortnightly and their fortnightly payments are calculated based on this information.<sup>4</sup> Where it is found that a recipient has incorrectly reported their fortnightly income, and the correct amount would have affected their entitlement to a payment, a Centrelink debt may be raised.

2.5 Such purported debts are usually identified by the department following some form of data-matching process to check whether a recipient's income information reported to Centrelink is consistent with records held by other agencies, such as the ATO.

2.6 The department provides the ATO with the identity information of Centrelink recipients which the ATO matches against their records. In order for the ATO to provide income information to the department, the ATO must identify a high confidence match between the identity information provided and the ATO's records.<sup>5</sup>

2.7 The data-matching process then involves comparing Pay-As-You-Go (PAYG) statements provided by employers to the ATO with the information on earned income declared by Centrelink recipients. The data-matching is used to identify whether there is a potential discrepancy between the amount of income self-reported by the recipient to Centrelink, and the amount reported by the recipient's employer to the ATO.

2.8 Up until recently, if a potential discrepancy was found, a departmental officer would seek date-specific income data directly from an individual's employer to verify dates of when the income was earned.

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3 For example, a Newstart recipient who is single and not a principal carer will have their payments reduced by 50 cents for each dollar earned between \$104 and \$254 and then by \$75 plus 60 cents for each dollar over \$254. A Newstart recipient (single, no children) earning \$1036.34 per fortnight will have their payment cut off as their income exceeds the income test. See: Department of Human Services, *'Income test for Newstart Allowance, Partner Allowance, Sickness Allowance and Widow Allowance'* <https://www.humanservices.gov.au/customer/enablers/income-test-newstart-allowance-partner-allowance-sickness-allowance-and-widow> (accessed 5 June 2016).

4 Department of Human Services, *'Income test for Newstart Allowance, Partner Allowance, Sickness Allowance and Widow Allowance'* <https://www.humanservices.gov.au/customer/enablers/income-test-newstart-allowance-partner-allowance-sickness-allowance-and-widow> (accessed 5 June 2016).

5 A high confidence match includes a match on at least three identity fields which normally includes a person's name, address and date of birth. See: Mr Greg Williams, Deputy Commissioner, Smarter Data, Australian Taxation Office, *Committee Hansard*, 8 March 2017, p. 23. Of the eight million records which the Australian Taxation Office has provided to the department, there have been only two instances which have resulted in an identity mismatch between Centrelink and Australian Taxation Office records. In both instances the Australian Taxation Office contacted the department on behalf of the mis-identified individual and resolved the issue on behalf of the two individuals. See: Australian Taxation Office, Answers to questions on notice, 8 March 2017 (received 27 March 2017).

2.9 As noted above, the new Online Compliance Intervention (OCI) system has altered the way in which the department verifies discrepancies between self-reported income and the ATO income data. Since November 2016, the department has significantly changed the protocol for the data-matching program, by removing the requirement for a departmental officer to undertake this manual income verification process<sup>6</sup>. Instead, individuals are now required to undertake this process and communicate the verified data back to the department.

### OCI data matching program

2.10 As noted above, the department uses a data-matching process to determine whether a current or former recipient of Centrelink payments has correctly declared their income and received the correct payment.

2.11 The Illawarra Legal Centre noted the key change is not in the data matching process, but in the way that data is later verified:

There is nothing new in this. Data-matching has been around for years. If Centrelink has suspicions, it could contact the employers directly. All of this is a cost-saving exercise, transferring the cost of administration. Centrelink could contact the employer: 'What did this person earn? Can you provide me fortnightly earnings for this person for this period of time?' It has moved from that to asking the client, who may no longer be a Centrelink client, to provide details of their fortnightly earnings from some time past. People do not keep those records. It is an unwarranted intrusion.<sup>7</sup>

2.12 Previously, where a discrepancy was identified between these two sources, the department manually checked the information for accuracy and contacted the recipient and/or their employer to clarify the information. The department's data matching program protocol of May 2004 explains the process:

Upon contacting Centrelink, the customer is provided with an opportunity to respond to the information and provide appropriate evidence of their income from employment. Where Centrelink is satisfied that the information provided by the customer is complete and accurate, Centrelink will not approach third parties for further information. **If the customer is unable to provide sufficient evidence, the employer may be contacted to provide further information** [emphasis added].<sup>8</sup>

2.13 The department confirmed that '[i]n the past, if the person was not able to provide the information themselves, or sometimes even when they did, we used to go to the employer and get their records.' Ms Golightly, Deputy Secretary of Integrity and Information, further clarified:

**CHAIR:** So you used to go to the employers to get the employment records?

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6 Department of Human Services, *Submission 66.1*, Attachment D, p. 11, Attachment E, p. 7.

7 Mr Turton, *Committee Hansard*, 19 April 2017, p. 44.

8 Department of Human Services, *Submission 66.1*, Attachment D, p. 11.

**Ms Golightly:** In some cases we would go to employers, but we always went to the individual first.

**CHAIR:** Yes, and when they had difficulty you went to the employers?

**Ms Golightly:** When they had difficulty, we would talk them through what other information they might have—like bank statements et cetera—but, yes, we used to go to employers. Now we are trying to eliminate the need for anybody to do that so that it is easier...<sup>9</sup>

2.14 The OCI system now, in essence, outsources the clarification stage to the income payment recipient. Where this was previously a function performed by a staff member of the department trained in such operations, the department now directs income payment recipients to an online portal to clarify and update their information:

[T]he recipient is contacted by letter which provides the recipient the employment information that DHS has received from the ATO and requests them to clarify this information online...

Upon contacting DHS or accessing the online system, **the recipient is provided with the opportunity to clarify the information and provide appropriate evidence of their income from employment** [emphasis added].<sup>10</sup>

2.15 A key concern raised throughout this inquiry, has been that the data-matching process identifies income reporting discrepancies by comparing different sources of information, that is, a person's annual total income amount provided by the ATO, with the total fortnightly income amounts a person declares to the department, which was how the department calculated the income support payment a person received.<sup>11</sup>

2.16 The period of employment and fortnightly income information is fundamental to the department being able to accurately assess whether a recipient has received the correct fortnightly payment. The information provided to the department for data-matching purposes by the ATO includes a person's payment summary, investment income information and income tax data.<sup>12</sup>

2.17 It is important to note that employers are not required to provide period of employment information to the ATO for their staff, rather employers must only provide an annual figure paid during that financial year.<sup>13</sup> The ATO advised that of the income information transferred to the department in 2016, 49.1 per cent of records were for a full year employment and 50.9 per cent of records included part-year

9 Ms Malisa Golightly, Deputy Secretary, Integrity and Information Group, Department of Human Services, *Committee Hansard*, 18 May 2017, pp. 31–32.

10 Department of Human Services, *Submission 66.1*, Attachment E, p. 7.

11 See, for example: Australian Council of Social Service *Submission 31*; Community and Public Sector Union, *Submission 65*; National Social Security Rights Network, *Submission 107*; University of Adelaide Student Representative Council, *Submission 127*.

12 Mr Williams, *Committee Hansard*, 8 March 2017, p. 24.

13 Mr Williams, *Committee Hansard*, 8 March 2017, p. 24.

employment information. A similar proportion of records included full or part-year employment information in the preceding five years.<sup>14</sup>

2.18 The ATO noted that while there has been an increase in the volume of data-matching requests processed by the ATO, the ATO's processes have not changed since the introduction of the OCI system.<sup>15</sup>

2.19 However, prior to the OCI system, when data matching identified a discrepancy, a departmental officer would contact the recipient by letter and by phone to clarify the discrepancy. The departmental officer would then undertake a manual assessment to determine if a debt was owed.<sup>16</sup>

2.20 Under manual data-matching arrangements in 2009-2010, approximately 25.5 per cent of identified discrepancies were resolved as the recipient or employer was able to provide information which confirmed the recipient had received the correct Centrelink payment.<sup>17</sup>

### ***What's changed?***

2.21 Three key changes have occurred under the OCI system. Firstly, the responsibility for checking and clarifying income information has shifted from the department to current and former recipients of Centrelink payments. Secondly, recipients are directed to an online portal to check the information and provide supporting evidence of their fortnightly income, dating back to 2010 for some people.<sup>18</sup> . And third, the significant reduction in workload for the department by this outsourcing, has allowed for a huge increase in the number of income discrepancy investigations that the department initiates, the start of which is the initial letter sent to an individual.

2.22 The department's 2017 data matching program protocol, released in April 2017, outlines that where a discrepancy is identified between the information provided by the ATO and the information on Centrelink's record, the department issues an initial clarification request to recipients: 'the recipient is contacted by letter which provides the recipient the employment information that DHS has received from the ATO and requests them to clarify this information online'.<sup>19</sup>

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14 Australian Taxation Office, Answers to questions on notice, 18 May 2017 (received 30 May 2017). Note: where income data is for a full financial year, there is no capacity for the department to accurately assess at what period during the year income has been earned, leading to a greater chance of income support assessment discrepancies.

15 Mr Williams, *Committee Hansard*, 8 March 2017, pp. 23-24.

16 Mr Jason McNamara, General Manager, Integrity Modernisation, Department of Human Services, *Committee Hansard*, 16 May 2017, p. 43.

17 Centrelink, *Data-matching program: Report on progress 2007-10*, January 2011, p. 14 <https://www.humanservices.gov.au/corporate/publications-and-resources/centrelink-program-data-matching-activities> (accessed 1 June 2017).

18 Ms Golightly, *Committee Hansard*, 8 March 2017, p. 40.

19 Department of Human Services, *Submission 66.1*, Attachment E, p. 7.

2.23 The initial letter directs recipients to an online portal and requests recipients to confirm the annual income information provided by the ATO or provide evidence such as bank statements or payslips to demonstrate how much income was earned per fortnight.<sup>20</sup> The department then utilises this information to recalculate whether past Centrelink payments have been paid at the correct rate and whether a purported debt is owed.<sup>21</sup>

2.24 Notably, the 2017 data matching program protocol does not include reference to Centrelink contacting a customer's employer where the customer cannot provide the information. In addition, there is no indication that Centrelink staff must undertake an assessment that the information provided by the customer is 'complete and accurate', rather the information provided by the letter recipient must meet the lower threshold of 'sufficient'.<sup>22</sup>

2.25 While data-matching systems have been in place for a number of years, the implementation of the OCI system has enabled the department to significantly increase the number of recipients who are subject to the process, by virtue of removing the manual verification process undertaken by the department, and having income payment recipients undertake the verification function. Since November 2016, the department has issued between 10 000 and 20 000 compliance interventions per week compared to only 20 000 a year previously.<sup>23</sup>

2.26 The Community and Public Sector Union (CPSU) expressed concern that the move away from manual processing and towards the OCI system had negatively impacted on departmental staff:

This new approach, which removes and reduces human oversight of suspected overpayments and reduces employees' roles in a range of elements of the system, has been an absolute disaster for many Centrelink use[r]s and also for the workers charged with implementing a system they know to be deeply flawed and unfair.<sup>24</sup>

2.27 The CPSU attributed the shift to the OCI system to a lack of resources within the department as a result of budget cuts across successive governments and

20 Initially the department requested that payslips were provided to verify fortnightly earnings, but extended the information which recipients could provide to verify income to include bank statements to assist in cases where a previous employer no longer exist or there are particular sensitivities around contacting a former employer.

21 Department of Human Services, *Submission 66.1*, Attachment E, pp. 7–8.

22 Department of Human Services, *Submission 66.1*, Attachment E, p. 7.

23 The Hon. Alan Tudge MP, Minister for Human Services, 'New technology helps raise \$4.5 million in welfare debts a day', *Media release*, 5 December 2016. Note that the department now sends initial letters by registered mail, which has reduced the number of weekly compliance interventions as Australia Post is only able to process 10 000 registered mail letters per week.

24 Ms Nadine Flood, National Secretary, Community and Public Sector Union, *Committee Hansard*, 8 March 2017, p. 12.

questioned whether the change was counter-productive to budget saving measures.<sup>25</sup>  
The CPSU stated:

If we want to look at where robo-debt has come from, it is a fairly obvious consequence of a department that no longer has the resources to provide effective services. The decision to replace the human oversight of debt recovery with automated data matching was absolutely based on a desire and an imperative to save money. It has of course proven to be a classic false economy and has created costly reverse workflows where staff are taken offline to deal with complex and difficult disputes over incorrectly raised automated debts.<sup>26</sup>

2.28 Furthermore, the consequences of not providing, or being unable to provide, information which verifies income received during a particular period are potentially severe. Under the OCI system, if the recipient of a letter seeking clarification does not provide further information or confirms the annual income received without providing fortnightly income information, the ATO income information alone is used to assess whether the recipient received the correct Centrelink payment and whether a purported debt is owed.<sup>27</sup>

2.29 The committee heard from a number of witnesses and submitters that this has resulted in debt notices being issued based on inaccurate or incomplete information. This is because the purported debt is calculated by averaging the annual income data into an average fortnightly sum, which may then retrospectively change a person's eligibility for a fortnightly Centrelink income support payment.<sup>28</sup>

#### ***Committee view***

2.30 The committee is concerned about the shift in the onus from the department to the individual recipient to verify whether or not a purported debt exists. The committee is particularly concerned that individuals do not have access to the same resources and coercive powers as the department to access historical employment income information.

2.31 The committee notes that the department has taken some steps to make this process less burdensome for recipients, such as by allowing recipients to provide bank statements as opposed to payslips, which may be particularly difficult for a recipient to obtain.

#### ***How the OCI system works***

2.32 The data-matching process and OCI system utilised by the department have three fundamental elements:

25 Ms Flood, *Committee Hansard*, 8 March 2017, pp. 12-13.

26 Ms Flood, *Committee Hansard*, 8 March 2017, p. 13.

27 National Social Security Rights Network, *Submission 107*, p. 3.

28 See, for example: Australian Council of Social Service, *Submission 31*; Community and Public Sector Union, *Submission 65*; National Social Security Rights Network, *Submission 107*; University of Adelaide Student Representative Council, *Submission 127*.

- Stage 1: Employment income information discrepancy identified and income data verified.
- Stage 2: Recovery of purported debt (by the department or external debt collection agencies).
- Stage 3: Avenues of review.

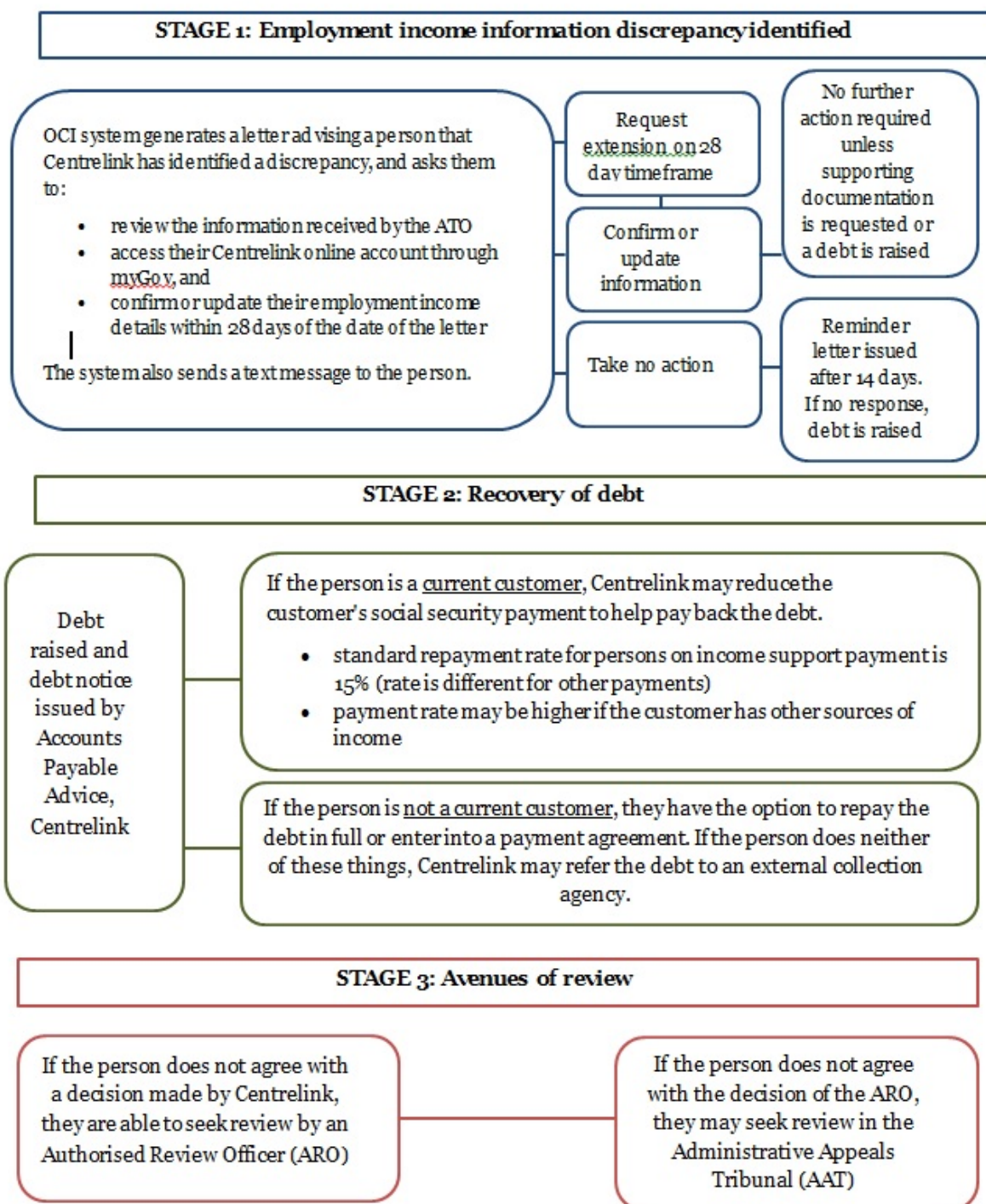
Figure 2.1 below summarises each stage of the process.

2.33 It is important to note that Stages 2 and 3 are not distinct stages, as alleged debtors are able to seek review of the debt amounts at any time through the process. Additionally, many alleged debtors first became aware of the purported income data discrepancy only after receiving an accounts payable letter, commonly referred to as a debt notice. This issue is discussed in greater detail in chapter 3. The recovery of the purported debt once a notice has been received and the avenues of review available will be explored further in chapters 4 and 5.



Figure 2.1: Stages of OCI system<sup>29</sup>

### How the OCI system works



29 Based on information from the following: Department of Human Services, *Owing Money*, <https://www.humanservices.gov.au/customer/enablers/owing-money> (accessed 6 June 2017).

### **Consultation**

2.34 A number of submitters raised concerns that the department had not adequately consulted with other government agencies and stakeholders prior to the commencement of the OCI system.

2.35 The Digital Transformation Agency (DTA) is responsible for leading the digital transformation of government services and advising government about digital service delivery and shared platforms.<sup>30</sup> Despite their role and experiences in digital transformation, the committee heard that the department did not consult with the DTA prior to the implementation of the OCI system. During the 2017 additional estimates, the DTA clarified:

[The Program Management Office of the DTA] were not previously involved in any of those particular projects that you have mentioned. The only thing I would add is that, while we were not involved in the Centrelink project, we did do some work in late January on the request of DHS to work with them on some short-term user design expertise to add to their team and to assist with the automated debt calculator project.<sup>31</sup>

2.36 The ATO also noted that it had not been consulted on the design or implementation of the system.<sup>32</sup> The department clarified that the ATO's role in providing income information for data-matching purposes had not changed under the OCI system and that the measure was the development of an online tool to seek clarification from recipients.<sup>33</sup> However, following the roll-out of the OCI system the department and the ATO discussed the OCI system during two teleconferences on 14 December 2016 and 7 February 2017.<sup>34</sup>

2.37 The Australian Council of Social Service (ACOSS) noted they were not consulted on the design of the OCI system and that had key experts in social security administration such as themselves, the National Social Security Rights Network (NSSRN) and Legal Aid groups been consulted prior to implementation, a number of flaws may have been prevented.<sup>35</sup> At a later hearing, ACOSS indicated 'there had not been a further meeting with the Minister in relation to the robo-debt program, including ACOSS and other stakeholders', despite ACOSS's clear articulation of the desire for engagement in the stakeholder process.<sup>36</sup>

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30 Digital Transformation Agency, 'What we do', <https://www.dta.gov.au/what-we-do/> (accessed 1 June 2017).

31 Ms Nerida O'Loughlin, Interim Chief Executive Officer, Digital Transformation Agency, *Committee Hansard*, Finance and Public Administration Legislation Committee, 27 February 2017, p. 135.

32 Mr Williams, *Committee Hansard*, 18 May 2017, p. 23.

33 Ms Golightly, *Committee Hansard*, 18 May 2017, p. 24.

34 Australian Taxation Office, Answers to questions on notice, 18 May 2017 (received 30 May 2017).

35 Australian Council of Social Service, *Submission 31*, p. 3.

36 Dr Goldie, *Committee Hansard*, 16 May 2017, p. 22.

2.38 The department provided evidence on 16 May 2017 indicating that they had not as yet had any discussions with stakeholders who raised concerns about the system, but that they would 'plan to have discussions... before we change the system structurally'.<sup>37</sup>

2.39 Similarly the CPSU described the increasing level of alarm and distress as the OCI system was rolled out and noted that neither departmental staff nor the union were consulted on the design of the system or its potential impact on staff.<sup>38</sup> One department staff member told the CPSU that:

The OCI program was rolled out without my team in Compliance ever having had the chance to look at it or understand the details - had we been consulted, we could have pointed out many problems (some of which have been addressed in later updates, months down the track).<sup>39</sup>

2.40 On 19 January 2017, the CPSU requested a briefing with the secretary of the department, Ms Kathryn Campbell CSC, in order to understand the operation of the OCI system and its potential impact on staff. At the committee's hearing on 8 March 2017, the CPSU advised that the request for a briefing had, to date, not been responded to.<sup>40</sup>

2.41 The concerns raised by submitters regarding a lack of consultation were echoed in the Ombudsman's report. The report noted that a lack of risk management and consultation contributed to the number of issues raised after the system was implemented:

In our view the risks could have been mitigated through better planning and risk management arrangements at the outset that involved customers and other external stakeholders in the design and testing phases.<sup>41</sup>

#### ***Committee view***

2.42 The committee notes concerns from a number of key stakeholders that they were not adequately consulted by the department concerning the implementation of the OCI system. The committee considers that it is important that stakeholders are widely consulted when system changes which alter established practices and have the potential to affect a large number of vulnerable people are being considered for implementation.

37 Mr McNamara, *Committee Hansard*, 16 May 2017, p. 41.

38 Ms Lisa Newman, Deputy National President, Community and Public Sector Union, *Committee Hansard*, 8 March 2017, p. 14.

39 Community and Public Sector Union, *Submission 65*, p. 20.

40 Ms Newman, *Committee Hansard*, 8 March 2017, p. 15.

41 Commonwealth Ombudsman, *Centrelink's automated debt raising and recovery system*, April 2017, p. 26, [http://www.ombudsman.gov.au/\\_data/assets/pdf\\_file/0022/43528/Report-Centrelinks-automated-debt-raising-and-recovery-system-April-2017.pdf](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).

## **Debt collection and privacy guidelines**

2.43 Debt collection of income support overpayments is not a new process for the department. Where an individual has a debt to the department for an overpayment, there are a range of debt recovery actions the department may take. For current income payment recipients, up to 15 per cent of their payments can be reduced until the debt is paid. For individuals who are no longer receiving payments, the department generally first seeks to contact the individual and negotiate a repayment plan. Where debts are not paid, the department contacts the ATO and seeks to recoup the debt from the next tax refund. At the same time, the department can also: add an interest charge to the debt; refer the debt to an external collection agency; recover the amount from wages, other income and assets, including money held in a bank account; refer the matter to solicitors for legal action, and issue a Departure Prohibition Order to stop debtors from travelling overseas.<sup>42</sup>

2.44 There are a range of laws, guidelines and voluntary codes relating to data-matching, privacy and debt collection, that are relevant to any data matching and debt collection undertaken by the department, including the OCI process. As discussed in greater detail below, many submitters and witnesses questioned whether the actions of the department and its contracted service providers are fully compliant with all relevant provisions restricting how programs such as the OCI can operate.

### ***Privacy Act 1988***

2.45 The *Privacy Act 1988* (Privacy Act) regulates how personal information is handled. Schedule 1 to the Privacy Act sets out the Australian Privacy Principles (APPs). The APPs apply to most Australian Government agencies and regulate how APP entities must collect, use, disclose and store personal information.

2.46 The APPs impose a number of obligations on entities, including:

- protection of a debtor's personal information, including the collection, use and disclosure of personal information; and
- maintenance of accurate, complete and up-to-date records.<sup>43</sup>

2.47 The department has a privacy policy which outlines the department's information handling practices in accordance with APP 1 of Schedule 1 to the Privacy Act. The department's privacy policy sets out its practices relating to collection, use, disclosure and storage of personal information, as well as its policy for handling requests to access or correct personal information.<sup>44</sup>

2.48 The Office of the Australian Information Commissioner (OAIC) identified a number of APPs which were relevant to the department's processes under the OCI

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42 Department of Human Services, *Owing Money*, <https://www.humanservices.gov.au/customer/enablers/owing-money> (accessed 18 June 2017).

43 *Privacy Act 1988*, sch. 1.

44 Department of Human Services, *Privacy Policy*, p. 4.

system and raised concerns that the department's activities were not meeting their obligations under the APPs.<sup>45</sup>

2.49 Specifically, the OAIC noted APP 10 which relates to the quality of personal information:

An APP entity must take reasonable steps to ensure the personal information it collects is accurate, up to date and complete. An entity must also take reasonable steps to ensure the personal information it uses or discloses is accurate, up to date, complete and relevant, having regard to the purpose of the use or disclosure.<sup>46</sup>

2.50 With regard to APP 10, the OAIC raised concerns about the practice of averaging annual income over the year, the use of automated data-matching which resulted in duplication of income, recipient's not receiving correspondence from the department and the department placing the onus on the individual to establish whether any of the ATO data used was not accurate.<sup>47</sup>

2.51 In addition, APP 13 requires an entity to take reasonable steps to correct personal information to ensure that it is accurate, up-to-date, complete, relevant and not misleading. APP 13 also requires that an entity must state in its privacy policy how an individual may make a request to correct information.<sup>48</sup>

2.52 The OAIC noted their concern at media reports which indicated that a number of individuals had experienced difficulties uploading evidence and correcting their data through the online platform. The OAIC also noted that while the department was able to draw individual's attention to a preferred method of correcting their information, they cannot require an individual to follow a particular procedure, and encouraged the department to ensure their processes were flexible and facilitative.<sup>49</sup>

2.53 The Australian Information Commissioner, Mr Timothy Pilgrim, advised the committee that in the 2017-18 financial year, the OAIC will be conducting an audit of the department's PAYG data-matching program and OCI system. The audit, which is initiated under section 33C of the Privacy Act, will focus on the quality and accuracy of personal information handling practices of the program, with specific references to APPs 109 and 13.<sup>50</sup>

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45 Office of the Australian Information Commissioner, *Submission 10*.

46 Office of the Australian Information Commissioner, *APP quick reference tool*, 12 March 2014, <https://www.oaic.gov.au/agencies-and-organisations/guides/app-quick-reference-tool#app-10-quality-of-personal-information> (accessed 13 June 2017).

47 Office of the Australian Information Commissioner, *Submission 10*, pp. 3–4.

48 Office of the Australian Information Commissioner, *Submission 10*, p. 5.

49 Office of the Australian Information Commissioner, *Submission 10*, p. 5.

50 Mr Timothy Pilgrim, Australian Information Commissioner and Australian Privacy Commissioner, Office of the Australian Information Commissioner, *Committee Hansard*, 18 May 2017, p. 2.



2.54 During the course of the inquiry, a number of witnesses and submitters raised concerns about the issue of privacy in relation to personal data held by the department and its public release in response to critical comments in the media by individuals. Witnesses cited the case of Ms Andie Fox, discussed in greater detail below, where the department provided personal data to the Minister, who subsequently released the information in response to an article Ms Fox wrote criticising the OCI program.<sup>51</sup>

***Case study: Ms Andie Fox***

2.55 Ms Andie Fox, an income support payment recipient, wrote an article critical of the OCI program after she began to receive calls from a debt collector.<sup>52</sup> The department subsequently released information to the Human Services Minister, the Hon. Alan Tudge MP, pertaining to Ms Fox's claims history with Centrelink, as well as details of her interactions with the department. The Minister then released the information to Fairfax Media and it was published in a separate article.<sup>53</sup>

2.56 The department stated the release of information was justified in order to correct the public record about inaccurate claims made by Ms Fox, and stated:

Unfounded allegations unnecessarily undermine confidence and takes staff effort away from dealing with other claims. We will continue to correct the record on such occasions.<sup>54</sup>

2.57 This case has garnered much media and public attention, with many submitters and witnesses to this inquiry expressing concerns around the breach of Ms Fox's privacy and concerns for the impact on broader public discourse. The Australian Privacy Foundation (APF) submitted this release of information was a clear breach of privacy:

Personal information should never be released to the media simply because an individual is criticising the Government. All citizens must be free to

51 This case was cited by many witnesses, including: Miss Kate Zizys, Branch Coordinator and Advice and Advocacy Volunteer, Australian Unemployed Workers Union, *Committee Hansard*, 11 April 2017, p. 42, Ms Katherine Lane, Immediate Past Chair, Australian Privacy Foundation, *Committee Hansard*, 19 April 2017, p. 27, Ms Kate Galloway, Assistant Professor of Law, Bond University and Melissa Castan, Senior Lecturer, Monash University *Submission 115*, pp. 5–6.

52 Ms Andie Fox, 'As a struggling single mother, Centrelink terrorised me over ex-partner's debt', *Fairfax Media*, 6 February 2017, <http://www.canberratimes.com.au/lifestyle/life-and-relationships/real-life/as-a-struggling-single-mother-centrelink-terrorised-me-over-expartners-debt-20170205-gu61nu.html>, (accessed 5 June 2017).

53 Mr Paul Malone, 'Centrelink is an easy target for complaints but there are two sides to every story', *Fairfax Media*, 26 February 2017, <http://www.smh.com.au/comment/centrelink-is-an-easy-target-for-complaints-but-there-are-two-sides-to-every-story-20170224-gukr4x.html> (accessed 5 June 2017).

54 Christopher Knaus and Paul Farrell, 'Centrelink recipient's data released by department to counter public criticism', *The Guardian*, 27 February 2017, <https://www.theguardian.com/australia-news/2017/feb/27/centrelink-recipients-data-released-by-department-to-counter-public-criticism> (accessed 5 June 2017).

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criticise the Government and not face an abuse of their privacy. The media is not a court and there is no 'record' to protect.<sup>55</sup>

2.58 Willing Older Workers submitted that many people in the community were concerned that they might be subjected to similar actions and stated 'We've been inundated by calls from people who are stressed because they heard the news about Human Services Minister Alan Tudge speaking to a reporter about Andie Fox.'<sup>56</sup>

2.59 The Victorian Council of Social Service agreed with this view, and told the committee of the impact this has had on the community by making individuals afraid to speak out:

The government has created a climate of fear that has silenced victims and critics. One woman who received a bogus debt notice would not let me talk about her experiences today, even when I explained to her that her name would not be used.<sup>57</sup>

2.60 A submission from legal academics has stated the release of information 'represents a breach of procedural fairness, in failing to recognise the power of government against the relative lack of power of the citizen. The rule of law is expressly designed to protect citizens against such an abuse of power.'<sup>58</sup>

2.61 Following the release of Ms Fox's information, the Hon Ms Linda Burney MP, Shadow Minister for Human Services, referred the matter to the Australian Federal Police (AFP) for investigation. In May 2017, the AFP released a statement noting, 'The AFP has conducted an evaluation into this matter and concluded that there was no breach of Commonwealth legislation.'<sup>59</sup>

2.62 The release of the information is currently under investigation by the Australian Privacy Commissioner.<sup>60</sup>

### ***Data matching laws and guidelines***

2.63 Prior to the OCI program, the department and the ATO conducted their data-matching activities using Tax File Numbers (TFNs).<sup>61</sup> The use of TFNs triggers a requirement to comply with the *Data-matching Program (Assistance and Tax) Act 1990* (Data-matching Act), which regulates the use of TFNs to compare personal information held by the ATO and an 'assistance agency', such as the department.<sup>62</sup>

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55 Australian Privacy Foundation, *Submission 106*, p. 5.

56 Willing Older Workers, *Submission 35*, p. 4.

57 Ms Emma King, Chief Executive Officer, Victorian Council of Social Service, *Committee Hansard*, 11 April 2017, p. 50.

58 Assistant Professor Galloway and Ms Castan, *Submission 115*, p. 6.

59 Mr Matthew Doran, 'AFP drops Alan Tudge investigation over Centrelink information leak', *ABC News*, 8 May 2017, <http://www.abc.net.au/news/2017-05-08/afp-drops-investigation-into-centrelink-information-leak/8507710> (accessed 13 June 2017).

60 Mr Pilgrim, *Committee Hansard*, 18 May 2017, p. 6.

61 Office of the Australian Information Commissioner, *Submission 108*, p. 3.

62 *Data-matching Program (Assistance and Tax) Act 1990*, s. 3.

Subsection 12(2) of the Data-matching Act gives the OAIC the power to issue legally binding rules relating to the matching of data under the Data-matching Act.

2.64 However, the department has chosen not to use TFNs under the OCI program. This has meant that, unlike previous data-matching processes, the OCI program is not legally bound by the provisions of the Data-matching Act.<sup>63</sup> Of particular note, while the Data-matching Act only allows for data-matching in relation to the previous four financial years, the decision not to use TFNs has allowed the department to data-match up to six years in the past<sup>64</sup>

2.65 The OAIC has issued non-binding voluntary data guidelines, which outline best practices in instances where the Data-matching Act does not apply.<sup>65</sup> The voluntary data-matching guidelines provide greater 'flexibility as to how data-matching activities may be conducted' and do not restrict the volume of data matching activity.<sup>66</sup> However, the voluntary guidelines do require that agencies develop a data-matching program protocol which is to be provided to the OAIC and is generally made publicly available:

Protocols must contain the information set out in the guidelines, this includes a description of the data to be provided and the methods to be used which will ensure the data is of sufficient quality and accuracy for use in the data-matching program. This reflects the principles contained in APP [Australian Privacy Principles] 10, which requires agencies to take reasonable steps to ensure that the information it uses or discloses, having regard to the purpose of the use or disclosure, is accurate, up-to-date, complete and relevant. A copy of the program should be provided to the OAIC and generally made publicly available<sup>67</sup>

2.66 The department's privacy policy states that '[it] prepare[s] a Program Protocol for each of our data matching programs, in accordance with guidelines issued by the [OAIC]'.<sup>68</sup> Although the protocol was available on the department's website at least by June 2017,<sup>69</sup> it appears this protocol was only made publicly available sometime after April 2017, well after the initial start of the OCI program. In its submission, Victoria Legal Aid outlines a previous unsuccessful attempt to seek a copy of the protocol from the department.<sup>70</sup>

2.67 The Australian Privacy Foundation has argued the OCI program has breached a number of Privacy Act provisions:

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63 Office of the Australian Information Commissioner, *Submission 108*, p. 3.

64 *Data-matching Program (Assistance and Tax) Act 1990*, s. 7.

65 '[Guidelines on Data Matching in Australian Government Administration](#)', 2014, p. 6.

66 Office of the Australian Information Commissioner, *Submission 108*, p. 3.

67 Office of the Australian Information Commissioner, *Submission 108*, p. 3.

68 Department of Human Services, [Privacy Policy](#), p. 10.

69 See: <https://www.humanservices.gov.au/corporate/publications-and-resources/centrelink-program-data-matching-activities> (accessed 1 June 2017).

70 Victoria Legal Aid, *Submission 111*, pp. 15–16.



The voluntary data-matching guidelines have pages and pages of principles in relation to what you are supposed to do before a data-matching exercise. I cannot see evidence that Centrelink did any of it—not one bit. They did not do a report, they did not communicate with the people who were affected. All these issues that simply were not done are set out in the Privacy Commissioner's submission. I can only come to the conclusion that they decided that, because they were voluntary, somehow they did not apply to them, even though [they] were issued by a government regulator and described as best practice.<sup>71</sup>

2.68 Echoing the evidence provided by other witnesses, the Australian Privacy Foundation made the recommendation that the non-binding voluntary data guidelines should be 'mandatory and subject to active compliance and enforcement action.'<sup>72</sup>

### ***Commonwealth consumer protection laws***

2.69 The *Competition and Consumer Act 2010* (CAC Act) provides protection for consumers in their dealings with creditors. Schedule 2 to the CAC Act sets out the Australian Consumer Law (ACL), which is enforced by the Australian Competition and Consumer Commission (ACCC). The *Australian Securities and Investments Commission Act 2001* (ASIC Act) contains similar consumer protection provisions to the CAC Act and is enforced by the Australian Securities and Investment Commission (ASIC).

2.70 Commonwealth consumer protection laws impose certain obligations and prohibitions on creditors, including prohibitions on:

- the use of physical force, undue harassment and coercion;<sup>73</sup>
- misleading or deceptive conduct<sup>74</sup>; and
- unconscionable conduct.<sup>75</sup>

2.71 The ACL applies to Commonwealth government agencies, to the extent that they can be said to be 'carrying on a business'.<sup>76</sup>

### ***Debt collection guidelines***

2.72 The ACCC and the ASIC joint guideline entitled 'Debt collection guideline: for collectors and creditors' (collection guidelines) sets out the laws and regulations

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71 Ms Lane, *Committee Hansard*, 19 April 2017, p. 26.

72 Ms Lane, *Committee Hansard*, 19 April 2017, p. 25.

73 *Competition and Consumer Act 2010*, sch. 2, s. 50; and *Australian Securities and Investments Commission Act 2001*, s. 12DJ.

74 *Competition and Consumer Act 2010*, sch. 2, s. 18; *Australian Securities and Investments Commission Act 2001*, s. 12DA(1).

75 *Competition and Consumer Act 2010*, sch. 2, ss. 20, 21 and 22; *Australian Securities and Investments Commission Act 2001*, ss. 12CA, 12CB and 12CC.

76 *Competition and Consumer Act 2010*, s. 2A.

applicable to debt collection practices in Australia.<sup>77</sup> The ACCC and ASIC are the agencies responsible for regulating and enforcing Commonwealth consumer protection laws, including laws relevant to debt collection.<sup>78</sup> The collection guidelines assist creditors, collectors and debtors to understand their rights and obligations.

2.73 The collection guidelines set out best practice recommendations for creditors when dealing with debtors, including initial contact, hours of contact, frequency and location of contact, and obligations to protect a debtor's personal information.<sup>79</sup> The collection guidelines also recommend maintenance of accurate and up-to-date records of correspondence with debtors, and provision of information and documents to debtors where requested.<sup>80</sup> Further, the collection guidelines state that if a debt liability is disputed, collection should be suspended.<sup>81</sup>

2.74 The collection guidelines are not legally enforceable, but their adoption is encouraged by the ACCC and ASIC to ensure that creditors' collection activities are compliant with Commonwealth consumer protection laws.<sup>82</sup> The collection guidelines apply to government bodies in so far as they are engaged in trade and commerce.<sup>83</sup>

2.75 Mr David Tennant, Chief Executive Officer of FamilyCare and former consultant with Care Inc. Financial Counselling Service and the Consumer Law Centre of the ACT in Canberra, submitted that the collection guidelines do not apply to Centrelink's debt collection process, as it is not considered to be a business practice:

Centrelink is not however required to comply with the Australian Consumer Law and the debt collection guideline only applies to government bodies engaged in business activities. In other words Centrelink is not bound by the rules that apply to every consumer creditor and collection body in Australia – even the much maligned banks.<sup>84</sup>

2.76 Mr Tennant submitted that Centrelink could opt to be bound by the collection guidelines by adopting them into its service standards or operating procedures.<sup>85</sup>

2.77 The Australian Privacy Foundation also submitted that the debt collection guidelines do not 'apply to the Government or any debt collectors used by the Government'.<sup>86</sup>

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77 Australian Competition and Consumer Commission (ACCC) and the Australian Securities and Investment Commission (ASIC), *Debt collection guideline for collectors & creditors*, 2016, p. 1, <https://www.accc.gov.au/publications/debt-collection-guideline-for-collectors-creditors> (accessed 28 February 2017).

78 *Debt collection guideline for collectors & creditors*, 2016, p. 1.

79 *Debt collection guideline for collectors & creditors*, 2016, pp. 1–6.

80 *Debt collection guideline for collectors & creditors*, 2005, pp. 23–25.

81 *Debt collection guideline for collectors & creditors*, 2005, pp. 27–28.

82 *Debt collection guideline for collectors & creditors*, 2016, pp. 1, 3.

83 *Debt collection guideline for collectors & creditors*, 2016, pp. 5, 61.

84 FamilyCare, *Submission 4*, p.3. See also '[Centrelink outside the law on robo-debt recovery](#)', *The Canberra Times*, 28 February 2017.

85 FamilyCare, *Submission 4*, p.3.

2.78 However, the department told the committee that the private debt collection agencies which the department engages are required under contract to comply with the debt collection guidelines:

The external debt collectors are required to meet all of the guidelines, policies and requirements that are set out by the ACCC. That is part of their contract.<sup>87</sup>

2.79 The department further commented that it monitors the compliance of its external collection agencies with the guidelines, noting that:

We also have very good guidelines in the contracts about reasonable hours of contact and reasonable amounts of contact within a certain period.<sup>88</sup>

2.80 The two debt collection agencies with operational contracts to undertake debt collection activities on behalf of the department, Dun and Bradstreet and Probe Group, provided evidence to the inquiry on their operations and compliance with relevant laws and guidelines.

2.81 Dun and Bradstreet outlined that their staff are trained as to obligations under the ACCC and ASIC guidelines, such as limiting communications with individuals to a maximum of three per week or 10 per month.<sup>89</sup> Dun and Bradstreet further outlined that as members, they also comply with the guidelines of the Australian Association of Debt Collectors.<sup>90</sup> The company acknowledged that although they complied with debt collection guidelines once a purported debt had been referred to them, whether or not the actual debt itself was raised in accordance with relevant laws and guidelines was 'a matter for the department'.<sup>91</sup>

2.82 Probe Group confirmed that relevant debt collection laws and guidelines were built into the contract it holds with the department.<sup>92</sup> Furthermore, Probe Group's Chief Operating Officer provided evidence to the committee that the debt collection sector saw taking a contract with the department as providing premium status to contract holders because:

...[u]sually the Commonwealth has the highest standards in terms of compliance and information security, technology and physical security. In terms of industry standing, it is quite significant.<sup>93</sup>

86 Australian Privacy Foundation, *Submission 106*, p. 4.

87 Ms Golightly, *Committee Hansard*, 8 March 2017, p. 37.

88 Ms Golightly, *Committee Hansard*, 8 March 2017, p. 37.

89 Mr Simon Bligh, Chief Executive Officer, Dun and Bradstreet, *Committee Hansard*, 26 April 2017, p. 34.

90 Mr Bligh, *Committee Hansard*, 26 April 2017, p. 35.

91 Mr Bligh, *Committee Hansard*, 26 April 2017, p. 35.

92 Mr Jarrod Kagan, Chief Operating Officer, Probe Group, *Committee Hansard*, 19 April 2017, p. 20.

93 Mr Kagan, *Committee Hansard*, 19 April 2017, p. 14.

**Committee view**

2.83 The committee acknowledges concerns raised by some submitters that the department is not bound by debt collection guidelines issued by the ACCC and ASIC. The committee notes the department's comments that it is a requirement of its contract with the external debt collection agencies it engages that they comply with the collection guidelines. The committee also notes that the department regularly monitors compliance of its external collectors with the collection guidelines.

2.84 However as will be noted further in the report the committee did receive evidence of people being contacted in circumstances that appear to be contrary to the guidelines.

**Error rates**

2.85 The OCI system's use of data-matching has required current and former recipients of Centrelink payments to re-report their fortnightly income in order for Centrelink to re-apply the income test and re-calculate whether they were paid the correct Centrelink payment. Furthermore, as employers are not required to provide period of employment or fortnightly income information, only an annual figure for a financial year, many people who correctly reported their fortnightly income information in the past were subject to this process.

2.86 Submitters and witnesses informed the committee that where a discrepancy or purported debt was identified and later resolved, this was often due to the OCI system making assumptions about their income and incorrect information was therefore included in Centrelink's calculation. These assumptions include:

- income averaged over 26 fortnights in equal portions when the income was earned in a shorter time period;
- difference in employer's name (for example, where a business name is provided to Centrelink and the ATO record includes company name) which resulted in the same income being duplicated; and
- non-assessable income considered assessable income such as a lump sum termination payment, paid parental leave and meal, laundry and uniform allowances.<sup>94</sup>

2.87 While the department's calculations may have been mathematically correct, the inclusion of these assumptions has resulted in debt calculations which were not based on accurate information and therefore have become known as errors.

2.88 In approximately 20 per cent of cases where an individual has received an initial letter identifying a discrepancy between the ATO and Centrelink information,

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94 See, for example: Assistant Professor Galloway and Ms Castan, *Submission 115*, [p. 3]; National Social Security Rights Network, *Submission 107*, p. 9; Ms Newman, Community and Public Sector Union, *Committee Hansard*, 8 March 2017, p. 17; Christopher Knaus, 'Centrelink staff told not to fix mistakes in debt notices – whistleblower' *The Guardian*, 19 January 2017, <https://www.theguardian.com/australia-news/2017/jan/19/centrelink-staff-told-not-to-fix-mistakes-in-debt-notices-whistleblower> (accessed 31 May 2017).

the individual has been able to provide clarifying information and this has resulted in no debt being owed.<sup>95</sup>

2.89 The media and submitters have generally referred to this as an error rate of 20 per cent, however, the department disputes the characterisation of these instances as 'errors' or 'inaccurate'.<sup>96</sup> The department released a statement emphasising that:

Commentary on the department's online compliance system continues to incorrectly say 20 per cent of letters are being issued in error. This is misleading and a misrepresentation of the process.

Initial notices request information to explain differences in earned income between the Australian Taxation Office and Centrelink records. These result in a debt in 80 per cent of cases. The remaining 20 per cent are instances where people have explained the difference and don't owe any money following assessment of this updated information.

This is how the system is designed to work, in line with the legal requirements of welfare recipients to report all changes in circumstances and the department's obligation to protect government outlays.<sup>97</sup>

2.90 The secretary of the department also explained that the department does not believe that initial clarification letters have been sent in error:

When there is a difference between the two sets of information, we ask the recipient or the former recipient to clarify. On 20 per cent of occasions, they were able to clarify something in it. It may have been dates. It may be that the information held by the tax office said that they had worked an entire year when in fact they had only worked two months. When we had that clarification, we were able to identify that was the end of the matter, and nothing further went on. I do not consider that that makes the initial letter wrong.<sup>98</sup>

2.91 However, the Victorian Council of Social Service raised concerns that the error rate may actually be greater than 20 per cent of cases, commenting that:

Given the scale of the program and the issues that are set out in the Ombudsman's report, I think it is reasonable to assume others have no debt but have not been able to provide an explanation. From the Ombudsman's report, DHS cannot say how many more debts might be over calculated and by what margin.<sup>99</sup>

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95 Ms Kathryn Campbell CSC, Secretary, Department of Human Services, *Committee Hansard*, 8 March 2017, p. 35.

96 Ms Campbell, *Committee Hansard*, 8 March 2017, p. 35.

97 Mr Hank Jongen, General Manager, Department of Human Services, 'Misleading claims about online compliance system', *Media release*, 16 January 2017, <http://mediahub.humanservices.gov.au/media/misleading-claims-online-compliance-system/> (accessed 18 June 2017).

98 Ms Campbell, *Committee Hansard*, 8 March 2017, p. 39.

99 Ms King, *Committee Hansard*, 11 April 2017, p. 51.

2.92 ACOSS concurred, pointing out that while it is known that in 20 per cent of cases an individual can explain the discrepancy and does not owe a debt, the circumstances of the remaining 80 per cent of cases is not known. ACOSS told the committee that:

Using the government's own figures, we know at least 20 per cent of these so-called discrepancy notices, generated automatically, are in fact incorrect. What we do not know is how many more have been sent in error. We do not know how many have been sent that have alleged debts that do not in fact exist. We do not believe we know how many debts have been pursued that were higher than what was actually owed. We certainly do not know how many people have entered into agreements to repay debts that they did not owe, or certainly a level of debt that they did not owe. And we do not know in how many cases people have entered into debt repayment arrangements that they simply cannot afford.<sup>100</sup>

2.93 ACOSS attributes this to concerns that the OCI system has created a climate of fear where recipients of letters feel they cannot challenge the information provided by the department or risk losing the financial safety net which the department provides.<sup>101</sup> There have also been accounts of debt notice recipients simply paying the purported debt amount without investigating the circumstances of the purported debt due to other challenges in their life such as unstable employment or a lack of time to consult the department.<sup>102</sup>

### ***Consequences of averaging***

2.94 The committee received evidence that the averaging of annual income under the OCI program has in some instances led to inaccurate calculations of debt.

2.95 The department advised that annual income provided by the ATO is averaged over 26 fortnights when:

- a recipient reports equal earnings across a period;
- a recipient accepts the averaging of their earnings equally across the period;
- a recipient chooses to accept the dates provided by the ATO and does not provide a further detailed breakdown; or
- no other information is provided by the recipient.<sup>103</sup>

2.96 In many circumstances a purported debt has been raised for a current or former recipient due to averaging annual income over a 26 fortnight period. The National Social Security Rights Network (NSSRN) noted that averaging 'may result in

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100 Dr Goldie, *Committee Hansard*, 8 March 2017, pp. 1-2.

101 Dr Goldie, *Committee Hansard*, 8 March 2017, p. 6.

102 Mr Craig Wallace, Advocacy Manager, Australian Capital Territory Council of Social Service, *Committee Hansard*, 8 March 2017, p. 6.

103 Department of Human Services, *Submission 66*, p. 9.

factual error if a person's fortnightly income was not stable across the period of employment recorded by the ATO.<sup>104</sup>

2.97 Due to the application of the income test, averaging income is particularly problematic for recipients who have inconsistent working hours or who have received Centrelink payments 'on-and-off' throughout a year as averaging their annual income over 26 fortnights will not reflect the 'peaks and troughs' of the recipient's income throughout the year.

2.98 The Welfare Rights and Advocacy Service provided the following example:

Pretend it is \$500 as the cut-off for Newstart for this fortnight. If I earn \$5,000 in this fortnight, I am cut off for Newstart. It does not matter whether I earn the \$500 that is the cut-off or anything above. In the next two fortnights, I might have no income, so I have got an entitlement to Newstart for two fortnights. If you average my \$5,000 across those three fortnights, I have got a debt for the two fortnights.<sup>105</sup>

2.99 The ACT Council of Social Services outlined their concerns with the operation of the OCI system and its inability to accommodate the circumstances of Centrelink's clients:

One of the concerns we have about the regime is that it does not recognise the labour market in which people are trying to work and comply with their Centrelink requirements, which is a market in which people get bits and pieces of work; work irregular hours and often spend periods of time across a financial year out of the workforce. This leads to it being way more complicated and extremely onerous to comply with a Centrelink system that assumes that people either have or do not have a job across a financial year.<sup>106</sup>

2.100 The University of Adelaide's Student Representative Council explained that in particular the OCI system does not account for the intermittent nature of student's work and study commitments throughout a year. For example:

Students might be studying and receive Centrelink benefits such as youth allowance, and then in the same financial year drop their studies and work full time, temporarily foregoing their benefits. The automated system averages ATO data over 26 periods in a year which means if students were to work full time at parts of the year when they are not receiving benefits, their income is averaged and false debt notices are issued when students were rightfully receiving those benefits at the time.

The automated debt collection system is not equipped to address the often sporadic work and study nature of students, contradicting the purpose of

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104 National Social Security Rights Network, *Submission 107*, p. 9.

105 Ms Catherine Eagle, Principal Solicitor, Welfare Rights and Advocacy Service, *Committee Hansard*, 21 April 2017, p. 29.

106 Ms Susan Helyar, Director, Australian Capital Territory Council of Social Service, *Committee Hansard*, 8 March 2017, p. 4.

Centrelink by creating additional stress and anxiety for students than supporting them through their period of studies.<sup>107</sup>

2.101 ACOSS highlighted that the consequences of averaging annual income over 26 fortnights may result in an incorrect purported debt being raised:

Where someone does not enter that fortnightly income through the online portal, it will automatically average that income over the 26 fortnights and subsequently result in a debt that may be incorrect or, indeed, higher than what is actually owed. Previously, Centrelink would investigate data matches between Centrelink and the ATO to be (a) certain that a debt existed and (b) sure about the level of that overpayment if it did indeed exist. Now the responsibility lies with the person targeted, and we believe that is fundamentally unfair.<sup>108</sup>

#### ***Committee view***

2.102 The committee notes concerns expressed by submitters that the averaging of annual employment income information into fortnightly data has in some instances resulted in incorrect calculations of debt, especially where a recipient's income was intermittently earned over a 12 month period.

2.103 The committee considers that it is important that calculation of debts is based on complete and accurate information, and that the fluctuations in recipient's income, particularly if they are employed on a casual or part-time basis, should be closely reviewed before issuing a debt notice.

#### **Individuals' experience**

2.104 In order to avoid income averaging, the OCI system requires recipients to confirm their fortnightly income information in the online portal in order for Centrelink to re-apply the income test and re-calculate their Centrelink payment, often dating back over a number of years. This has placed a significant burden on individuals who have spent hours finding old bank statements and payslips for each fortnight, in conjunction with difficulties using the online portal.<sup>109</sup>

2.105 As the provider of social security in Australia, the department holds a position of power in its recipients' minds, and the power imbalance this creates cannot be underestimated when considering individuals' reactions to the OCI system.<sup>110</sup>

2.106 The committee heard that some individuals were not confident enough to correct the information provided by Centrelink or challenge the purported debt

107 University of Adelaide Student Representative Council, *Submission 127*, p. 4.

108 Ms Charmaine Crowe, Senior Policy and Advocacy Officer, Australian Council of Social Service, *Committee Hansard*, 8 March 2017, p. 3.

109 See, for example: Phoebe, *Committee Hansard*, 19 April 2017, p. 66; Andrej, *Committee Hansard*, 16 May 2017, p. 56; Ian, *Committee Hansard*, 26 April 2017, p. 58.

110 Dr Goldie, *Committee Hansard*, 8 March 2017, p. 6.



calculated by Centrelink, as well as instances where people were simply overwhelmed by the possibility of repaying thousands of dollars.<sup>111</sup>

2.107 Queensland Advocacy Incorporated submitted a case study outlining the experience of one of their clients. The client first noticed a problem with their Centrelink payments when \$86 was deducted from their Newstart allowance three fortnights in a row. The client attempted to phone Centrelink 5 or 6 times but found the phone line was engaged each time. Following this the client visited their local Centrelink office in person. The Centrelink officer found that the client had not been sent a letter requesting further information, or notifying them a purported debt had been raised and referred the client to contact the 'Compliance' area by phone.<sup>112</sup>

The officer I spoke to explained: 'our software presumes that income is distributed evenly over 26 fortnights per annum. It operates on the presumption that people are working permanently part-time or full-time, but it has no provision for casual work.' The officer explained that I had to contact my previous employers to get pay slips, and I explained that I had only one. The software had presumed (because of inadequate free character spaces in the Field for 'Employer') that I had two sources of income, instead of one only.<sup>113</sup>

2.108 This individual's experience is representative of many personal accounts the committee heard at public hearings and received via email. The committee often heard that individuals had not received letters from Centrelink, that their calls to Centrelink went unanswered, or they spent hours on hold. When individuals have managed to speak to someone, a Centrelink officer was able to identify the issue such as averaging or out of scope income being included in the calculation of assessable income yet individuals were still directed to the online portal.

2.109 In Brisbane, the committee heard from Michael whose income was averaged over 26 fortnights, resulting in advice that he owed \$3000. Following a review, Michael's purported debt was reduced to \$50. Michael explained the evident problem with averaging his income:

**Michael:** When I clicked open the letter I clicked the link and it gave me the option. I knew it was going to happen before I clicked, because I had heard about it happening to people. It said \$26,000. I checked my records and it was accurate. I believe it was maybe a couple of dollars different and that is what triggers the process, as I understand it. But it was within a dollar or two so I went, 'Well it is within a dollar or two. Sure. Why not?'

**CHAIR:** Of what you put on your tax return?

**Michael:** It was my records of what I had declared to Centrelink versus the ATO: it was within a couple of dollars and so I had no problem in saying, 'Correct.' Instantly my phone beeped and the initial decision had been made

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111 Dr Goldie, *Committee Hansard*, 8 March 2017, p. 6.

112 Queensland Advocacy Incorporated, *Submission 79*, p. 8.

113 Queensland Advocacy Incorporated, *Submission 79*, p. 8.

instantly, within 10 seconds. So I went back onto the website and it gave me the report of how it had made the finding. It was \$1,000, \$1,000, \$1,000 for each fortnight and so it was instantly obvious. I was only on Centrelink for nine payments, over three months. Each payment said: 'You declared this much income'—but, according to information you have just gave to the government by clicking yes, the government suggested that I had asserted that I had made a salary of \$1,000 every fortnight for the whole year. So for me, seeing \$1,000, \$1,000, \$1,000, it was obvious. Just to beat a dead horse: 10 seconds of staff time would have been enough—10 seconds.<sup>114</sup>

2.110 The committee repeatedly heard from individuals that the OCI system had caused them feelings of anxiety, fear and humiliation and dealing with the system had been an incredibly stressful period of their lives. Individuals had spent hours finding the required pay slips and bank statements, some dating back to 2010-11, often for Centrelink to find that no debt was owed.

2.111 At its hearing in Sydney, the committee heard from Phoebe who was one of the first recipients of a clarification letter in October 2016. Phoebe had been told she owed Centrelink \$14 576 due to payments made as far back as 2010 and had spent many months challenging the purported debt, which had taken a significant emotional toll:

I would estimate that I have spent probably 100 hours, if not more, gathering payslips from multiple employers; learning my rights about debt collectors, and what debt collectors can and cannot threaten; and learning my legal rights surrounding inaccurate welfare debts. I have spent hours on the phone to Centrelink, with many calls going unanswered and cut off midway. This process has resulted in emotional and physical stress, and increased sick leave from work.

I feel that these robo-[debts] are targeting the wrong people, those who honestly and diligently reported believing all they were doing was right. I am now a healthcare worker and every day give back to the community yet to now be labelled as a welfare fraud could impact my future and my career. My trust in the system is definitely shaken.<sup>115</sup>

2.112 The impact of Phoebe's experience on her trust for Centrelink was echoed by Ewan in Melbourne:

But the threat to financial security that this process creates for anyone involved in the welfare system is absolutely terrifying. It is the greatest threat you can have when you have known what it is like to not have a home. It does not treat people with the dignity they deserve, and the concern I have is how many people do not want to even touch the system now. It is so poorly tainted by the fear that if you get caught up in any of the welfare system the government could actually come after you in years to come. It is not just a problem for people now; it is a problem for an entire

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114 Michael, *Committee Hansard*, 16 May 2017, pp. 57–58.

115 Phoebe, *Committee Hansard*, 19 April 2017, p. 66.

generation of people, who might not want to go into the system to get the help they need when they need it.<sup>116</sup>

2.113 These individuals' accounts represent only a small proportion of people affected by the OCI system and of those who told the committee their experience. The personal accounts which the committee heard were instrumental to understanding how purported debts had been calculated and the consequences of the OCI system. Individual's interactions with the department and the online portal are discussed further in Chapter 3.

#### ***Committee view***

2.114 The committee notes concerns expressed by several submitters regarding the difficulty and distress many recipients have experienced attempting to access payslips and bank statements, in some instances dating back over 5 years, in order to verify their employment income information. The committee considers that it is important recipients are supported throughout the process of verifying a purported debt, and that they are given adequate information as to how their purported debt has been calculated.

#### **Communication process**

2.115 As outlined above, the responsibility to verify income information has placed a significant burden on current and former Centrelink recipients. The challenges individuals have faced in providing the required information and understanding how a purported debt was calculated has been compounded by the difficulties individuals faced communicating with Centrelink.

2.116 The committee heard that individuals had experienced great difficulty in receiving information from the department about how their purported debts were calculated. The Welfare Rights Centre of South Australia explained that often their requests for information to understand their client's purported debt were met with the response 'We cannot provide you with any information. You have to resolve this through the online process.'<sup>117</sup>

2.117 Victorian Legal Aid considers that the data-matching process and the way in which discrepancies and purported debts are identified lacks transparency.<sup>118</sup> Victorian Legal Aid advised that the lack of information surrounding the process has had a significant impact on the resources of legal service providers who are unable to understand how their client's purported debt has been raised and have resorted to Freedom of Information (FOI) requests in an attempt to gather information relating to their client's purported debt.<sup>119</sup>

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116 Ewan, *Committee Hansard*, 11 April 2017, p. 58.

117 Mr Mark Leahy, Manager, Welfare Rights Centre, South Australia, Inc., *Committee Hansard*, 10 April 2017, p. 36.

118 Victorian Legal Aid, *Submission 111*, p. 15.

119 Victorian Legal Aid, *Submission 111*, p. 15.

2.118 Individuals have also resorted to FOI requests to understand their purported debts, however, as Geoff explained to the committee in Melbourne, the thick wad of papers he received through FOI was total 'gibberish' and the income numbers did not make sense or appear to correlate.<sup>120</sup> In another instance an individual was provided with their complete 600 page file in order to assess how their purported debt was calculated.<sup>121</sup>

2.119 The challenges people encountered communicating with Centrelink will be explored further in Chapter 3.

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120 Geoff, *Committee Hansard*, 11 April 2017, p. 60.

121 Ms Lyndsey Jackson, Coordinator, #NotMyDebt, *Committee Hansard*, 10 April 2017, p. 45.

## Chapter 3

### Communicating with Centrelink

I sat with my daughter—and I have worked for the public sector for many years—and attempted to go through the questions which were in this form with her. Some of the questions were nonsensical. I had no idea what was being asked. You cannot progress unless you answer the question, so people are making a guess. They are putting in whatever information in order to get the form completed. They do not understand.<sup>1</sup>

#### Power imbalance

3.1 Throughout this inquiry, the committee heard wide-ranging evidence regarding the difficulty individuals and organisations faced in communicating with the Department of Human Services (department) to discuss online compliance intervention (OCI) related debt matters. Communication problems included letters not being received, trouble contacting the department via phone, difficulty in receiving intelligible income data used to calculate purported debts, hard to navigate online communication portals, difficult to understand correspondence and a lack of material translated into other languages. These were all listed as individual barriers to effective communication between the public and the department.

3.2 However, a number of organisations raised a separate critical issue that acts as a barrier to all forms of communication – that there is a significant power imbalance between income payment recipients and the department, and communication therefore does not take place on a level playing field.

When confronted with a large public entity like Centrelink, many people feel that they simply must comply with the requests and that they have a limited capacity to advocate for themselves and limited confidence in the system's willingness to interact with them. I think this has been exacerbated by the loss of human oversight of these processes.<sup>2</sup>

3.3 In discussing the impacts of this power imbalance, where individuals tend to assume 'the department is right', organisations pointed to a number of adverse outcomes for individuals, such as people paying purported debt notices without question and people accepting pre-filled income data that averages their income without checking it for accuracy, leading to incorrect debt calculations. The evidence presented to the inquiry points to a tendency among individuals to assume the department is correct, and when a person does see an error, they feel they do not have the power to change it.

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1 Sally, *Committee Hansard*, 16 May 2017, p. 57.

2 Professor Karen Healy, National President, Australian Association of Social Workers, *Committee Hansard*, 18 May 2017, p. 17.

A lot of people get one of the letters and assume that the debt is correct, so they go into an agency and say: 'I've got this Centrelink debt and I can't afford it. What can I do?' That is when the agency says: 'Maybe you better actually check to see whether the debt's correct. Go to the Welfare Rights Centre.'<sup>3</sup>

3.4 The Australian Council of Social Service (ACOSS) cited communication at the commencement of the program as having created a climate of fear among debt letter recipients:

We also know that, because of the communications from the responsible minister in the lead-up to this program being unleashed, there has been a perception created that if you do not comply you may go to jail.<sup>4</sup>

3.5 The Queensland Council of Social Service put forward the view that in order to achieve procedural fairness in the OCI process, government is responsible for ensuring that communication is clear and effective:

The government has a responsibility to provide clear and comprehensive information to individuals affected. The government has a responsibility to ensure that there is sufficient support for clients affected. The government has a responsibility to provide a number of channels of support: digital, phone or face-to-face. The government also has a responsibility to provide a myGov website that is easy to access and navigate.<sup>5</sup>

3.6 As discussed in Chapter 2, evidence from multiple submitters also points to the shift in the onus of communicating. Where the department previously checked income discrepancies, by communicating directly with employers, under the new OCI system, the onus for seeking that information and communicating it to the department in a highly proscribed form is now the responsibility of the income payment recipient:

In the past, DHS would investigate these discrepancies and would seek to obtain sufficient information from the person or employer to enable an accurate assessment to be made. Under the new process, DHS does not seek to obtain sufficient information to enable an accurate debt assessment to be made. It is instead used as the online platform, which is an automated

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3 Mr Mark Leahy, Manager, Welfare Rights Centre South Australia Inc., *Committee Hansard*, 10 April 2017, p. 38.

4 Dr Cassandra Goldie, Chief Executive Officer, Australian Council of Social Service, *Committee Hansard*, 8 March 2017, p. 2.

5 Mr Mark Henley, Chief Executive Officer, Queensland Council of Social Service, *Committee Hansard*, 18 May 2017, p. 10.

system that makes a debt assessment based on the data match information alone if the person does not provide further information for any reason.<sup>6</sup>

3.7 The outcome of this communication with the department is critical for individuals – if they get it wrong they could incur a debt they do not owe. This chapter will review the various challenges people find in communicating with Centrelink, and the impact that challenges have specifically on their purported debt matters and more broadly on their lives.

## Initial letters

3.8 Chapter 2 provided a breakdown of the OCI process, whereby the first stage is the data-matching process itself, and where a possible reported income discrepancy is found, an initial letter is sent to the individual asking for clarification around that income discrepancy.

3.9 The department provided evidence around this first stage of communicating with people who may have an income discrepancy. Firstly, the department explained that initial contact was not a 'debt notice.'<sup>7</sup> Instead, the department referred to this step as a 'request for clarification':

We match data with the tax office to see if there is a difference between the information the ATO has about employment and the information the recipient has told us. If there is a difference, we do not make an assumption about whether that is a debt or there is no debt; we simply ask the person to clarify the difference and provide either confirming information or updated information.<sup>8</sup>

3.10 However, the National Social Security Rights Network expressed concern that, as individuals tend to assume the department is correct, the wording of the letter itself could lead individuals to not provide detailed and accurate information:

The very first version of the letter said, 'Go online to confirm your ATO information.' 'Confirm' is an extremely confusing word to use because generally the ATO information is correct... A number of people simply went online and all they did was confirm it and then averaging resulted or

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6 Ms Genevieve Bolton, Chairperson, National Social Security Rights Network, *Committee Hansard*, 19 April 2017, p. 10.

7 The first letter sent to income payment recipients is a letter seeking clarification of income if a possible income reporting discrepancy has been found. Once an income sum is agreed to, or a person does not provide supporting evidence of income within the deadline period, a purported debt estimate is generated and formal debt notice is sent. In the case where a person has not responded to the letter seeking clarification, the income is averaged on an annualised basis in order to estimate the debt amount, and a formal debt notice is sent to the individual.

8 Ms Malisa Golightly, Deputy Secretary, Integrity and Information Group, Department of Human Services, *Committee Hansard*, 18 May 2017, p. 21.

they did not go online because, understandably, they said, 'It's correct. I probably don't need to worry about this.'<sup>9</sup>

3.11 People with Disability Australia were also critical of the confusing nature of the initiating letters from the department, stating that 'We raised concerns with the Ombudsman early on that the initial letter sent to welfare recipients failed to include crucial information and provided information that confused and frustrated some of the people who contacted us.'<sup>10</sup>

3.12 One individual who received a letter, Michael, pointed out that the subject line of the letter itself does not encourage people to open the communication, because the letter 'is marked "general" in the inbox. It is not labelled "urgent", "please respond", or "information needed". It is labelled "general". I think that seems foolish.'<sup>11</sup>

3.13 The Welfare Rights Centre, South Australia pointed to the difficulties individuals had in responding to the letters because the person may 'lack the internet literacy to adequately respond to the letters and some letters are never received as the customer has moved.'<sup>12</sup> These two issues are discussed in detail below.

3.14 The Council on the Ageing Tasmania pointed out that beyond internet literacy, general literacy levels are also a barrier to some people responding.<sup>13</sup> General and internet literacy is discussed in greater detail in the later section on communication barriers.

### ***Incorrect addresses***

3.15 The inquiry received evidence from a range of organisations relating to the apparent lack of updated contact details held by Centrelink, which resulted in many individuals not receiving the initial 'clarification' letters.<sup>14</sup> ACOSS estimated that this

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9 Mr Matthew Butt, Executive Officer, National Social Security Rights Network, *Committee Hansard*, 19 April 2017, pp. 42–43.

10 Mr Dean Price, People with Disability Australia, *Committee Hansard*, 19 April 2017, p. 2.

11 Michael, *Committee Hansard*, 16 May 2017, p. 57.

12 Mr Leahy, *Committee Hansard*, 10 April 2017, p. 33.

13 Mrs Susan Leitch, Chief Executive Officer, Council on the Ageing Tasmania, *Committee Hansard*, 26 April 2017, p. 6.

14 Dr Goldie, *Committee Hansard*, 8 March 2017, p. 2. See for example Welfare Rights Centre, South Australia, Inc., *Committee Hansard*, 10 April 2017, p. 33, Victor Olenych, *Submission 9*, p. 4, Fair Go for Pensioners, *Submission 32*, p. 3, Mount Druitt Ethnic Communities Agency, *Submission 34*, p. 3, Office of the Australian Information Commissioner, *Submission 108*, p. 4, Gerard McPhee, *Submission 114*, p. 5, Elizabeth Stary, *Submission 141*, p. 1.



resulted in over 6 500 people hearing about their purported debt from a debt collector rather than from Centrelink.<sup>15</sup>

3.16 The department discussed this problem at the second Canberra hearing, and outlined changes it made to the distribution of postal letters. The department initially used the 'last known address' to post letters. Around 5 000 people did not receive initial letters as the 'last known address' was not up to date.<sup>16</sup> The department said it now sends letters via registered post and that, after an initial settling in period, 'the registered post system is more mature and we are able to reach that 10 000 mark' of letters being delivered each week.<sup>17</sup> The department also acknowledged that in some cases, lack of up to date details meant that letters were sent to deceased people.<sup>18</sup>

3.17 ACOSS provided evidence that while the use of registered mail will resolve the issue of whether initial contact can be verified, '[t]hat does not address the matter of people who have previously been contacted under this program, who have not received that information, and are currently trying to address an alleged debt.'<sup>19</sup>

3.18 The issue of people who first heard about a purported debt from a debt collection agency instead of the department is discussed in further detail in this chapter below. The process by which people challenge the estimated debt amounts is discussed in chapter 4.

### ***People 'not engaged'***

3.19 The department discussed the difficulty they face, across many different payment areas, in having people engage with the department's requests for information. The department provided evidence that in one payment area, over 20 per cent of people did not respond to requests for information:

Last year we sent out about 300,000 [reminders] and, even after we had sent reminders, still [65,000] people received a debt because they had not updated their details, they had not engaged with us. Of those 65,000 people who had a debt, about 21,000 subsequently had the debt reduced to zero—because they had done everything; they just had not told us. This is a pattern that we have. We actually have to suspend a number of payments

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

16 Mr Jonathan Hutson, Deputy Secretary, Enabling Services, Department of Human Services, *Committee Hansard*, 18 May 2017, p. 28.

17 Mr Jason McNamara, General Manager, Integrity Modernisation, Department of Human Services, *Committee Hansard*, 18 May 2017, p. 36.

18 Ms Kathryn Campbell CSC, Secretary, Department of Human Services, *Committee Hansard*, 18 May 2017, p. 48.

19 Ms Charmaine Crowe, Senior Policy and Advocacy Officer, Australian Council of Social Service, *Committee Hansard*, 8 March 2017, p. 7.

every year from recipients who we ask for information—we ask them to update their details; we ask them to notify us of earnings—and they do not give it to us. After we have tried on a number of occasions, we actually have to suspend their payments in order for them to engage with us again. So I think it is going to be a key lesson learnt for us about just how many people are not responding to calls for action.<sup>20</sup>

3.20 The department further stated that it had underestimated 'how many people would not clarify and would not engage'<sup>21</sup> after receiving the initial letters and claimed that much of the communication difficulties specific to the OCI program were caused by this lack of engagement by individuals:

I think it is a problem when the recipient or the former recipient does not engage with us. That is why the refinement has been to ensure as best as possible that we can engage with the recipient. Sometimes we will really struggle to engage with either a recipient or a former recipient because they do not want to be engaged with us, or it may be that for whatever personal reasons they do not want to engage.<sup>22</sup>

3.21 Witnesses raised a number of reasons as to why many individuals do not respond to communications from the department.

3.22 ACOSS provided evidence that often, communication with individuals is not done through a printed letter sent to an individual's residence. Instead, a person can be contacted via text message or email, letting them know there is a letter from Centrelink available on their myGov account. ACOSS submitted that in the case of the OCI, many people ignored such communications, thinking it was not relevant because 'they no longer have anything to do with Centrelink, and they thought they had done the right thing. They just thought it was an administrative error.'<sup>23</sup>

3.23 Other witnesses pointed to many people's long-term reluctance to engage with Centrelink processes:

[W]e know of many people who have received letters from Centrelink and never open them. Clients will come in with a bundle of 10 letters from Centrelink that they have never opened. While that could be seen as being irresponsible, for many people it is a sense of hopelessness or helplessness in the face of a system that they often do not understand well.<sup>24</sup>

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20 Ms Campbell, *Committee Hansard*, 8 March 2017, p. 60.

21 Ms Campbell, *Committee Hansard*, 8 March 2017, p. 57.

22 Ms Campbell, *Committee Hansard*, 8 March 2017, p. 55.

23 Ms Crowe, *Committee Hansard*, 8 March 2017, p. 9.

24 Ms Kate McGarry, Senior Manager, AnglicareSA, *Committee Hansard*, 18 May 2017, p. 12.

### *Timing*

3.24 The inquiry heard evidence that the timing of the department sending out initial letters was poorly chosen. The Federation of Ethnic Communities' Councils of Australia (FECCA) pointed out that during the Christmas period when many people received initial letters, advocacy services for Culturally and Linguistically Diverse (CALD) Australians were closed, leaving people to 'deal with it on their created difficulties for individuals due to the lack of legal advice available, but also because of the increased stress that vulnerable individuals and families experience during Christmas. The Financial Counsellors Association of Western Australian described a typical call for assistance:

'So I've had this letter, but I've got all these other debts. I'm just about to start my kids at school, I've got to buy uniforms, I've got to buy books, school fees. I've had a moratorium on my utility, I've got to now find the money for that, I've got the credit card debt after Christmas, and now this has come.'<sup>25</sup>

3.25 Mission Australian echoed this evidence of the distress caused by the timing of letters:

In the lead-up to Christmas Mission Australia in Tasmania experienced a significant increase—around 20 per cent—in the number of calls from people who were overwhelmed or traumatised by the amount of debt they owed to the government and the urgency with which they had to pay that back. The majority of these callers were not aware of the supports available to them or how to challenge the claims of debt. The huge amounts of debt and the tight time frames to respond to them left people anxious and distraught—for example, some clients received these letters just before Christmas and did not know whether they could afford food or last-minute gifts. Then, towards February, we got feedback from some people that they were unable to provide school supplies and uniforms for their children as they were paying back a debt to Centrelink.<sup>26</sup>

3.26 Ms Campbell, Secretary of the department, claimed that much of the distress was caused, not by the letters themselves, but by the media attention, stating 'I think that in the lead-up to Christmas and into January people became even more distressed because of the significant media attention around these issues. I think that half of the stories that appeared in the media were not part of this system—they were general

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25 Ms Beverley Jowle, Executive Officer, Financial Counsellors Association of Western Australia, *Committee Hansard*, 21 April 2017, p. 24.

26 Mr Noel Mundy, State Director, Mission Australia, *Committee Hansard*, 26 April 2017, p. 22.

debt matters but, because of some of the stories in the media, there was a belief that all debts were wrong.<sup>27</sup>

3.27 The department also provided evidence that seasonal variations are taken into account, and stated 'there was a significantly lower number of debt assessments initiated in December, because we are aware that that is a difficult period.'<sup>28</sup> However, Ms Campbell, Secretary of the department went on to say:

It is a difficult management system around when you can and cannot send out letters. If we do not send them out in November, December and January then we have to send out letters in February, March and April, and then people say, 'It's Easter.' It is very difficult to find a good time of year to send a letter to someone asking them to clarify their details.<sup>29</sup>

### ***Committee view***

3.28 The committee notes that for the 6 500 people who did not receive their initial letters before the department moved to using registered mail, those people lost the opportunity to 'clarify' income data discrepancies. A significant proportion of those 6 500 people would have had their purported debts reduced or acknowledged as incorrect, had they had the opportunity to provide information to the department.

3.29 The committee remains highly concerned that a proportion of this cohort appears to have paid these purported debts without question, meaning the department was likely recouping monies it was not owed, from people who could least afford it.

3.30 The committee notes it is clear there is a significant communication problem when 65 000 from 300 000 people do not respond to requests from the department to engage. When the proportion of non-respondents is so high, it is also clear the communication problem lies not with the recipients, but with the department. These communication problems were exacerbated under the OCI program, but are clearly a broader systemic issue.

3.31 There is no doubt that the sending of a significant number of letters in the period before Christmas caused additional distress to people receiving the letters.

### **Communication barriers**

3.32 The inquiry heard evidence from a range of organisations and individuals, that communication barriers experienced by people were not adequately taken into account by the department in its communication strategy for the OCI program. These barriers

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27 Ms Campbell, *Committee Hansard*, 8 March 2017, p. 38.

28 Ms Campbell, *Committee Hansard*, 18 May 2017, p. 38.

29 Ms Campbell, *Committee Hansard*, 18 May 2017, p. 38.

included having a vulnerability indicator, language barriers, or a communication disability.

### ***Vulnerability flags***

3.33 The department uses a system of a 'vulnerability indicator' on a person's record to indicate a jobseeker who has a 'psychiatric problem or illness, cognitive or neurological impairment illness or injury requiring frequent treatment, drug/alcohol dependency, homeless, recent traumatic relationship breakdown, significant lack of literacy and language skills or a nationally approved vulnerability.'<sup>30</sup>

3.34 The department submitted that vulnerable people are not subject to the OCI program, including 'those who are culturally and linguistically diverse, if the person is in a period of bereavement, affected by a natural disaster or resides in a geographic location with limited access to digital services. The identification of vulnerable recipients is based on the information the department has on record.'<sup>31</sup>

3.35 ACOSS noted that the OCI program would likely include some vulnerable people who do not yet have a vulnerability flag on their record:

That may happen, for instance, where the person did not have a vulnerability at the time they received a Centrelink payment from where the alleged debt arose, but have subsequently acquired one—for instance, they may be subjected to domestic violence or have depression and anxiety. Those people may well be caught up by this program.<sup>32</sup>

3.36 The National Social Security Rights Network agreed with this view, and went further to state that this system may not be appropriately targeted because 'these indicators are applied to job seekers and, as the example below shows, may not be applied to recipients of non-activity tested payments such as sickness allowance.'<sup>33</sup>

3.37 FECCA also pointed out that while many individuals have a vulnerability flag, and would therefore not have received letters, many vulnerable people would still be subject to the debt-recovery program:

By definition, those receiving support from Centrelink will likely have vulnerabilities, whether or not they are severe enough to be noted with a

30 Department of Human Services, *Assisted Compliance Rules*, quoted in Commonwealth Ombudsman, *Centrelink's automated debt raising and recovery system*, April 2017, p. 20, [http://www.ombudsman.gov.au/\\_data/assets/pdf\\_file/0022/43528/Report-Centrelinks-automated-debt-raising-and-recovery-system-April-2017.pdf](http://www.ombudsman.gov.au/_data/assets/pdf_file/0022/43528/Report-Centrelinks-automated-debt-raising-and-recovery-system-April-2017.pdf) (accessed 7 June 2017).

31 Department of Human Services, *Submission 66*, p. 4.

32 Dr Goldie, *Committee Hansard*, 8 March 2017, p. 3.

33 National Social Security Rights Network, *Submission 107*, p. 12.

vulnerability indicator in their record. That vulnerability is likely to be compounded if you are from a CALD background.<sup>34</sup>

3.38 By contrast, Basic Rights Queensland submitted that indicators aside, most income support payment recipients are vulnerable:

Centrelink does say it has those vulnerability indicators but then, by definition, most of the people who contact us are quite vulnerable in one way or another—it is just that it hasn't been officially categorised as such.<sup>35</sup>

3.39 The Tasmanian Council of Social Service (TasCOSS) agreed with this view, stating 'any human service system we have in place in this country should actually already acknowledge the level of need that anyone accessing a safety net might have, rather than people having to be stereotyped or stigmatised by having a flag next to their name.'<sup>36</sup>

3.40 TasCOSS put forward the view that the reason for this, is that there are sensitivity issues around creating those vulnerability indicators in the first place, which may mean many vulnerable people are not identified as such:

The need for an individual or the desire of an individual to disclose vulnerability is very personal. Many people have gone through their whole life very carefully guarding the fact that they may be illiterate, for example, and they become very clever at how they deal with covering that up. Equally, someone with a mild intellectual disability will be very proud of the fact that they fully function within the community within their capacity and do not want to be classified as a person with a disability, and nor should they.<sup>37</sup>

3.41 TasCOSS also submitted that vulnerabilities often co-exist in areas of socio-economic disadvantage such as Tasmania, where the impact would be felt harder than in other regions:

It was always likely that the system would have a particularly egregious impact in Tasmania. Tasmania has the highest rate in the nation of children living in low-income, welfare-dependent families (30%), the highest youth unemployment rate (16.2%), and the highest rate of female sole-parent pensioners (5.5%). It also has high levels of inadequate adult literacy (less

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34 Dr Emma Campbell, Federation of Ethnic Communities' Councils of Australia, *Committee Hansard*, 18 May 2017, p. 10.

35 Ms Georgina Warrington, Director, Basic Rights Queensland Inc., *Committee Hansard*, 16 May 2017, p. 9.

36 Ms Kym Goodes, Chief Executive, Tasmanian Council of Social Service, *Committee Hansard*, 26 April 2017, p. 11.

37 Ms Goodes, *Committee Hansard*, 26 April 2017, p. 10.

than 50% of Tasmanian adults have literacy skills at or above OECD level 3). Tasmanians, like many in rural and remote parts of Australia, have very limited access to legal assistance services and effectively no access to pro bono legal services.<sup>38</sup>

3.42 Mental Health Australia concurred with this view, and stated that 'it should not be a requirement for Centrelink customers to disclose mental health issues for debt collection activity to be conducted in a manner that is sensitive to their needs.' Mental Health Australia pointed to the disbanding of mental health specific consultative groups within the department as being a contributing factor to the failure of the department to appropriately institute risk-mitigation processes to support people with mental health issues.<sup>39</sup> To rectify this problem, Mental Health Australia recommended:

[T]he Department should employ a co-design methodology to ensure that debt recovery processes, and Centrelink services more broadly, are fit-for-purpose and have necessary protocols to protect vulnerable cohorts, including people experiencing mental health issues. As a mechanism for co-design, the Department should immediately reconvene the Consumer Consultative Group, the Service Delivery Advisory Group and the Mental Health Advisory Working Party as a core element of the Department's continuous improvement process, which would be supported by user testing.<sup>40</sup>

### *Literacy*

3.43 A common concern raised by multiple witnesses, is the level of literacy of recipients of the departments communications, and the style of language used by the department, which together can create a significant communication barrier. The Law Society of South Australia noted:

The initial notices are received frequently by poorly-educated individuals and not infrequently by individuals who have a limited command of the English language. It is to be expected that some will interpret the initial notice as actually being a notice of demand.<sup>41</sup>

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38 Tasmanian Council of Social Service, *Submission 64*, p. 8.

39 Mental Health Australia, *Submission 49*, pp. 2–3.

40 Mental Health Australia, Answers to questions on notice, 21 April 2017 (received 30 May 2017), p. 1.

41 Mr Tony Rossi, President, Law Society of South Australia, *Committee Hansard*, 10 April 2017, p. 34.

3.44 This view was echoed by #NotMyDebt, who stated 'The multistage review process is convoluted, protractive and oppressive, especially for vulnerable clients with low literacy, self-esteem, language skills or mental health.'<sup>42</sup>

3.45 The Youth Network of Tasmania agreed the communication from the department was overly complex, and noted that in relation to younger income support recipients:

[I]t is also about the complexity of the language and complexity of the information they are required to provide and about the understanding of the disclosures that they need to make every step of the way.<sup>43</sup>

3.46 The Launceston Community Legal Centre told the inquiry that the complexity of language used by the department meant that in order to achieve progress, an individual was best served by a professional who understood the specialised language:

[T]he best and most helpful way for those matters to be handled is for me or someone to assist the client to get all of their material evidence together and get it into Centrelink. There is a particular set of words you have to use. It is what I call Centrelink English, which is quite different to Australian English. If you do not use the right words, you do not always get the right outcomes.<sup>44</sup>

3.47 Ms Basterfield, a consultant speech pathologist, concurred with this view of the complexity of language used by the department, but stated she simply referred to it as 'government English'.<sup>45</sup>

3.48 TasCOSS told the inquiry that literacy can be a greater challenge, depending on location. TasCOSS pointed to the multiple levels of intersecting communication barriers faced in their jurisdiction:

Tasmania has the highest rate of population receiving any kind of income support payment and across all different payments available. Tasmania has the highest proportion of our population with a disability, including an intellectual or a learning disability. Nearly 50 per cent of the Tasmanian adult population has very low levels of functional literacy and numeracy. A recent national report released by Telstra shows that Tasmania has the lowest levels of digital access and digital capability. Tasmanians, like many Australians living in rural and regional areas, have limited access to legal

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42 Ms Lyndsey Jackson, Coordinator, #NotMyDebt, *Committee Hansard*, 10 April 2017, p. 42.

43 Mrs Lisa Amerikanos, Board Member, Youth Network of Tasmania, *Committee Hansard*, 27 April 2017, p. 4.

44 Ms Emma Smith, Welfare Rights Advocate, Launceston Community Legal Centre, *Committee Hansard*, 27 April 2017, p. 16.

45 Ms Catherine Basterfield, Access Easy English, Consultant Speech Pathologist and Owner, *Committee Hansard*, 27 April 2017, p. 25.



assistance and extremely low levels of access to pro bono legal services. So, putting aside any other issues that have occurred with this system, these factors alone mean that dealing with any system that relies on online written communication will be fraught with difficulty. This should have been foreseen by the government and it should have been addressed.<sup>46</sup>

### ***English as a secondary language***

3.49 A number of submitters raised concerns around Centrelink clients for whom English is a secondary language. The Welfare Rights Centre South Australia maintained that:

Another problem is that the letters go out in English, regardless of whether the person can read English. Communicating with people from non-English speaking backgrounds has always been problematic for Centrelink, but even more so when the decision to communicate is made by an automated decision-making system.<sup>47</sup>

3.50 ACOSS contended that language barriers for culturally and linguistically diverse (CALD) people in and of themselves are often not enough to cause a 'vulnerability flag' on a person's account, but such communication barriers do in fact often create serious disadvantages for CALD people.<sup>48</sup>

3.51 FECCA also raised issues relating to the intersecting difficulties faced by the CALD community, which went beyond simple language barriers:

Many migrants and refugees learn English as their second language and report that, at times, they struggle to use Centrelink's automated systems due to comprehension difficulties. Some claim that they may be entering their details incorrectly due to a lack of understanding of the system. Clients are exasperated at the lengthy call-wait times and the limited non-automated support. They suggest that it is almost impossible to receive face-to-face support from a person without waiting for significant periods of time and, once they do, they are referred to an online form, which is no good to them. Older clients, new migrants and refugees report that they have difficulty in completing the online forms because they do not have a computer and the internet, and nor do they understand how to use digital technology. Furthermore, they do not have someone who is available on a routine basis to provide assistance with income data reporting. Some clients have been told that they have needed to provide pay slips, bank statements and letters from their employers dating back to five years ago. This has

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46 Ms Goodes, *Committee Hansard*, 26 April 2017, p. 8.

47 Mr Leahy, *Committee Hansard*, 10 April 2017, p. 34.

48 Dr Goldie, *Committee Hansard*, 8 March 2017, p. 3. See also Dr Emma Campbell, Federation of Ethnic Communities' Councils of Australia, *Committee Hansard*, 18 May 2017, p. 10.

proven difficult for some clients, as their previous organisations have closed and no longer exist.<sup>49</sup>

### ***Disability-related communication barriers***

3.52 Children with Disability Australia told the committee they were not aware of any communication assistance that had been put in place to help people with a disability or their families in navigating the OCI system.<sup>50</sup>

3.53 This evidence is supported by the personal experience of Michelle, who provided evidence to the committee that when she attended the Centrelink office to query her debt notice, she was directed to use the phone system, despite the fact she is deaf and had a communications support person with her:

At first they asked me to ring and I said, 'Hang on, I'm deaf.' My support worker was getting agitated going, 'Look, she's deaf—this can't happen.' They tried to force her to become the contact person, and that person did not want that; that person respects my privacy. They ended up forcing her to ring, and she did not want to and then walked out. My carer ended up walking out because they forced us to ring, whereas they should have done their job and assisted me.<sup>51</sup>

3.54 LawRight provided evidence relating to a client they assisted who has 'the reading age of a five- or six-year-old and the maths age of a six- or seven-year-old.' LawRight did not specify whether this person had a vulnerability flag, but submitted that in communicating with this person, the department sent 'a printout of payments made to the client dating back to 2001' but that the print out was not accompanied by any explanatory notes and was so complicated that even the LawRight lawyer did not understand the information.<sup>52</sup>

3.55 Access Easy English submitted that there is a requirement for important information to be provided to people with a disability-related communication barrier in an 'Easy English' format, but found that 'CentreLink complaints processes and forms are not presented in a way these particular clients can use, to raise their concerns about access to written information.' To address the deficiency, Access Easy English recommended the department implement a 'whole of CentreLink/DHS approach to Accessible Information, in particular, Easy English.'<sup>53</sup>

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49 Ana, Mount Druitt Ethnic Communities Council, *Committee Hansard*, 19 April 2017, p. 68.

50 Ms Stephanie Gotlib, Chief Executive Officer, Children and Young People With Disability Australia, *Committee Hansard*, 11 April 2017, pp. 34–35.

51 Michelle, *Committee Hansard*, 10 April 2017, p. 56.

52 Ms Fiona Thatcher, Lawyer, LawRight, *Committee Hansard*, 18 May 2017, p. 32.

53 Access Easy English, *Submission 116*, pp. 7–10.

### ***Geographic barriers***

3.56 The committee received evidence of the impact that geographic barriers to communication has had on individuals. In particular, the committee notes that the need to travel long distances to Centrelink offices and/or legal services has increased the hours individuals have spent in resolving purported debt matters:

There are alleged debts that people have travelled hours to a Centrelink office to talk to somebody about, because they could not reach anybody through their call centre network, only to find after two visits that a debt had not occurred. The one example that a member told me about was somebody that had to get on a bus for an hour and 15 minutes to get to a Centrelink office not once, not twice but three times before the matter was resolved.<sup>54</sup>

3.57 The National Union of Students stated travel distances have impacted students who tried to attend Centrelink offices to resolve their cases:

We have had students in rural and regional areas drive out or catch the bus to be told that they could have just done it at home and then they subsequently have had to wait even longer.<sup>55</sup>

3.58 This issue was also discussed in media reports on the OCI program, with the ABC's Background Briefing radio program outlining the case of Greg Steen, who lives over 100 kilometres from his nearest Centrelink Office. After a number of trips Mr Steen had travelled over 1000 kilometres to resolve his purported debt matter.<sup>56</sup>

### ***Committee view***

3.59 The committee notes evidence that there is a broad systemic problem with the way the department engages with vulnerable clients, which has been exacerbated by the OCI system.

3.60 The committee is deeply concerned for the people in the system who have not been properly identified as vulnerable, noting that to some extent, everyone who uses income support payments is vulnerable in some way.

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54 Ms Lisa Newman, Deputy National President, Community and Public Sector Union, *Committee Hansard*, 8 March 2017, p. 17.

55 Ms Jill Molloy, Welfare Officer, National Union of Students, *Committee Hansard*, 11 April 2017.

56 Colin Cosier, 'How Centrelink's "robo-debt" ran off the rails,' *Australian Broadcasting Corporation, Radio National*, 5 March 2017, <http://www.abc.net.au/radionational/programs/backgroundbriefing/2017-03-05/8319442#transcript> (accessed 19 June 2017).

## Debt notices

3.61 The inquiry received a range of evidence that people often first found out about their purported debt when they received a debt notice from the department, or when they were contacted by a debt collector. As noted earlier in this chapter, an estimated 6 500 people did not receive the initial letter requesting income clarification from the department, due to incorrect addresses being used. ACOSS noted that '[w]hile Centrelink could not track down these people to provide them with the information about a discrepancy or, indeed, an alleged debt, debt collectors have seemingly had no trouble doing so.'<sup>57</sup>

3.62 Whether or not a person knew about the purported debt, the receipt of the formal notification of the purported debt was noted by many individuals and organisations as a stressful experience for people:

Life is stressful enough on Newstart, living from week to week and trying to find work and making a better life for yourself. It is only made worse by stressful events such as receiving a debt notice. I can only imagine the suffering someone who received a larger debt would experience.<sup>58</sup>

3.63 This experience was echoed in evidence presented by advocacy organisations such as the Welfare Rights Centre South Australia Inc:

Many clients are extremely distressed by such letters and believe they are being accused of cheating. I personally spoke to a young woman who suffers from anxiety, who was extremely agitated and upset. She was crying and repeatedly told me that she was not a cheat. She was frightened that the debt, which was \$17,000, would result in her going to jail.<sup>59</sup>

3.64 Tom characterised the debt notice as a fishing expedition, stating 'the debt notice was like a fraud; it was like a scam. You cannot send a letter saying, 'I accuse and you are guilty.'<sup>60</sup>

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57 Ms Crowe, *Committee Hansard*, 8 March 2017, p. 3.

58 Jade, *Committee Hansard*, 10 April 2017, p. 25.

59 Mr Leahy, *Committee Hansard*, 10 April 2017, p. 34. Many organisations discussed the level of distress the OCI program caused for individuals. See for example: #NotMyDebt, *Committee Hansard*, 10 April 2017, p. 42, National Council of Single Mothers and their Children, *Committee Hansard*, 10 April 2017, p. 46, Victoria Legal Aid, *Committee Hansard*, 11 April 2017, p. 28, Children and Young People With Disability Australia, *Committee Hansard*, 11 April 2017, p. 34, Australian Unemployed Workers Union, 11 April 2017, p. 42, Tasmanian Council of Social Service, *Committee Hansard*, 26 April 2017, p. 8, Welfare Rights Centre, *Committee Hansard*, 19 April 2017, p. 45.

60 Tom, *Committee Hansard*, 11 April 2017, p. 62.

3.65 The inquiry also received evidence of individuals who first became aware of a purported debt, because deductions were made from their income support payments. In these cases, the individuals had not received any prior communication regarding the purported debt matter. Queensland Advocacy Incorporated (QAI) discussed the case of a client who told QAI 'she did not receive a notice or letter, but she simply noticed that there was \$86 missing from her Newstart allowance of \$536 per fortnight. This is obviously a substantial proportion—more than 10 per cent—of the allowance.'<sup>61</sup>

3.66 Financial Counselling Australia outlined its understanding of the process for Centrelink to begin automatic deductions from income support payments, and the impact this can have on individuals:

When the Centrelink system identifies a debt for a person currently in receipt of Centrelink payments, this triggers automatic deductions of 15% of that person's pension or income support as repayment. As people in receipt of Centrelink benefits typically already live below the breadline, 15% of income support can mean the difference between being able to afford essentials or needing rent/food relief from an emergency relief provider.<sup>62</sup>

### Access to information

3.67 Throughout this inquiry, individuals and legal and advocacy organisations from around Australia gave evidence that the department withheld information that a debt letter recipient needed to understand how the purported debt was calculated. This included information to enable them to work out what income information may be incorrect and have the effect of creating an incorrect debt amount. Many organisations stated they resorted to Freedom of Information (FOI) requests to force the department to release information that was denied on initial requests.

It seems to me to be quite ludicrous that we even have to go to freedom of information. I used to think that the child support letters were incredibly complex, until this started. But at least with the child support letters, if a person who had sought our service had a difficulty, I could read about the period over which that debt was incurred, what incomes were taken and the percentages of shared care, and then we could work through it together. But, as someone trying to assist, I will ask the question: 'Why do you have that debt? How long have you had it for? What payments do you receive?' People say, 'I don't know—I just have this debt.'<sup>63</sup>

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61 Dr Nick Collyer, Systems Advocate, Queensland Advocacy Incorporated, *Committee Hansard*, 16 May 2017, p. 26.

62 Financial Counselling Australia, *Submission 123*, p. 3.

63 Ms Terese Edwards, Chief Executive Officer, National Council of Single Mothers and their Children, *Committee Hansard*, 10 April 2017, p. 46.

3.68 Many individuals provided copies of the information they received from the department, to show how difficult the data was to understand:

This thick wad of paper is the FOI, and it is total gibberish. It is just rubbish. None of the income numbers in there make any sense, and none of them correlate. I cannot make any sense of it.<sup>64</sup>

3.69 Even when information was provided, individuals had difficulty in understanding how the department had calculated a purported debt amount. Tom, a retired Chartered Public Accountant, described the information he was provided with as 'pure kafka' and said that as a trained financial professional, he found the department's explanation of how the purported debt was calculated as 'crazy' and stated 'I am a practical person. I am a trained accountant. I cannot listen to stuff like that.'<sup>65</sup>

3.70 The Australian Privacy Foundation put forward a similar view, stating that in trying to establish that a purported debt is owed, the onus of communication sits with the department:

I use the fundamental justice principles, which are that you either make your case for the debt being owing or you do not have a case. Failing to provide information is a separate issue of the responsibility obligations between the individual and Centrelink. When it comes to debt, the justice system is quite clear. It is just that Centrelink does not want to comply with those principles.<sup>66</sup>

3.71 The Welfare Rights Centre South Australia contended that despite requesting information to clarify an income discrepancy, in many cases that information already sat within the department's information systems:

Some customers do not have the information necessary to demonstrate their compliance. If, for example, a debt is raised up on the basis of income earned seven years ago, it is unlikely the client would have the information necessary and it is unreasonable to expect them to. The irony is that in many of these cases Centrelink already has the information necessary on the customer records which a human decision-maker could assess.<sup>67</sup>

3.72 The difficulty in accessing appropriate information was raised by legal services as being a key impediment to providing advice and assistance to individuals in relation to their purported debt matter. Basic Rights Queensland told the inquiry:

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64 Geoff, *Committee Hansard*, 11 April 2017, p. 60.

65 Tom, *Committee Hansard*, 11 April 2017, p. 59 and p. 62.

66 Ms Katherine Lane, Immediate Past Chair, Australian Privacy Foundation, *Committee Hansard*, 19 April 2017, p. 31.

67 Mr Leahy, *Committee Hansard*, 10 April 2017, p. 34.

Centrelink's debt calculations are not actually freely available to the public. There is a debt calculator on the online compliance site where Centrelink customers can enter their figures and get an estimate, but experience from our colleagues interstate indicate that once a person has appealed a debt that calculator is no longer accessible. This means it is really difficult for advocates like us to actually assist a person... The system is failing to meet minimum requirements of procedural fairness because, despite the fact that it is actually possible to provide the correct information, it is not always accessible and there is insufficient information about how to use it.<sup>68</sup>

### ***Committee view***

3.73 The committee is deeply concerned with the lack of clarity in information provided regarding individual purported debt matters. This includes both sufficient depth of information as well information provided in an appropriate form particularly for vulnerable people and people with communication barriers.

3.74 The questionable action of reversing the burden of proof onto income payment recipients, where people are being asked to prove they do not owe a purported debt, is discussed in great detail in chapter 4. What makes this reversal more problematic, is the lack of information provided to individuals and their advocates, that they need in order to prove the purported debts are not correct.

### **Centrelink communication channels**

3.75 The department has three main communication channels for individuals to interact with Centrelink: storefronts, online portals and via phone. The inquiry received evidence of difficulties people faced with all three communication channels.

3.76 The department discussed the various communication channels available to individuals, and told the inquiry that individuals were encouraged to use phone and online communication portals, as frontline staff at Centrelink offices have not necessarily had the appropriate training to assist people with the OCI process:

We encourage staff to get recipients to go online, and one of the main reasons for that is that, once they are online, they can also contact the 1800 number. If you go to a Centrelink office—there are 350 throughout Australia—it is not always likely that the person there will be deeply experienced in these matters.<sup>69</sup>

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68 Ms Warrington, *Committee Hansard*, 16 May 2017, pp. 2–3. The issue of access to information as a barrier to legal advice was raised by a number of legal services. See for example Ms Tara Simpson, Legal Services Commission of South Australia, *Committee Hansard*, 10 April 2017, p. 15, Mr Mark Lehey, Welfare Rights Centre, South Australia, Inc., *Committee Hansard*, 10 April 2017, p. 36, Ms Paula Hughes, Lawright, *Committee Hansard*, 16 May 2017, p. 30.

69 Ms Campbell, *Committee Hansard*, 18 May 2017, p. 61.

3.77 The inquiry received evidence that this encouragement of use of online portals was not always considered by Centrelink officers to be the best way to resolve purported debt matters. The Community and Public Sector Union told the inquiry:

Frontline service officers reported when they get customer details on the screen, when they are face-to-face with people, they would often find errors that they would be able to correct very quickly but they were told, quite quickly, not to do that and to push people back onto self-service portals to get them to use the online system to correct their own details. They also reported that people in the debt management teams were instructed only to deal with a very small portion of the debt management process despite their experience telling them that there were errors in other parts of the record.<sup>70</sup>

3.78 Multiple witnesses to this inquiry, both individuals and organisations, stressed the need for flexibility in the communications channels. While a large proportion of people may find online systems convenient, many people require telephone or face-to-face assistance for a variety of reasons. These issues are discussed in the following section.

### ***Centrelink online portals***

3.79 As outlined in earlier this chapter, the premise of the OCI program is to require individuals to provide detailed income data to retrospectively verify their eligibility for income support payments. In the first instance, the department directs people to provide this information via its OCI online portal.

3.80 The online portals, both myGov and the OCI-specific website, were described by many as being very difficult and complex to navigate, and 'inhibits people's ability to provide accurate information that is very much needed when looking at whether or not someone owes a debt.'<sup>71</sup>

3.81 For many people subject to the OCI program, simply accessing the online world is a challenge. The Legal Services Commission of South Australia told the inquiry:

They do not have internet and they may not have mobile phones, so their preference is to go personally to Centrelink and seek assistance. It was specifically noted by her that those who have casual jobs or intermittent positions prioritise other necessities, and the internet and mobile phones may not necessarily be high on those lists.<sup>72</sup>

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70 Ms Newman, *Committee Hansard*, 8 March 2017, p. 16.

71 Ms Crowe, *Committee Hansard*, 8 March 2017, p. 7.

72 Ms Tara Simpson, Legal Services Commission of South Australia, *Committee Hansard*, 10 April 2017, p. 19.



3.82 This evidence was repeated by People with Disability Australia, who told the inquiry:

[W]e know that there is a problem with access to the internet, generally, for a lot of people. Whether that is because of where they live, whether that is because there is not community access in the communities that they live in, it is definitely a problem. Having someone to call, having someone to talk to, having a place to go and see people in person is absolutely imperative.<sup>73</sup>

3.83 One witness pointed out that although many people could access the internet through places such as a library, there were privacy concerns for sending personal data over a publicly accessible internet system. Susan stated that 'I could tell you a little about having to give my bank records, which I had to do in a public library. I was very scared someone was going to access my bank details over the wi-fi.'<sup>74</sup>

3.84 Access Easy English submitted that a significant proportion of the Australian population, 52 per cent, has non-functional numerical literacy which is 'critical literacy for the correct administration in areas such as meeting attendance, planning and time management, adherence to conditions in CentreLink letters, to name a few.' Of greater import, Access Easy English submitted that in testing of problem solving technology-based information (online information), 62 per cent of users were found to be non-functional, and furthermore, 1 in 5 households do not have access to the internet.<sup>75</sup>

3.85 Even for highly digitally literate people, communicating via the online portal created difficulties in uploading information requested by the department. Basic Rights outlined a process a client took to upload income data to show there was no debt owed:

They went through an enormous process to try and address this. They made seven separate attempts to upload the correct pay documentation—keep bearing in mind that this is a tertiary educated person. As they could not get this to work, they photocopied the pay slips and sent them by registered mail on 26 October.<sup>76</sup>

3.86 Conversely, Ian explained his difficulty in communicating with the department was that while he was told he must submit information via the online portal and not via an email, the department said it would accept information via fax:

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73 Mr Dean Price, Advocacy Project Manager: Social Justice, People with Disability Australia, *Committee Hansard*, 19 April 2017, p. 39.

74 Susan, *Committee Hansard*, 11 April 2017, p. 61.

75 Access Easy English, *Submission 116*, p. 4.

76 Ms Warrington, *Committee Hansard*, 16 May 2017, p. 2.

I said, 'Yes, I'll email it to you.' They said, 'No, we don't use email here.' I said, 'What! It's the 21st century.' They said, 'We don't use email here.' They said, 'You could send it by myGov.' And I said, 'Well, I don't have a myGov account.' ... The only other option they gave was to fax the letter through to them. And, of course, who has a fax machine in their home? To go to the post office, I think it was going to cost me \$4.50 a page to send this letter through. It was a letter of some eight or nine pages—so \$40 to get a letter to Centrelink.<sup>77</sup>

3.87 However, evidence was received that suggests the difficulties experienced are not limited to simply accessing the online portals, but stem from the design of the online website itself. The National Social Security Rights Network stated the key problem was the usability of the site:

The outstanding impression I have had so far is that the majority of people who have struggled are not people who are unwilling to use online channels, they have just had great difficulty using this. There are some people for whom on line is inappropriate or difficult or they do not have access, but the main cause of problems is that DHS fundamentally underestimated how usable their system was.<sup>78</sup>

3.88 People with Disability Australia agreed the online portal was not user-friendly and described the online portal as having 'some good features to that but they were not easy to use, they were not easy to navigate and it was not necessarily clear how to navigate around those. So without that guidance, those tools may be available but they are difficult to access.'<sup>79</sup>

3.89 UnitingCare Queensland noted that many of its clients required assistance to navigate the OCI website:

However, in working with these clients, the main concern we found was with the online service portal and having zero to minimal capacity to navigate that system. They all stated that that caused a great deal of distress and that that they needed help via a financial counsellor to navigate that system.<sup>80</sup>

3.90 The usability of the OCI website formed part of the investigation of the OCI process by the Commonwealth Ombudsman. The investigation report details examples where the website does not provide sufficient warning that 'accepting' the ATO annual

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77 Ian, *Committee Hansard*, 10 April 2017, p. 26.

78 Mr Butt, *Committee Hansard*, 19 April 2017, p. 39.

79 Mr Price, *Committee Hansard*, 19 April 2017, p. 39.

80 Ms Jodie Logovik, Program Manager, Financial Wellbeing and Resilience, UnitingCare Queensland, *Committee Hansard*, 18 May 2017, p. 50.

income figure data will result in income averaged fortnightly and a higher chance of a purported debt being calculated.<sup>81</sup>

3.91 The report further expresses concern that even where people are aware they must enter fortnightly earned income data in order to avoid a purported debt being calculated, the OCI website itself does not provide a simple method to insert this data. The report uses an illustrative example of a 'reasonably well-educated' user who attempted to update her income data but 'found the questions in the system too narrow, as they only asked her to confirm her employers and her group certificate amount. After Ms D completed the OCI process, the system advised her she owed a debt of \$2203.24.'<sup>82</sup>

3.92 The committee received evidence from the department that the OCI portal was developed within the department, and did not receive extensive outside user testing. The department outlined the testing process to develop the OCI portal included:

- an internal exercise to identify if the online compliance system was working; and
- a pilot between July and September 2016 of 1 000 people selected for intervention, with monitoring to check for any process or system generated issues.<sup>83</sup>

3.93 The department has confirmed that since the date of the above complaints, the OCI website has been updated, in February 2017. The department outlined the process it went through for subsequent user-testing of the updates for the OCI website:

It was an interactive process with users. We had a range of users we brought in to test screens with and to test explanations in the help with. So it was an interactive process. Overall, the feedback we had was to de-clutter the screens.<sup>84</sup>

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81 Commonwealth Ombudsman, *Centrelink's automated debt raising and recovery system*, April 2017, p. 12, [http://www.ombudsman.gov.au/\\_data/assets/pdf\\_file/0022/43528/Report-Centrelinks-automated-debt-raising-and-recovery-system-April-2017.pdf](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).

82 Commonwealth Ombudsman, *Centrelink's automated debt raising and recovery system*, April 2017, p. 11, [http://www.ombudsman.gov.au/\\_data/assets/pdf\\_file/0022/43528/Report-Centrelinks-automated-debt-raising-and-recovery-system-April-2017.pdf](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).

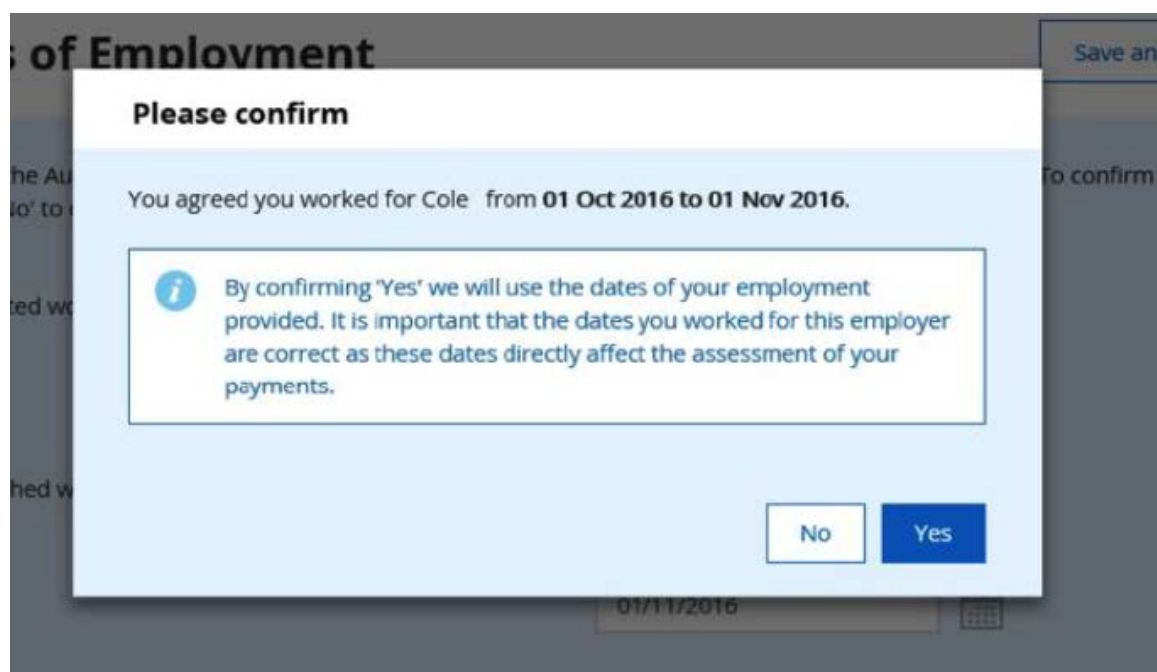
83 Department of Human Services, Answers to questions on notice, 8 March 2017 (received 19 April 2017), p. 1.

84 Mr McNamara, *Committee Hansard*, 18 May 2017, p. 45.

3.94 The department was asked whether the user-testing included vulnerable people and those with communication barriers. The department confirmed only that they used 'a broad sample of recipients and former recipients'<sup>85</sup> which included 'volunteer members of the public and departmental employees'<sup>86</sup> and that although other programs conduct testing across Australia, the subsequent refinements to the online portal were only tested by users in Canberra.<sup>87</sup>

3.95 The pages of the website were provided to the inquiry as a briefing to the committee, and submitted in hard-copy. The updated website now includes a warning that dates of employment will impact the debt calculation – referred to as 'assessment of payments'. However, the warning appears at the point a person verifies their overall start and end dates of employment. See image 3.1 below:

**Image 3.1**



Source: Department of Human Services, Submission 66.1, Attachment A *Employment Income Confirmation* 1 June 201, p. 19.

3.96 If a person simply confirms the start and end dates of employment but does not go on to complete the fortnightly income stage of the website, they will potentially

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85 Ms Campbell, *Committee Hansard*, 18 May 2017, p. 46.

86 Department of Human Services, Answers to questions on notice, 8 March 2017 (received 19 April 2017), p. 2.

87 Mr McNamara, *Committee Hansard*, 18 May 2017, p. 46.

be liable for an incorrectly calculated debt because of the department's practice of averaging ATO annual income data.

3.97 Concern was raised by ACOSS that if the program was expanded to capture income sources more likely to be received by the age pensioner population, difficulties already being found with the online portals would be far greater:

If this program is expanded to income from areas other than employment—what will mostly be the age pensioner population—there is a much higher risk that the person will have poor digital literacy and may not even have access to the internet. It is envisaged that this group is going to need much more support than that received by the people affected by the current program. There are also clear concerns about people's vulnerability. It is safe to say that the proportion of people in the age pensioner population who have some kind of vulnerability will be much higher than we have seen amongst the working-age population.<sup>88</sup>

### ***Centrelink storefronts***

3.98 Evidence was received from a number of witnesses that individuals subject to the OCI program were denied service at Centrelink storefronts. The Community and Public Sector Union raised this as an issue of particular concern for their members:

Members have been particularly disturbed by reports of managers instructing frontline staff not to correct errors that they find and instead to push customers onto self-service mechanisms and/or refer them to a different part of the department—namely, the OCI teams.<sup>89</sup>

3.99 However, the department discussed this issue and responded that letter recipients were encouraged to use phone and online communication portals, as frontline staff at Centrelink offices have not necessarily had the appropriate training to assist people with this particular issue:

We do not have the capacity to train all our staff up to do every element of business across the Department of Human Services, so we stream into expert type areas. This is an expert type area, so what we wanted was for recipients to engage with the system and then engage with the 1800 number, which has the people who are expert on this, rather than any of our service staff in the offices.<sup>90</sup>

3.100 However FECCA pointed out that CALD community members can often have greater difficulty communicating via phone and online than in person:

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88 Ms Crowe, *Committee Hansard*, 18 May 2017, p.21.

89 Ms Newman, *Committee Hansard*, 8 March 2017, p. 7. See also p. 16.

90 Ms Campbell, *Committee Hansard*, 18 May 2017, p. 61.

Given the reports that Centrelink staff were told not to process debt disputes in person, if they are unaware of Centrelink's multilingual phone service, language may discourage them from using the phone service to challenge their debt letter. Many CALD Australians have limited digital literacy, and FECCA has done a lot of work around this. Low levels of English language mean they are unable to navigate government services through online portals. So they just pay, whether or not they are liable for that debt.<sup>91</sup>

3.101 Conversely, other witnesses pointed to the general inappropriateness of having to discuss highly personal details in the Centrelink office. The National Council of Single Mothers and their Children stated '[i]f you are completely stressed out and go into a Centrelink office, you are publicly asked what your issue is and someone makes a notation on a tablet if you cannot do that yourself and then you wait in a very public space.'<sup>92</sup>

3.102 Some witnesses pointed to Centrelink offices as being inappropriate spaces for vulnerable people due to the level of aggression that can now be found in Centrelink storefronts:

I am 67 and I am afraid to go into the Footscray Centrelink office. The number of times that I have been in there where there has been someone who has become so frustrated with the system that they are angry and threatening everything from, 'If I had a bomb, I'd blow the place up,' to, 'Someone should bring in an AKA and just shoot the place up,' means that I now do as much as possible on the phone.<sup>93</sup>

3.103 The department stated there has been no increase in aggressive behaviour from customers at Centrelink storefronts and stated 'We do have a small number of incidents—and those incidents occur every day—where people are aggressive and take it out on the staff members. But we have not seen an increase in the last few months on that issue.'<sup>94</sup>

3.104 Evidence received by individuals, and backed up by organisations, points to the incidents cited by the department above as often being used by Centrelink staff as an excuse not to provide service to difficult people:

But there are a lot of cases where I have spoken to people who have said, 'I just questioned the Centrelink staff member on this issue, and the Centrelink staff member felt unsafe by being questioned'—maybe their tone

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91 Dr Campbell, *Committee Hansard*, 18 May 2017, p. 11.

92 Ms Edwards, *Committee Hansard*, 10 April 2017, p. 48.

93 Mrs Marilyn King, President and Advocate, Willing Older Workers W.O.W. Inc., *Committee Hansard*, 11 April 2017, p. 47.

94 Ms Campbell, *Committee Hansard*, 18 May 2017, pp. 61–62.

of voice was a little higher than usual because they were frustrated. Instead of engaging with them as humans and trying to work out their problem, the staff member says, 'I don't like the tone you're speaking to me with, and I want you to leave.'<sup>95</sup>

3.105 An example of this was provided by Michelle, who told the inquiry:

They actually ordered me out of the office and that made me feel even worse... I was not abusive, threatening or angry. I was frustrated. I was complaining about a letter and then I was dismissed. Sadly, it made me feel as if I had done the wrong thing, but I had not.<sup>96</sup>

### ***Centrelink phone systems***

3.106 The issue of people not being able to reach the department by phone was a key concern raised by many witnesses and submitters throughout this inquiry. This was exacerbated by the initial letters being sent out without the dedicated OCI phone number being included. Although the department has since updated the letters to include this information, the Commonwealth Ombudsman has pointed out the number is printed on the second page of the letter and 'is not obvious to the reader'.<sup>97</sup>

3.107 The committee heard that people experienced difficulties getting through on the phone in the first instance, as well as long wait times after the call was first answered by Centrelink. The Community And Public Sector Union told the inquiry:

More than 36 million calls to the Department of Human Services went unanswered last year as the department is no longer able to provide a basic level of service to Australians.<sup>98</sup>

3.108 One witness, Jade, summarised the impact this can have on individuals by stating 'The fact that it is nearly impossible for people to reach Centrelink on the phone leads to people being more likely to accept the debt and not challenge it'.<sup>99</sup>

3.109 The Victorian Council of Social Service quoted a complaint letter they received which stated:

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95 Mr Owen Bennett, President, Australian Unemployed Workers Union, *Committee Hansard*, 11 April 2017, p. 48.

96 Michelle, *Committee Hansard*, 10 April 2017, p. 55.

97 Commonwealth Ombudsman, *Centrelink's automated debt raising and recovery system*, April 2017, p. 27, [http://www.ombudsman.gov.au/\\_data/assets/pdf\\_file/0022/43528/Report-Centrelinks-automated-debt-raising-and-recovery-system-April-2017.pdf](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).

98 Ms Nadine Flood, National Secretary, Community and Public Sector Union, *Committee Hansard*, 8 March 2017, p. 12.

99 Jade, *Committee Hansard*, 10 April 2017, p. 25.

On Wednesday 22 March, I phoned 132850, 16 times between 1 pm and 2 pm. The line was busy for the entire time. At 2.13 pm, I telephoned the 1300306325 line. I was then on hold for three hours and 12 minutes. This is outrageous and unacceptable. I know this is not a one-off situation as a staff member I eventually spoke to at Centrelink told me, not once but twice, that that kind of wait time is common on this line.<sup>100</sup>

3.110 The Financial Counsellors Association of Western Australia stated this issue did not just impact individuals, but also impacted professionals who were attempting to provide assistance on debt matters and had experienced great difficulty in contacting Centrelink via phone when they were in a mediation session with clients.<sup>101</sup>

3.111 The department has previously provided evidence on the 'average speed of answer' times for the debt phone lines for the period beginning July 2016 to end January 2017. The committee notes the department's advice that the average waiting time for the 1800 Compliance phone line was 40 seconds and two minutes and four seconds for the Debt Recovery and Raising phone line.<sup>102</sup>

3.112 IsCentrelinkDown described the call data presented by the department as 'number-fudging' because the department does not record call handling time at an organisational level, but instead resets the clock every time a call is transferred.<sup>103</sup>

3.113 IsCentrelinkDown developed a testing program for the phone number given on the initial debt letter, 1800 076 072, and found that on average, a call to this number had a 27.44 per cent chance of not being answered, which went up to 50.0 per cent at 12.00pm when a large volume of calls were made during people's lunch breaks.<sup>104</sup>

3.114 IsCentrelinkDown noted the cost to individuals as a result of lengthy wait times to have their questions answered:

Mobile calls to 13/1300 services are always charged with a flag-fall and a per-minute rate, making long hold times expensive. This makes no sense that we are lumping those with the least ability to pay for phone calls with 13/1300 numbers including crisis services. Meanwhile the DHS 'purchasing

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100 Ms King, *Committee Hansard*, 11 April 2017, p. 50.

101 Ms Jowle, *Committee Hansard*, 21 April 2017, p. 20.

102 Department of Human Services, Answers to questions on notice, 2 March 2017, [http://www.aph.gov.au/Parliamentary\\_Business/Senate\\_Estimates/claccte/estimates/add1617/DHS/index](http://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/claccte/estimates/add1617/DHS/index) (accessed 19 June 2017).

103 IsCentrelinkDown, *Submission 27*, p. 2.

104 IsCentrelinkDown, *Submission 27*, p. 5.



helpdesk' for the Dunn & Bradstreet contract is a 1800 number. This displays poor priorities.<sup>105</sup>

3.115 Once people managed to have their call answered, they reported difficulty in having to explain a complex situation to one Centrelink officer, only to have to repeat the same information the next time they call and speak with a different staff member.<sup>106</sup>

3.116 The National Social Security Rights Network also pointed to the confusion created when individuals calling Centrelink are unable to find the right section to speak with about their case:

[a] number of people have also expressed frustration and confusion about not being able to access the right information when they have attended a Centrelink office or called through on the general Centrelink numbers. That reflects, of course, some poor decision making about implementation, including not making the 1800 direct number to compliance officers apparent.<sup>107</sup>

#### ***Committee view***

3.117 The key concern with the OCI process, is the outsourcing of the income checking process to individuals. With this comes an inherent reversal of the burden of proof – the department claims an income discrepancy and requires an individual to seek the information required to prove the discrepancy does not exist. If the individual fails, they will owe a debt of potentially many thousands of dollars to the department.

3.118 The two fundamental resources a person needs to undertake this process is a method of communicating, and once that communication channel is opened, the receipt of information that is both comprehensive and comprehensible.

3.119 The department is clearly failing to provide those two necessary tools to allow people to challenge the income discrepancy, and is reaping the benefit through debt payments.

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105 IsCentrelinkDown, *Submission* 27, p. 4.

106 Ruth, *Committee Hansard*, 10 April 2017, p. 55.

107 Mr Butt, *Committee Hansard*, 19 April 2017, p. 38.



## Chapter 4

### Challenging debts

That figure of my debt of \$3,154.11 was remarkably precise, but if there was any kind of detailed computation behind it I have never seen it. I have even pulled an FOI on my case and I cannot make head or tail of how that figure was arrived at. They came up with this figure, but they provided no accounting for it and they provided no explanation, initially, as to how it arose. They just said, 'Here's your debt; pay it or prove you don't owe it.'<sup>1</sup>

#### Introduction

4.1 This chapter examines the barriers faced by people who wish to challenge purported debts that have been raised against them by the Department of Human Services (department). In particular it notes that the onus is placed on individuals to demonstrate that they do not owe a purported debt and that in many cases individuals are not aware of their rights.

4.2 This chapter considers:

- (a) the process to clarify or review a purported debt;
- (b) the policy on handling queries and its impacts;
- (c) the challenges posed by reversing the onus of proof;
- (d) the impact on community legal centres; and
- (e) process improvements made by the department.

#### Process for clarifying, reviewing or appealing a purported debt

4.3 Throughout the inquiry, the committee has received evidence from individuals, and organisations assisting them, about the difficulties individuals face in clarifying or challenging purported debts raised against them.

#### *Clarifying*

4.4 As explained in earlier chapters, the first letter the department sends to individuals notifies them that a discrepancy in their reported income may have been detected and requests that the individual visit the online portal to update their details.<sup>2</sup>

4.5 As noted in Chapter 2, the online portal averages annual income evenly over 26 fortnights if the ATO data does not include employment periods. If income is not earned evenly, individuals are expected to reconstruct their fortnightly income over the relevant period.

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1 Andrej, *Committee Hansard*, 16 May 2017, p. 56.

2 Ms Kathryn Campbell CSC, Secretary, Department of Human Services, *Committee Hansard*, 8 March 2017, p. 37.

4.6 The department informed the committee that this clarification resolves the majority of discrepancies and that no further action is required by these individuals.<sup>3</sup>

4.7 The committee received some evidence that being asked to update details can be confusing where the individual believes that income was correctly reported in the first instance. Tom told the committee in Melbourne:

[They] were told to just go online and update your data. I argued with Minister Tudge's office: 'How can I update my client's income when it was correctly reported and nothing changes?' That is impossible.<sup>4</sup>

### ***Reassessment and review***

4.8 One of the first hurdles debt-letter recipients face is to know that they can ask for a reassessment. The department explained to the committee that reassessments are an iterative process:

...if someone asks us to [conduct a reassessment] and provides more information—and it is an iterative process where people do provide more information—then we might send them the outcome and they go, 'Oh, maybe that's not right,' and they provide us with more information, and then we reassess and we send them another outcome.<sup>5</sup>

4.9 Many individuals are unaware that they can request a reassessment. The Launceston Community Legal Centre said that in its experience in order to obtain reassessment:

There is a particular set of words you have to use...If you do not use the right words, you do not always get the right outcomes. Generally what you need to ask for is that you have a pause on any debt repayments that are being taken out from your benefit, and that actually does put a pause on those repayments whilst under review. You then need to ask for a subject matter expert to give you a multical assessment.<sup>6</sup>

4.10 The Youth Network of Tasmania provided evidence to the committee that young people were more likely to targeted by the OCI and they were less likely to be aware of their right to request reassessment or review, saying:

Young people may find it challenging to understand what their rights and responsibilities are and what processes there are for making a complaint or dispute, and are therefore more likely to require assistance...<sup>7</sup>

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3 Ms Campbell, *Committee Hansard*, 8 March 2017, p. 35.

4 Tom, *Committee Hansard*, 11 April 2017, p. 59.

5 Ms Campbell, *Committee Hansard*, 8 March 2017, p. 45.

6 Ms Emma Smith, Welfare Rights Advocate, Launceston Community Legal Centre, *Committee Hansard*, 27 April 2017, p. 17.

7 Ms Lisa Amerikanos, Board Member, Youth Network of Tasmania, *Committee Hansard*, 27 April 2017, p. 2.

4.11 The Welfare Rights Centre told the committee that the individuals that approached them were often unaware of what actions they need to take if they received a letter from the department:

...our clients are unsure of the steps that they need to take if they receive a letter seeking clarification of income. Many have difficulty obtaining information from past employers, there is frustration with the system of uploading documents and there has been a lot of distress for some clients, particularly those receiving debt notices.<sup>8</sup>

4.12 Consequently, community legal centres that provided evidence to the committee advised that they have spent time trying to educate individuals about their rights.<sup>9</sup>

4.13 Because reassessment is an iterative process, it is possible to request additional reassessments while the individual has additional information that may clarify the purported debt. The committee received some evidence from individuals with lived experience of the process that their purported debt was revised down each time they sought reassessment.<sup>10</sup>

4.14 The process of providing documentation for these assessments can be compounded by the department's own errors. For example, Phoebe told the committee that she had to upload documentation on multiple occasions because the department had provided her with incorrect information.<sup>11</sup>

4.15 In Perth, the committee heard from Margaret who has a disability known as dyscalculia. Margaret's disability meant that Centrelink staff assisted her to report her income. However, Margaret still incurred a non-OCI debt:

I believed Centrelink because they did the numbers for me. I went into their office and sat down with them. I took in all my paperwork and said: 'I work for this company. I earn this amount of money. Can you please get the numbers right, because I cannot do it myself.' They were kind of happy to do it but pointed out that they did not provide it as a service.<sup>12</sup>

4.16 In Launceston, the committee heard similar evidence in-camera, of a person who lodged their paperwork with Centrelink, only to be later told that no application had been registered with the department. When a nominee for this person was subsequently registered at a Centrelink office, this paperwork was also lost by the

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8 Ms Caroline Odgers, Solicitor, Welfare Rights Centre, *Committee Hansard*, 19 April 2017, p. 46.

9 Mr Christopher Boundy, Manager, Access Services, Legal Services Commission of South Australia, *Committee Hansard*, 10 April 2017, p. 16; Ms Monique Hitter, Director of Civil Law, Legal Aid New South Wales, *Committee Hansard*, 19 April 2017, p. 45.

10 Andrej, *Committee Hansard*, 16 May 2017, p. 56.

11 Phoebe, *Committee Hansard*, 19 April 2017, p. 66.

12 Margaret, *Committee Hansard*, 21 April 2017, p. 53.

department who later were unable to find the nominee form, and had also not registered the phone calls from the nominee.<sup>13</sup>

4.17 These cases highlight that the department can and does make mistakes and underscore the importance of proper review mechanisms. The department noted recently that it 'does not currently capture the portion of overpayments raised as a result of system or administrative error' and that there is no grace period in legislation for the recovery of debts.<sup>14</sup>

4.18 Once the individual provides all possible material to the department, if the individual is still dissatisfied with the outcome they may seek a formal review.

4.19 The department confirmed this process, saying:

...reassessment is when people provide us information and say, 'I don't think that that is correct and here's another piece of information'...or they say, 'I think you've got it wrong, and this is why I think you've got it wrong,' and so we reassess. When we finally say, 'Have you got any more information?' and they say, 'No,' and we say, 'Right; this is the assessment,' and they say, 'Okay; I want it reviewed,' then it goes off to a review officer.<sup>15</sup>

4.20 Launceston Community Legal Centre explained to the committee that an authorised review officer is a senior practitioner at Centrelink responsible for reviewing decisions.<sup>16</sup>

4.21 The department has been trying to publicise to individuals the ability to request a review and that there is no formal time limit on when an individual may request a reassessment or review. A senior departmental official informed the committee that:

We are making it plain that there is no time limit on a request for a review. People can ask for that any time and we will do that.<sup>17</sup>

### ***Appeals***

4.22 Reviews cannot continue indefinitely. If an individual remains dissatisfied with the department's response after one or more reviews, the individual is entitled to challenge the decision in the Administrative Appeals Tribunal.

4.23 If an individual decides to appeal the purported debt to the Administrative Appeals Tribunal, the department has to provide certain documentation.<sup>18</sup> The

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13 *In-camera Committee Hansard*, 27 April 2017.

14 Department of Human Services, Answers to question on notice, 20 October 2016, received 2 December 2017.

15 Ms Campbell, *Committee Hansard*, 8 March 2017, p. 45.

16 Ms Smith, *Committee Hansard*, 27 April 2017, p. 19.

17 Ms Melisa Golightly, Deputy Secretary, Integrity and Information, Department of Human Services, *Committee Hansard*, 8 March 2017, p. 42.

committee has received evidence though that the onus still often falls on the individual to identify missing information.<sup>19</sup>

4.24 At the time of writing, very few matters have progressed through the Administrative Appeals Tribunal. Community legal centres reported to the committee that the majority of matters are resolved prior to a hearing with the department accepting a lower debt amount.<sup>20</sup>

4.25 Evidence presented to the inquiry pointed to a reluctance among members of the Administrative Appeals Tribunal to accept debt notices from Centrelink as 'being evidence of debt.'<sup>21</sup> Victoria Legal Aid quoted a case they acted in, where the Administrative Appeals Tribunal member was not satisfied the purported debt had been correctly calculated by Centrelink:

In this case, no effort has been made by Centrelink to obtain actual wage records... even though such records would very likely be readily available if required. Instead it has simply been assumed that the total year earnings can be apportioned equally to each fortnight across the relevant financial year. However, that is not consistent with the requirements of the legislation. The actual pay records are critical to the proper calculation of the overpayment. Accordingly, Centrelink will need to request and obtain those records from the employer in order to arrive at a correct debt calculation.<sup>22</sup>

4.26 During Senate Estimates, the Administrative Appeals Tribunal advised the Senate Legal and Constitutional Affairs Committee that there was a marked increase in the number of Centrelink related cases lodged in the current financial year.<sup>23</sup>

4.27 The Administrative Appeals Tribunal advised that 3 387 Centrelink debt cases were lodged with the tribunal in the 2015–16 financial year and 4 354 Centrelink debt cases were lodged in the 2016–17 financial year.<sup>24</sup>

4.28 The department was quoted in media coverage arguing that the increase in lodgements could not be attributed to the OCI, saying:

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18 Ms Tara Simpson, Team Leader, Access Services, Legal Services Commission of South Australia, *Committee Hansard*, 10 April 2017, p. 18.

19 Ms Simpson, *Committee Hansard*, 10 April 2017, p. 15.

20 Ms Simpson, *Committee Hansard*, 10 April 2017, p. 14; Ms Smith, *Committee Hansard*, 27 April 2017, p. 18.

21 Mr Ian Turton, Solicitor, Illawarra Legal Centre, *Committee Hansard*, 19 April 2017, p. 48.

22 Administrative Appeals Tribunal matter 2016/M103550 (20 March 2017), quoted in Victoria Legal Aid, Answers to questions taken on notice, 11 April 2017, p. 7 (received 12 May 2017).

23 Mr Chris Matthies, Executive Director, Strategy and Policy, Administrative Appeals Tribunal, *Committee Hansard*, 25 May 2017, p. 108.

24 Mr Matthies, *Committee Hansard*, 25 May 2017, p. 108.

The number of AAT requests for Online Compliance Interventions compared to the manual process in the previous financial year is much lower, at 0.1 per cent compared to 0.7 per cent.<sup>25</sup>

### ***Debt calculations***

4.29 One of the problems for both individuals and professionals attempting to challenge a purported debt—as the quote at the top of this chapter observes—is that it is not clear how the department calculates debts. Basic Rights Queensland pointed out that:

A significant problem is that—once they do look at a debt—Centrelink's debt calculations are not actually freely available to the public. There is a debt calculator on the online compliance site where Centrelink customers can enter their figures and get an estimate, but experience from our colleagues interstate indicate that once a person has appealed a debt that calculator is no longer accessible. This means it is really difficult for advocates like us to actually assist a person. It is also difficult for the Administrative Appeals Tribunal to actually assess whether a debt is correct, so Centrelink customers and advocates really should have access to the process by which Centrelink calculates the debts, rather than just getting lists of figures.<sup>26</sup>

4.30 The committee received evidence that in some cases, even a list of figures is not necessarily provided when the department assesses the debt. According to Tom:

The notice of debt states: 'More information about the debt is given below' but it gives no figures.<sup>27</sup>

4.31 Jade in Adelaide had a similar experience, saying:

There was no information about the reason for the debt. It just said they have conducted a review of my income details and have changed the amount that I was entitled to receive. I had no information about it. I pretty much applied for the review via email.<sup>28</sup>

4.32 Some people have attempted to use Freedom of Information requests to obtain the calculations the department used to calculate their purported debt. A lawyer that appeared before the committee in Brisbane explained that in response to a Freedom of Information request lodged on behalf of a dyslexic client, the lawyer received:

...a printout of payments made to the client dating back to 2001. But there is a bunch of acronyms. I am not really sure what a lot of them mean. There is a handwritten [annotation]...—it says what was paid today and what the

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25 Noel Towell, 'Centrelink robo-debt program blamed for 50 per cent rise in legal challenges', *The Canberra Times*, 9 June 2017, <http://www.canberratimes.com.au/national/public-service/appeals-against-centrelink-debts-soar-20170607-gwmvs4.html> (accessed 9 June 2017).

26 Ms Georgina Warrington, Director, Basic Rights Queensland Inc., *Committee Hansard*, 16 May 2017, p. 2.

27 Tom, *Committee Hansard*, 11 April 2017, p. 59.

28 Jade, *Committee Hansard*, 10 April 2017, p. 29.



debt is at the moment. So that is what we were working on...We had a team of lawyers and a top-tier law firm look at that, and they came back to us and said, 'We have absolutely no idea what this means.'<sup>29</sup>

4.33 The committee received confidential evidence that a few individuals had greater success. Two individuals informed the committee that after considerable effort and persistence they were sent the 'Multical calculations', an internal spreadsheet that demonstrated how the purported debt was calculated.

4.34 On notice, the department explained that Multical is:

...an Entitlement and Debt Calculator tool used by Centrelink staff. It is a macro enabled Microsoft Excel workbook...<sup>30</sup>

4.35 Launceston Community Legal Centre noted that it had not experienced problems accessing the Multicals for their clients.<sup>31</sup>

4.36 The #NotMyDebt campaign called for the department to demonstrate in all cases how the debt was calculated. Its central recommendation was:

...that the onus of proof on any debt must be assumed by the government rather than having the alleged debtor disprove any possible debt exists.<sup>32</sup>

4.37 As Ian said:

To wrap up, the reverse onus of proof should be on the department and it should not be on the population.<sup>33</sup>

#### ***Committee view***

4.38 The committee is concerned that the process to challenge a debt—one most likely to be used by vulnerable individuals—is difficult to navigate. It is clear to the committee that many individuals are not aware of their rights when dealing with the department.

4.39 The committee accepts that the department has been attempting to educate members of the public about their rights, but considers that more needs to be done.

29 Ms Fiona Thatcher, Lawyer, LawRight, *Committee Hansard*, 16 May 2017, p. 32.

30 Mr Jonathan Hutson, Deputy Secretary, Enabling Services, Department of Human Services, answers to questions on notice, No. 164, 26 April 2017 (received 23 May 2017).

31 Ms Smith, *Committee Hansard*, 27 April 2017, p. 19.

32 Ms Lyndsey Jackson, Coordinator, #NotMyDebt, *Committee Hansard*, 10 April 2017, p. 43.

33 Ian, *Committee Hansard*, 26 April 2017, p. 58.

4.40 The committee considers that withholding information about how a purported debt is calculated is unacceptable. Particularly when the onus to demonstrate that a debt is not owed is placed on the individual, the failure to clearly articulate how a purported debt is calculated makes it very difficult for anyone to assess whether a debt is owed. The committee considers that the department should be much more transparent with this information.

4.41 It is unclear whether OCI debts are responsible for the increase in Centrelink debt lodgements to the Administrative Appeals Tribunal, though it may become clear when monthly figures are available. However, the committee is concerned about the increasing number of appeals and whether it reflects a trend in the broader debt recovery program.

### **Policy on handling queries**

4.42 As the department embraces online work systems, frontline Centrelink employees are asked to encourage all individuals to use the department's online platforms.<sup>34</sup>

#### ***Requiring clients to self-manage***

4.43 In January 2017, the Australian Broadcasting Corporation published a departmental internal memo that said 'customers must be encouraged to self-manage' and 'service delivery staff must not process activities in relation to the Online Compliance Intervention'.<sup>35</sup>

4.44 If the individual did not wish to use the online portal, the individual could be referred directly to the department's debt specialists using a phone service.<sup>36</sup> But as noted in Chapter 3, using online portals or a phone service is not necessarily appropriate or possible for all recipients.

4.45 One consequence of the decision to promote online and phone service assistance is that it disadvantages persons from culturally and linguistically diverse (CALD) backgrounds who find it difficult to 'self-manage'. As the Federation of Ethnic Communities' Councils of Australia (FECCA) informed the committee:

It is often the case that CALD persons are affected by the intersection of multiple vulnerabilities. There may be gaps in their financial literacy, institutional literacy, digital literacy, English literacy and combinations of those factors. In some cases it is only through face-to-face human

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34 Ms Campbell, *Committee Hansard*, 8 March 2017, p. 61.

35 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), p. 1.

36 Ms Jane Steinkamp, Service Leader, Eastern Victoria, Department of Human Services, *Committee Hansard*, 11 April 2017, p. 2.

interaction that CALD persons are able to effectively communicate with government and other service providers.<sup>37</sup>

### **Reversal of onus of proof**

4.46 Under the OCI measure, once a purported debt is raised against an individual, the individual is expected to provide information to demonstrate that they do not owe a debt.

4.47 A senior departmental officer informed the committee that the onus of proof has not changed:

The onus of proof was the same in the manual system as in the recent measure. We still asked people to find the evidence of their income themselves.<sup>38</sup>

4.48 However, finding evidence of income may be difficult in some cases. The Queensland Council of Social Service told the committee:

...[Centrelink] shifted all responsibility to the individuals through the process they have put in place... 100 per cent of the responsibility is placed back on the individual, with a lack of support and a lack of correspondence or communication even on a website to provide any level of support...<sup>39</sup>

4.49 The #NotMyDebt campaign is also critical of a model that requires individuals to source documentation from previous years:

The department has reversed the onus of proof onto vulnerable, under-resourced people and has provided virtually no guidance, let alone assistance, for achieving what is required of them. Even for those who have the money, cultural capital, education and literacy to navigate the system or pay debts to make them go away, it is time-consuming and often distressing. We are especially concerned for people with fewer resources.<sup>40</sup>

4.50 The effect of placing the onus on the individual is that an individual also becomes liable for any of the errors that emerge as a result of data-entry.

4.51 For others, obtaining the necessary documentation for previous years, such as payslips, may not be possible if the business is no longer trading. The Anti-Poverty Network South Australia argued that:

Many people in our group who are unemployed worked for companies that have gone out of business; they were made redundant. They would have no

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37 FECCA, *Submission 52*, p. 2.

38 Mr Jason McNamara, General Manager, Integrity Process Modernisation, *Committee Hansard*, 10 April 2017, p. 2.

39 Mr Mark Henley, Chief Executive Officer, Queensland Council of Social Service, *Committee Hansard*, 16 May 2017, p. 18.

40 Ms Jackson, *Committee Hansard*, 10 April 2017, p. 42.

way of being able to track down payslips from five, six or seven years ago.<sup>41</sup>

4.52 Other documentation may not be available because it was not recorded or the data has been lost. For example, recipients often engage with Centrelink by telephone. Legal Services Commission of South Australia observed that in those cases:

Hopefully, the department has been keeping a record of the stuff that has been submitted in the past...but at the moment...it is going to be very difficult to get a consistent approach because there are many different sources of information, some of which has perished.<sup>42</sup>

4.53 Reversing the onus of proof to demonstrate that the purported debt is not owed can create additional difficulties for individuals involved, beyond having to substantiate that their income was declared correctly.

### ***Psychological impacts***

4.54 The committee received some evidence that many individuals found the process of navigating the system to be stressful and frightening. The Anti-Poverty Network SA conveyed their sense that the OCI has made individuals fearful of making a mistake and incurring a debt:

The sense that we have is that this has added another layer of fear to what is already an increasingly difficult and unpleasant experience for people on welfare payments...<sup>43</sup>

4.55 The Australian Capital Territory Council of Social Service reported that they believed that many people feared retribution if they contested a purported debt.<sup>44</sup>

4.56 The National Union of Students agreed with that sentiment and suggested that students may have paid purported debts that they did not believe they owed as a result:

A massive fear was that if they refuted the debt it would impact future Centrelink payments—given how hard it is to access Centrelink in the first place and how long they have to wait for payments et cetera...So I think a lot of students felt forced to pay it up-front.<sup>45</sup>

4.57 The committee received confidential evidence that the process of challenging the purported debt is so onerous that some individuals are being deterred from attempting to find work or accepting payments they are entitled to in exchange for certainty that a debt will not be raised against them.

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41 Mr Forgione, Coordinator, Anti-Poverty Network South Australia, *Committee Hansard*, 10 April 2017, pp. 24–25.

42 Mr Boundy, *Committee Hansard*, 10 April 2017, p. 19.

43 Mr Forgione, *Committee Hansard*, 10 April 2017, p. 24.

44 Ms Susan Helyar, Director, Australian Capital Territory Council of Social Service, *Committee Hansard*, 8 March 2017, p. 5.

45 Ms Jill Molloy, Welfare Officer, National Union of Students, *Committee Hansard*, 11 April 2017, p. 35.

4.58 One individual on a disability support pension explained to the committee that he found the system of challenging the purported debt destabilised his mental health to such an extent that he was discouraged from rejoining the workforce out of fear that he may incur a debt.

4.59 The committee received evidence from the Legal Services Commission of South Australia that a client was informed that she owed the department approximately \$14 000. After the Legal Services Commission of South Australia intervened, the department reduced the purported debt to about \$7 000. The applicant may have been able to reduce the debt further, but instead decided to pay it because the applicant was, by that point, 'so exhausted by the process' that they were willing to pay a purported debt they did not believe they owe rather than continue to contest the debt.<sup>46</sup>

4.60 For some, challenging the debts can be all too much. As Social Security Rights Victoria submitted:

We have a client now who cannot cope at all. His only recourse for assistance is a nurse in hospital, who feels sorry for him, who has contacted us on his behalf.<sup>47</sup>

### ***Financial***

4.61 For many people who receive payments there is an economic cost to dealing with the department.<sup>48</sup> Launceston Community Legal Centre explained to the committee that many vulnerable people spend a large part of their payments on products and services in order to deal with the department, including internet access and mobile phone credit.<sup>49</sup>

4.62 Some recipients informed the committee that even though they did not believe that they owed the department money, they paid the debt because they found challenging the debt to be too frustrating or difficult. More immediately, the committee received some evidence that people who relied on advance payments were paying debts they did not believe they owed.

### ***Advance payments***

4.63 An advance payment is a facility to obtain a part of an income support payment early.<sup>50</sup>

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46 Ms Simpson, *Committee Hansard*, 10 April 2017, p. 15.

47 Mr Graham Wells, Principal Solicitor and Clinical Supervisor, Social Security Rights Victoria, *Committee Hansard*, 11 April 2017, p. 22.

48 Mr Forgione, *Committee Hansard*, 10 April 2017, p. 24.

49 Ms Smith, *Committee Hansard*, 27 April 2017, p. 14.

50 Department of Human Services, *Advance Payment*, 31 May 2017, <https://www.humanservices.gov.au/customer/enablers/advance-payment-options> (accessed 1 June 2017).

4.64 The Launceston Community Legal Centre stated the OCI debt has created problems for some individuals because:

...if you have an alleged recoverable debt with Centrelink, it automatically stops you from being able to access the advance payment option.<sup>51</sup>

4.65 Some individuals rely upon this facility to meet substantial bills. A solicitor with the Welfare Rights Centre shared a client's experience with the committee:

One of my clients was an age pensioner, which is unusual with this kind of debt, and she relied on those advances to register her car. She was not able to do that, because you are not eligible to get an advance if you have a Centrelink debt. She was fortunate because she had family members who could help her out. That is a side issue that affects anybody who has a Centrelink debt. Particularly for people who are distressed and usually rely on those as part of their budgeting for the year, it is really difficult.<sup>52</sup>

### ***Time***

4.66 As noted elsewhere in this report, contacting Centrelink to dispute the purported debt can be time-consuming. For some already under-resourced families, the imposition on their time has been a significant burden. Children and Young People with Disability Australia provided an insight into the imposition placed on families where a member has a disability. She said:

The practicalities of the situation for people with disability and families of children with disability...mean that they are time poor... It is not that people mind being responsible and accountable for what they are doing, but I was told you cannot even make an appointment. I had to spend two hours in there verifying [the] ID of a boy that has been on the system for 17 years.<sup>53</sup>

4.67 In Canberra, the Community and Public Sector Union informed the committee:

There are alleged debts that people have travelled hours to a Centrelink office to talk to somebody about, because they could not reach anybody through their call centre network, only to find after two visits that a debt had not occurred. The one example that a member told me about was somebody that had to get on a bus for an hour and 15 minutes to get to a Centrelink office not once, not twice but three times before the matter was resolved.<sup>54</sup>

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51 Ms Smith, *Committee Hansard*, 27 April 2017, p. 14.

52 Ms Odgers, *Committee Hansard*, 19 April 2017, p. 49.

53 Ms Stephanie Gotlib, Chief Executive Officer, Children and Young People With Disability Australia, *Committee Hansard*, 11 April 2017, p. 36.

54 Ms Lisa Newman, Deputy National President, Community and Public Sector Union, *Committee Hansard*, 8 March 2017, p. 17.

### ***Checking records held by the department***

4.68 As noted in Chapter 2, the department has changed the point at which it reviews the records held by the department.

4.69 Cross-checking records held by the department used to be one of the department's routine functions. The Australian Council of Social Service (ACOSS) explained:

...departmental officers do have access to the information because people have historically reported their incomes, but the auto data-matching system has generated a particular assumption about income. Instead of those assumptions about income then being cross-checked by departmental officers with the data that Centrelink holds on past income reported, that has been completely cut out, and all the onus is put back out onto the individual to again come back to prove what income they earned in what periods of time.<sup>55</sup>

4.70 The OCI places a greater emphasis on the individual to maintain and verify information relating to their case.

4.71 Departmental officers now cross-check the information held by the department at the reassessment stage if it is requested by the individual.<sup>56</sup> Welfare Rights Centre South Australia Inc. shared its observations that:

What was happening in a number of cases was that for clients who were trying to obtain information it resulted in a Centrelink officer interrogating their records for the first time in some detail and then deciding there was either no debt or the debt was incorrect. The process of asking for information was what prompted what Centrelink used to do, which was to interrogate the records.<sup>57</sup>

4.72 The Anti-Poverty Network SA called for a degree of human oversight to be introduced before letters were issued:

...the scheme as it currently exists in its automated form needs to be scrapped. We need to move back to a system with a high level of the human checks and balances, and with a high level of manual oversight.<sup>58</sup>

### ***No basis in law***

4.73 According to lawyers that appeared before the committee, there may be no basis in law for the department to demand that a recipient demonstrate they do not owe a purported debt. The President of the Law Society of South Australia informed the committee:

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55 Dr Cassandra Goldie, Chief Executive Office, ACOSS, *Committee Hansard*, 8 March 2017, p. 9.

56 Mr Hutson, *Committee Hansard*, 21 April 2017, p. 7.

57 Mr Mark Leahy, Manager, Welfare Rights Centre, *Committee Hansard*, 10 April 2017, p. 36.

58 Mr Forgione, *Committee Hansard*, 10 April 2017, p. 24.

Like any party that claims to be owed money and to have a right of recovery, Centrelink bears the legal onus of proving that the money claimed is owed. Unfortunately, the process implemented by Centrelink has included within the process assumptions rather than reliance upon evidence.<sup>59</sup>

4.74 That view was supported by a barrister and human rights advocate from the Australian Lawyers' Alliance:

...the idea of reversed onus, where you need to prove you do not have a debt, has no basis in law. Centrelink says, 'You owe us that amount of money,' but the way the law works is that you are entitled to say to Centrelink, 'Particularise your allegation'—in other words, 'How did you calculate that amount? How do you say that is the amount? What is the basis upon which you say an amount is owed? In what section of the act or regs et cetera is it?' That is the way it should be.<sup>60</sup>

#### ***Committee view***

4.75 The committee understands that the department is endeavouring to make greater use of technology and is encouraging more people to manage their payments online. The committee also understands that people have complex lives and that engaging with Centrelink should be a clear and manageable experience.

4.76 The committee is concerned that the department has placed the onus on the individual to demonstrate that a purported debt does not exist. The committee accepts that challenging these purported debts has taken considerable effort on behalf of those individuals.

4.77 The committee notes that no other party is entitled in law to assert that a debt exists and require the other party to disprove it. The committee accepts that the individual may know more about their affairs than the department, but in circumstances where individuals have already declared their income to Centrelink, it is only fair and reasonable that the department should attempt to investigate its own records before it requires individuals to attempt to reconstruct fortnightly earnings from previous years.

#### **Community legal sector**

4.78 The committee notes evidence that the expanded debt recovery process, lack of transparency and complexity of the system along with questions about the legality of the department's process have meant that community legal centres are experiencing a significant increase in the number of requests for assistance.

4.79 In South Australia, the Law Society of South Australia informed the committee that there had been a 'threefold increase of attendances' at community legal

59 Mr Tony Rossi, President, Law Society of South Australia, *Committee Hansard*, 10 April 2017, p. 34.

60 Mr Greg Barns, Barrister and Spokesperson on Criminal Justice and Human Rights, Australian Lawyers Alliance, *Committee Hansard*, 18 May 2017, p. 18.



centres.<sup>61</sup> In Victoria, Social Security Rights Victoria reported a 68 per cent increase in work because of the OCI system.<sup>62</sup> In other places, a change in the data-management system precluded the provision of an exact proportion, but community legal centres, such as Basic Rights Queensland, noted that the increase was significant.<sup>63</sup>

4.80 Whilst the increase in the demand for services is significant, the community legal sector observed that there were likely to be many more vulnerable people who would have been unable to access legal services because community legal services did not have the resources to deal with them.

4.81 The Legal Services Commission of South Australia explained that many people do not consider their Centrelink purported debt to be a legal problem:

...when people do receive advice from the department they do not immediately see that as a legal problem, so they do not necessarily come to a legal aid agency. They see it more as a departmental problem or a financial problem.<sup>64</sup>

4.82 Even if an individual is able to obtain legal support, it is unlikely to be from a specialist. WEstjustice expressed the view that there are very few legal specialists in this area:

Despite the number of people who are in receipt of Centrelink and depend on it for their livelihood, the number of lawyers in Victoria with a significant knowledge of Centrelink law is probably less than 10. If you receive one of these letters, your chances of finding someone to see face to face and to get advice from is somewhere between limited and non-existent...<sup>65</sup>

4.83 WEstjustice went on to explain that there is a lack of Centrelink law specialists in Australia, not just in Victoria:

Around the entire country the number of specialist Centrelink lawyers is incredibly small...most of the people receiving these letters have almost no chance of getting specialist advice other than by going through the phone systems of the state legal aid agencies...<sup>66</sup>

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61 Mr Rossi, *Committee Hansard*, 10 April 2017, p. 35.

62 Mr Wells, *Committee Hansard*, 11 April 2017, p. 20.

63 Ms Warrington, *Committee Hansard*, 16 May 2017, p. 4.

64 Mr Boundy, *Committee Hansard*, 10 April 2017, p. 16.

65 Mr Dennis Nelthorpe, Chief Executive Officer, WEstjustice, *Committee Hansard*, 11 April 2017, p. 11.

66 Mr Nelthorpe, *Committee Hansard*, 11 April 2017, p. 12.

4.84 One of the challenges for the state legal aid agencies, and community legal centres more generally, is that funding is a considerable challenge and it has placed pressure on their ability to assist the community.<sup>67</sup>

4.85 In places where funding to the community legal sector has been restored, a lawyer from LawRight commented:

...some of that money will be reinstated, but our understanding is that that has been earmarked for family law and domestic violence services. It does not necessarily follow that any advocates providing advice in the social security law space are going to be refunded.<sup>68</sup>

4.86 This means that it is difficult for individuals to obtain suitable legal advice about their OCI purported debts. As LawRight pointed out:

...many of our clients are not able to address these debts by themselves, and they do need legal assistance. But that is becoming, increasingly, out of reach.<sup>69</sup>

#### ***Committee view***

4.87 The committee is concerned about the levels of demand experienced by the community legal sector. The committee considers that legal assistance should not be required to navigate Australia's social security system, but recognises that it is currently necessary for many people.

4.88 The committee appreciates the assistance that these centres have been able to provide to individuals. To continue this work, the committee recognises that the community legal sector needs to be appropriately resourced.

#### **Process improvements by the department**

4.89 The committee acknowledges that the department has made some improvements to the OCI process since the program was first trialled in mid-2016.

4.90 At the committee's initial public hearing on 8 March 2017, the department provided the committee with an overview of the improvements the department has made to the system, saying:

...we have put refinements in place, including things such as: registered mail; changes to the portal to make it easier to use, particularly around using bank statements rather than people's pay slips that they may find

67 Mrs Lisa Coulson, Northern Regional Manager, Tasmanian Aboriginal Centre Inc, *Committee Hansard*, 27 April 2017, p. 14; Mr Nelthorpe, Westjustice, *Committee Hansard*, 11 April 2017, p. 11; Mr Bevan Warner, Victoria Legal Aid, *Committee Hansard*, 11 April 2017, p. 30; Mr Boundy, Legal Services Commission of South Australia, *Committee Hansard*, 10 April 2017, p. 14; Mr Leahy, Welfare Rights Centre, *Committee Hansard*, 10 April 2017, p. 37; Ms Kathrine Lane, Australian Privacy Foundation, *Committee Hansard*, 19 April 2017, p. 25; Ms Helen Creed, Community Legal Centres Association (WA) Inc, *Committee Hansard*, 21 April 2017, p. 26.

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

69 Ms Hughes, *Committee Hansard*, 16 May 2017, p. 30.

harder to get access to; simpler language; different use of colours on the portal to make it easier to read; an extension from 21 to 28 days to provide the information; and, importantly, when a debt has been identified—which is a pretty long way down the track—that people, if they wish to reassess or review, can put that debt repayment on pause until that review had been completed.<sup>70</sup>

4.91 Each of these improvements will be considered in turn.

4.92 By sending letters by registered mail, the department is able to identify whether the letter is received by the intended recipient. As identified in Chapter 3, the department's failure to send letters in this way meant that approximately 6 600 individuals only became aware that they may owe a debt when they were contacted by a debt collector because they did not receive the department's previous correspondence. To ensure that the department now has the correct address, the department now sends two letters by registered mail:

The first letter asks people to clarify and gives them a code with which to access the refined portal. The second reminder letter is also sent via registered mail—assuming the first letter goes to that address. If it comes back and says that the person was not at that address, we will then seek other means to contact them. Sometimes we can use mobile phone numbers that may be listed in the record and we can use other sources, such as the electoral roll or something like that. That is the refinement in making sure the letters get there. Even if people were registered for myGov, we are still sending them out registered mail just to make sure they get that.<sup>71</sup>

4.93 Another improvement to the system has been made to allow individuals to provide the department with bank statements to demonstrate their net income. The department explained to the committee that this was because:

The main social welfare payments are calculated on gross payment, which would require people to have access to information from employers. If we use net income, people are able to use bank statements to say what actually went into their bank accounts in different periods, so that is an improvement there. We have also automated the process of asking for an extension in which to provide more information...<sup>72</sup>

4.94 As noted above, some data from employers or former employers may be difficult to obtain meaning that this is an important improvement to the system.

4.95 The department also revised their letters to make them clearer, saying:

We have also looked at some of the letters—letters are the bane of our life—trying to make them clear and easy to read. We have had another go at

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70 Ms Campbell, *Committee Hansard*, 8 March 2017, p. 36.

71 Ms Campbell, *Committee Hansard*, 8 March 2017, p. 59.

72 Ms Campbell, *Committee Hansard*, 8 March 2017, pp. 59–60.

making sure the letters have a call to action so that people understand what their requirements are.<sup>73</sup>

4.96 The letters now clearly contain the department's 1800 phone number. A senior departmental official explained that:

One of the things that we learnt is that our letters were not very clear on the 1800 number, and one of the areas where we have made a significant change is making the 1800 number significantly clearer to people than it was in the original letters that we sent out, so people can now access that. The other key change we have made is that people no longer have to use myGov to access the system online; that is another significant change that we made in February. If people do not want to register for myGov, they do not have to because they are now sent an access code and they are able to directly go into the OCI system.<sup>74</sup>

4.97 Changes to the portal were also made to ensure that the department's 1800 phone number for its debt team was made more prominent.<sup>75</sup>

4.98 The department has taken steps to ensure that an individual is aware they could ask for a pause on recovery of the purported debt while it is being reviewed.<sup>76</sup> The department has also recalled a number of purported debts it had referred to external debt collection agencies, including the 6 600 purported debts where the individual had not been in contact with the department because they did not receive the initial letter.<sup>77</sup>

4.99 However, the committee also received evidence from witnesses who did not believe that the department's changes went far enough.

4.100 For example, ACOSS asserted that:

We do not believe the minor changes that the minister announced early in January have addressed the fundamental flaws in this program, so again today we will be submitting to you that the system needs to be shut down.<sup>78</sup>

4.101 Similarly South Australian Council of Social Service noted that:

...there were some changes made to the program in January and February 2017, but we really think that those were inadequate changes. They did not

73 Ms Campbell, *Committee Hansard*, 8 March 2017, p. 60.

74 Mr McNamara, *Committee Hansard*, 10 April 2017, p. 12.

75 Mr Marc Mowbray-d'Arbela, National Manager, Whole of Government Coordination Division, Department of Human Services, *Committee Hansard*, 11 April 2017, p. 4.

76 Ms Campbell, *Committee Hansard*, 8 March 2017, p. 36.

77 The department originally referred 6 600 debt matters to external debt collection agencies. In these cases, the debts were calculated because the individuals had not responded to the initial letters. After concerns were raised that many people did not receive the letters due to incorrect addresses, these debts were recalled back to the department. See Ms Campbell, *Committee Hansard*, 8 March 2017, p. 47.

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

address the design and operational flaws that have been identified along the way...<sup>79</sup>

4.102 In a supplementary submission to the committee, the department noted that it also made changes to the MyGov portal in May to make it easier for recipient's to use.<sup>80</sup>

4.103 In some cases the improvements were not explained to people, which meant that they were not necessarily able to make use of some improvements, such as the recovery pause.<sup>81</sup> Individuals may obtain a less beneficial outcome if they are unaware that particular options exist.

### **Concluding committee view**

4.104 The committee considers that the current process of review is opaque. It is clear that many individuals remain unaware of their rights when dealing with the department. The committee considers that considerable work could be done to clearly promote an individual's rights of review and right to request a pause while the purported debt is reviewed.

4.105 The reversal of the onus of proof in respect of these purported debts has had a substantial impact of the individuals concerned.

4.106 The committee understands that the department is attempting to identify discrepancies and overpayments and that it may need the individual's assistance in some circumstances. However, the committee considers that the department should consult its own records, or design a system capable of checking its records to ascertain what the recipient previously reported to the department.

4.107 Where a purported debt is raised against an individual, the committee considers that the department should be forthcoming with the calculations that demonstrate how the debt was arrived at.

4.108 The committee considers that these factors contributed to the increased number of requests for assistance received by community legal centres. Funding for these legal centres remains a substantial issue.

4.109 The committee acknowledges that the department has worked to make some improvements to the overall system. However, the committee considers that more needs to be done.

79 Mr Ross Womersley, Chief Executive Officer, South Australian Council of Social Service, *Committee Hansard*, 10 April 2017, pp. 22–23.

80 Department of Human Services, *Submission 66.1*, p. 3.

81 Ms Charmaine Crowe, Senior Policy and Advocacy Officer, ACOSS, *Committee Hansard*, 8 March 2017, p. 5.



# Chapter 5

## Debt recovery

Where did it go wrong? I have had no answers, and I have to pay the debt. They give you a certain amount of time. They say, 'Either you have to pay it in full or we can take five per cent of your earnings or you can offer us more.' They were very friendly about it. They said, 'Every three months the repayments for that debt will go up from five per cent of your earnings to 15 per cent'—and that's it: they just take it.<sup>1</sup>

5.1 Once a purported debt has been raised against an individual, debt recovery may be commenced.

5.2 Debt recovery may involve seeking an individual's agreement to a payment plan with the Department of Human Services (the department) or engaging an external debt collection agency. This chapter considers both debt recovery options and the impact on the individuals affected by them.

5.3 The inquiry received evidence from the department of the importance of the debt recovery stage of the Online Compliance Intervention (OCI) program, as the key performance indicators (KPIs) for the OCI program was the level of savings made.<sup>2</sup> Of the two external debt collection agencies contracted by the department, Probe Group advised the inquiry that 'recovery performance' was one of the KPIs in its contract with the department.<sup>3</sup> Dun and Bradstreet advised that while their contract with the department did not include an explicit KPI regarding debts collection amounts, the company did set internal KPIs of 'positive outcomes' expected from its own debt recovery employees.<sup>4</sup>

### Process of debt recovery

5.4 How a purported debt is recovered by the department depends upon whether the individual is in receipt of a current income support payment. If the recipient is currently in receipt of a payment, an amount will be withheld from the payment each week to satisfy the purported debt.<sup>5</sup>

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1 Margaret, *Committee Hansard*, 21 April 2017, p. 51.

2 Mr Jason McNamara, General Manager, Integrity Modernisation, Department of Human Services, *Committee Hansard*, 16 May 2017, p. 48. The setting of KPIs based on amounts of debt collected provides further evidence that the desire to recover savings was paramount and overrode consideration of people's welfare and appropriate risk assessment.

3 Mr Jarrod Kagan, Chief Operating Officer, Probe Group, *Committee Hansard*, 19 April 2017, p. 17.

4 Mr Simon Bligh, Chief Executive Officer, Dun and Bradstreet, *Committee Hansard*, 26 April 2017, p. 32.

5 Ms Kathryn Campbell CSC, Secretary, Department of Human Services, *Committee Hansard*, 8 March 2017, p. 64.

5.5 If the individual is not currently in receipt of a payment, the department will first engage with them to establish a payment plan. The department can enter into a payment plan with an individual for as little as five dollars per week.<sup>6</sup>

5.6 If an individual is not in receipt of a current payment and does not engage with the department, an external debt collection agency may be engaged to recover the purported debt.

5.7 According to the department, a purported debt will only be referred to an external debt collection agency where certain criteria are satisfied:

...first is that they have to be a former recipient. We have to not be aware that there is a vulnerability there...They also have to not be engaging with us. Our first point of call is to send them a letter asking them to repay the debt or enter into an arrangement. If they do not engage with us at all, eventually we would refer them to an external collection agency for the purposes of collecting the debt.<sup>7</sup>

5.8 The committee notes that the department's estimate about the proportion of purported debts referred to external debt collection agencies has varied during the committee's inquiry. On 8 March 2017 the department informed the committee that:

Generally, as part of our broader debt program, about 10 per cent of debts are referred to collection agencies.<sup>8</sup>

5.9 But on 18 May 2017 the department said:

...the department refers around 20 per cent of its debt to external debt collectors.<sup>9</sup>

5.10 The department later provided evidence to the inquiry that of purported debts raised between July 2016 to February 2017, 42 per cent were referred to external debt collection agencies.<sup>10</sup>

5.11 The department currently uses two external debt collection agencies: Dun and Bradstreet and Probe Group.<sup>11</sup> The department allocates debts randomly between the

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6 Ms Malisa Golightly, Deputy Secretary, Integrity and Information, Department of Human Services, *Committee Hansard*, 18 May 2017, p. 51; Ms Campbell, *Committee Hansard*, 18 May 2017, p. 51.

7 Mr Jonathan Hutson, Deputy Secretary, Enabling Services, Department of Human Services, *Committee Hansard*, 26 April 2017, p. 50.

8 Ms Campbell, *Committee Hansard*, 8 March 2017, p. 47.

9 Ms Golightly, *Committee Hansard*, 18 May 2017, p. 30.

10 Department of Human Services, Answers to questions on notice, 8 March 2017, (received 7 April 2017).

11 Ms Golightly, *Committee Hansard*, 8 March 2017, p. 66. Australian Receivables won a recent tender meaning there will be three debt collection agencies.



companies. Business rules ensure that each company is referred the same number of debts.<sup>12</sup>

5.12 The only exception to this rule is that:

...sometimes a particular recipient may have more than one debt, and if a particular company is already handling one debt for that recipient...then we would allocate any other debts to that same company, so that they are not being contacted by different companies.<sup>13</sup>

5.13 If an individual is contacted by an external debt collector and they dispute that they owe a purported debt, the matter is referred back to the department for resolution. The department reassured the committee that:

If a person whose debt has been referred to an external collection agent disputes that debt, that matter is dealt with by the department. As soon as they say that they do not owe a debt, that matter is referred to the department because only the department undertakes their reassessments or appeals. In one of our recent enhancements, we have also said that, in the event that anybody does seek a reassessment or appeal, we will pause recovery action pending the outcome of that reassessment or appeal.<sup>14</sup>

5.14 However, the individual may not necessarily know that they can have the matter referred back to the department.<sup>15</sup>

### **Debt collection by the department**

5.15 The department has greater power than ordinary private parties to collect debts from individuals that are currently in receipt of a payment because it has the power to deduct money from a payment without needing to go to court and demonstrate that it is owed a debt.

#### **Powers**

5.16 As noted in Chapter 4, private parties generally need to provide evidence to demonstrate that a debt exists or obtain judgment from a court before a debt is recoverable. In respect of current payment recipients, the department does not need to do either. The Consumer Action Law Centre told the committee that:

...the tax office and Centrelink, they do not have to go to that step of going to court. They can take direct action to garnish amounts in bank accounts or Centrelink payments. So it is a different standard that applies.<sup>16</sup>

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12 Department of Human Services, Answers to questions on notice, no. 30, 8 March 2017, (received 31 March 2017), p. 10.

13 Ms Golightly, *Committee Hansard*, 8 March 2017, p. 66.

14 Mr Hutson, *Committee Hansard*, 21 April 2017, p. 6.

15 Ms Charmaine Crowe, Senior Policy and Advocacy Officer, Australian Council of Social Service, *Committee Hansard*, 8 March 2017, p. 9.

16 Mr Gerrard Brody, Chief Executive Officer, Consumer Action Law Centre, *Committee Hansard*, 11 April 2017, p. 16.

5.17 In Tasmania, the committee was told by the Launceston Community Legal Centre that if the department decides to deduct money from a current payment:

The standard repayment rate is 15 per cent of your benefit amount. That is obviously very difficult to pay if you are already in severe financial hardship. Generally, when you are contacting the debt recovery team, it is merely to renegotiate that to a lower rate of repayment which, in and of itself, can be challenging and confronting for clients, especially clients who have problems with literacy and numeracy and who may have problems with communication and expressing themselves.<sup>17</sup>

5.18 The department has confirmed that 40 per cent of individuals with an OCI purported debt are current recipients.<sup>18</sup> This means that these types of deductions may form a significant part of the underlying cash recovered to date.

5.19 The Australian Council of Social Service (ACOSS) told the committee that, in some cases, a deduction occurred despite the recipient disputing that they owed a purported debt to the department.<sup>19</sup> As noted in Chapter 4, the department refined the process earlier this year to provide that a repayment plan can be paused while the purported debt is reviewed.<sup>20</sup>

### ***Impacts of debt recovery***

5.20 Withholding part of a Centrelink payment can have a substantial impact on the recipient who is relying on the payment, as Case Study 5.1 reveals below.

#### **Case study 5.1—UnitingCare Queensland**

This is a client that has come to our service, and shows the vulnerability of a client who does owe a Centrelink debt. This client presented to our service. She is 68 years old. She is on the Centrelink age pension. She lives alone. She has no social or family support. She has no assets, no financial support and no savings. She lives in a remote town, approximately an hour away from Bundaberg—so it is pretty isolated. This client presented to our service. She was very distressed and was having suicide ideation. She had been notified by Centrelink that she was to pay 100 per cent of an \$11 000 debt that was generated when she was employed by Queensland Health as a nurse. As this client had no financial means to pay this, being on the age pension and with minimum computer skills, the financial counsellor advocated for this client.

What the financial counsellor had to do in the first instance was connect her with a generalist counsellor because she was suicidal, just to make sure that harm was minimised. She attended those appointments. Then they sat down and investigated the debt. It was her debt; it was a real debt for her.

17 Ms Emma Smith, Welfare Rights Advocate, Launceston Community Legal Centre, *Committee Hansard*, 27 April 2017, p. 17.

18 Ms Golightly, *Committee Hansard*, 18 May 2017, p. 30.

19 Ms Crowe, *Committee Hansard*, 8 March 2017, p. 3.

20 Ms Campbell, *Committee Hansard*, 8 March 2017, p. 41.

However, as this client was on the age pension, the ability to pay back the \$11 000 was a great concern. The other issue that she was having was the online portal. She could not navigate the online portal. She had limited computer skills, so therefore she need to connect with the financial counsellor to understand how to connect with Centrelink.

Centrelink did say that they were going to take a large portion of the client's fortnightly pension in order to pay off this debt, which caused further distress because she was only just making ends meet. After considerable time, effort, phone calls, letters and advocacy to Centrelink, a debt waiver was put in and it was declined, and all other advocacy by the financial counsellor was unsuccessful. At this stage, the financial counsellor put in a payment plan of \$15 per fortnight, which was the absolute maximum this client could afford—and even then it was cutting everything down to a bare minimum. This was deducted from her pension each fortnight. However, every three months the financial counsellor still needs to contact Centrelink to get this arrangement reinstated because, after three months, it automatically falls off and the client is sent another bill asking for the full amount, which causes further trauma to the client.<sup>21</sup>

5.21 Some states have recognised recipients' reliance upon their payments in law.<sup>22</sup> Under Victorian law, Commonwealth payments cannot be used to satisfy a debt. Mr Nelthorpe, Chief Executive Officer of WEstjustice observed that:

...Victoria has a particular law worth looking at, in this context, which is the Judgment Debt Recovery Act. Under this act a private debt collector cannot access Centrelink payments at all.<sup>23</sup>

5.22 Consumer Action Law Centre recognised that this Act created something of a conflict when it came to Centrelink deducting payments, saying:

It shows that there is a conflict between what is behind those two laws. The Victorian law suggests that you need the whole of a Centrelink allowance to live on. The Centrelink capacity to take funds assumes that no matter how desperate you are they should still be entitled to take a percentage of that money.<sup>24</sup>

5.23 The committee received some evidence that payment plans were pushing individuals into hardship. The Council on the Ageing Tasmania explained that some individuals had to borrow money from friends to be able to sustain themselves:

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21 Ms Jodie Logovik, Program Manager, Financial Wellbeing and Resilience, UnitingCare Queensland, *Committee Hansard*, 16 May 2017, pp. 50–51.

22 See for example *Civil Procedure Act 2005* (NSW) s. 122 (Maximum total payment under all garnishee orders) provides that a garnishee order must not reduce any net weekly wage or salary to less than \$447.70 per week.

23 Mr Denis Nelthorpe, Chief Executive Officer, WEstjustice, *Committee Hansard*, 11 April 2017, p. 16.

24 Mr Brody, *Committee Hansard*, 11 April 2017, p. 17.

He is illiterate and is unable to read or write and is in very poor health. He is on a disability pension and receiving dialysis. He had to borrow money back from a friend to pay \$50 per fortnight, and he lives on only \$125 per week.<sup>25</sup>

5.24 A similar circumstance was explained by the Welfare Rights and Advocacy Service. It had a client with significant vulnerabilities who entered into a payment plan to pay \$20 per week to satisfy a \$250 purported debt:

She is on a low income and cannot even afford \$20 a fortnight, but she is doing it to ensure that she has a payment arrangement in place.<sup>26</sup>

5.25 The committee heard that even though they may not have much money, some individuals feel compelled to pay the purported debt the department says they owe, even if they do not necessarily believe that they owe it. Anglicare SA shared a client's lived experience with the committee:

We have had a client who lives in Whyalla who received a Centrelink letter saying that he had \$1,600. He was unhappy. He saw our financial counsellor based in Whyalla and he expressed that he was unhappy about receiving this. He did not believe or understand how he could have arrived at having that kind of debt, but he felt resigned to paying it—as many people that we come across do. They feel resigned and often do not understand how to interact with the system, with Centrelink, to have further accuracy around how the debt has been accrued.<sup>27</sup>

### ***Writing off debts***

5.26 In some cases, if the value of the purported debt is minimal, the department is able to write the debt off because it is not economical to recover.

5.27 The purported debt is automatically written off if it is less than \$50, but if the individual ceases paying part of a larger purported debt, any amount over \$20 could be outsourced to an external debt collection agency.<sup>28</sup>

5.28 The department undertook to provide the committee with details on how many debts had been outsourced to external collection agencies for such small amounts, but at the time of drafting this information had not yet been provided.<sup>29</sup>

5.29 The debts of current income support payment recipients are not written off at any level because the department is able to withhold money from payments.<sup>30</sup> In

25 Mrs Sue Leitch, Council on the Ageing Tasmania, *Committee Hansard*, 26 April 2017, p. 2.

26 Ms Kate Beaumont, Executive Officer, Welfare Rights and Advocacy Service, *Committee Hansard*, 21 April 2017, p. 26.

27 Ms Kate McGarry, Senior Manager, Community Services, Anglicare SA, *Committee Hansard*, 18 May 2017, p. 11.

28 Ms Golightly, *Committee Hansard*, 18 May 2017, p. 49; Ms Campbell, *Committee Hansard*, 18 May 2017, p. 49.

29 Ms Golightly, *Committee Hansard*, 18 May 2017, p. 49.

30 Ms Golightly, *Committee Hansard*, 18 May 2017, p. 51.

response to the committee's concerns regarding the impact of recovering debts by withholding a proportion of payments to vulnerable Australians, the department said that it works with recipients to determine the amount withheld and that these amounts can start from as low as five dollars per week.<sup>31</sup>

### ***Committee view***

5.30 The committee understands that the department seeks to recover overpayments from current and former recipients, but the committee is particularly concerned about the impact that debt repayments are having on income support recipients who are on very low incomes and former recipients who may be on very low wages.

### **External debt collection**

5.31 The committee received some concerning evidence about the legality and appropriateness of the debt collection that was outsourced to external collection agencies.

### ***Legal frameworks***

5.32 Though the department is not bound by debt collection guidelines or the consumer law when it engages in debt recovery, the department requires its external debt collection agencies—Dun and Bradstreet and Probe Group—to comply with these laws. As the department confirmed to the committee:

The external debt collectors are required to meet all of the guidelines, policies and requirements that are set out by the ACCC. That is part of their contract.<sup>32</sup>

5.33 This means that the debt collectors are required to comply with the debt collection guidelines produced by the Australian Competition and Consumer Commission (ACCC) and the Australian Securities and Investments Commission (ASIC).

5.34 The Consumer Law Action Centre told the committee that:

The [debt collection] guideline talks about how any contact by a debt collector has to have a reasonable purpose. That is a key principle in the guideline. That means, among other things, that they have a reasonable basis that the debt exists—that they have evidence of a debt.

In the past it has been problematic. For example, debt collectors have bought debts without basic information to substantiate a debt around the contract or statements of accounting and that sort of thing. That could be an analogy to this situation, where it is a question whether the debt collector that is acting on behalf of Centrelink actually has a reasonable basis that the debt exists.<sup>33</sup>

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31 Ms Campbell, *Committee Hansard*, 18 May 2017, p. 51.

32 Ms Golightly, *Committee Hansard*, 8 March 2017, p. 37.

33 Mr Brody, *Committee Hansard*, 11 April 2017, p. 12.

5.35 As noted in the previous chapter, it may be difficult for the debt collectors to satisfy themselves that the purported debt exists on a reasonable basis unless they are able to determine how the department calculated the amount owed. As noted in Chapter 4, if the purported debt is disputed, the debt is referred back to the department for reassessment.

### ***Cases recalled by the department***

5.36 As noted in Chapter 3, the department sent 6 600 letters to incorrect addresses or online accounts which resulted in approximately 5 000 individuals only discovering that they may have owed a purported debt when they were contacted by an external debt collection agency.<sup>34</sup>

5.37 The 6 600 debts were part of a larger tranche of 56 504 OCI purported debts that were referred to external debt collection agencies between 1 July 2016 and 28 February 2017.<sup>35</sup> In mid-February 2017 the department recalled all OCI purported debts that had been referred to external collection agencies.<sup>36</sup> When asked the reason why the debts were being recalled from external debt collection agencies, the department did not provide specific detail, however responded that it was 'part of our service recovery processes'.<sup>37</sup>

### ***Debt recovery fee***

5.38 The committee has received evidence that individuals whose cases are referred to external debt collection agencies have been asked to pay a 10 per cent recovery fee.

5.39 Under social security law, the department is permitted to charge a 10 per cent recovery fee on 'so much of the debt as arose because the person refused or failed to provide the information' unless the Secretary is satisfied that the individual had a reasonable excuse.<sup>38</sup> Until July 2016, the letters issued by the department did not advise that an individual could apply to have the 10 per cent recovery fee waived if the individual had a reasonable excuse.<sup>39</sup>

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34 Ms Campbell, *Committee Hansard*, 18 May 2017, p. 28.

35 Department of Human Services, Answers to questions on notice, 8 March 2017 (received 7 April 2017).

36 Department of Human Services, Answers to questions on notice, 8 March 2017 (received 7 April 2017); Mr Hutson, *Committee Hansard*, 26 April 2017, pp. 50, 52–53.

37 Department of Human Services, Answers to questions on notice, 26 April 2017 (received 19 June 2017).

38 *Social Security Act 1991* (Cth), s. 1228B; Commonwealth Ombudsman, *Centrelink's automated debt raising and recovery system*, Report No. 2 of 2017, p. 8; Department of Human Services, Answer to questions on notice, No. 39, 8 March 2017 (received 8 June 2017).

39 Commonwealth Ombudsman, *Centrelink's automated debt raising and recovery system*, Report No. 2 of 2017, April 2017, p. 8.

5.40 ACOSS expressed concern at apparent changes to departmental guidelines around the application of the recovery fee, which do not appear to be in-line with the provisions under social security law:

The government has also changed departmental guidelines around the collection of a 10 per cent recovery fee where there is a debt. They now no longer need information about the circumstances that led to a debt to apply that fee. Normally this fee would only apply if the person knowingly or recklessly provided false information or withheld information. Now the fee applies wherever a reasonable excuse is not offered via the online portal, for instance, including where contact is not made. This is in contrast to the original intent of the 10 per cent recovery fee, which was to penalise recipients who did the wrong thing as opposed to penalising those who made an inadvertent mistake.<sup>40</sup>

5.41 The Commonwealth Ombudsman's Office raised concerns with the department that individuals may have been charged the 10 per cent fee even though they may have had a reasonable excuse. In response the department informed the Ombudsman that:

...[the department] will no longer apply the fee automatically where there is no contact from the customer, or the customer responds that they had personal factors which affected their ability to accurately declare their income.<sup>41</sup>

5.42 The department informed the Ombudsman that since the department redesigned the system the penalty would be applied manually and only if the individual has been provided with an additional opportunity to provide the department with a reasonable excuse and has failed to do so.<sup>42</sup>

*Is the 10 per cent collection fee a penalty?*

5.43 Lawyers that appeared before the committee questioned the ability of the department to charge a collection fee. The reason for this was explained by the President of the Law Society of South Australia, Mr Rossi:

The imposition automatically of a 10 per cent penalty is inappropriate. The society notes that at common law the imposition of a penalty would be unlawful. The society is not aware of any evidence provided by Centrelink to justify an amount as significant as 10 per cent of the debt as representing the true estimate of the cost of debt recovery.<sup>43</sup>

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40 Ms Crowe, *Committee Hansard*, 8 March 2017, p. 3.

41 Commonwealth Ombudsman, *Centrelink's automated debt raising and recovery system*, Report No. 2 of 2017, April 2017, p. 8.

42 Commonwealth Ombudsman, *Centrelink's automated debt raising and recovery system*, Report No. 2 of 2017, April 2017, p. 43.

43 Mr Tony Rossi, President, Law Society of South Australia, *Committee Hansard*, 10 April 2017, p. 35.

5.44 Mr Rossi continued to say:

In simple terms: in general, someone would not be entitled to recover more than the debt plus interest until court proceedings were actually issued. It is unlawful, at common law, to charge a penalty because you have not paid on time. A penalty is a payment which has no relationship to the loss that you are suffering as a result of not having the money paid on time.<sup>44</sup>

5.45 A similar view was endorsed by Legal Services Commission South Australia, Welfare Rights Centre, Consumer Action Law Centre and National Security Rights Network.<sup>45</sup>

5.46 There was also a concern that the automatic imposition of a 10 per cent fee may be inappropriate on administrative law grounds.

...the application of the 10 per cent penalty may be a breach of administrative law because it would appear to be fettering an administrative discretion. And, as we understand it, formerly a DHS officer would consider whether this penalty should be added.<sup>46</sup>

5.47 Welfare Rights Centre explained that what that means is:

...the 10 per cent penalty, which legally should require a human decision and human discretion...is now being determined automatically.<sup>47</sup>

5.48 As noted above, the department has redesigned the system to require the 10 per cent fee to be applied manually to address this issue.

### ***Payment of external debt collection agencies***

5.49 The committee received evidence that the department remunerates external debt collection agencies based on a commission. This can be contrast with other government departments such as the Australian Taxation Office (ATO) who said:

...we do not remunerate our debt collection agencies based on what they collect. We pay a flat fee for a referral and they are required under that referral to make a number of attempts to engage the taxpayer and then either seek payment or enter into a payment arrangement.<sup>48</sup>

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44 Mr Rossi, *Committee Hansard*, 10 April 2017, p. 39.

45 Mr Christopher Boundy, Manager, Access Services, Legal Services Commission, *Committee Hansard*, 10 April 2017, p. 14; Mr Mark Leahy, Welfare Rights Centre South Australia, *Committee Hansard*, 10 April 2017, p. 34; Mr Brody, Consumer Action Law Centre, *Committee Hansard*, 11 April 2017, p. 11; Mr Matthew Butt, National Security Rights Network, *Committee Hansard*, 19 April 2017, p. 38.

46 Mr Boundy, *Committee Hansard*, 10 April 2017, p. 14.

47 Mr Leahy, Manager, Welfare Rights Centre South Australia, *Committee Hansard*, 10 April 2017, p. 34.

48 Mr Robert Ravello, Deputy Commissioner, Debt, Australian Taxation Office, *Committee Hansard*, 8 March 2017, p. 29.



5.50 The external collection agencies did note that more contracts operate on a commission rather than a flat fee basis, and the ATO contract of a flat fee was unusual.<sup>49</sup>

5.51 Consumer Action Law Centre argued that a flat fee may be better for individuals:

There are problems with commissions being used in debt collection, particularly if the commission is collected on the basis of promises to pay. For example, if the debt collector enters into an arrangement with the debtor that they will pay, say, \$500 a month over 12 months to repay a debt and they get that commission up-front based on that arrangement, there is a risk that it would encourage a debt collector to set an unaffordable payment plan, because they will get the commission straightaway, whereas commissions that are paid when the debt comes in the door, when it is actually paid, can align the interests a bit closer. With some of the major debt collectors that pay commissions to staff who collect debt, rather than having payments or bonuses up-front for entering into payment arrangements, the commissions are staggered over time and therefore there is a better incentive for the collector to enter into an affordable arrangement. That said, there probably is a better basis for a flat fee that does not create problematic incentives for debt collectors to try to be too harsh in any event in collecting debt.<sup>50</sup>

5.52 The committee was unable to ascertain the actual rate of commission paid to the external collection agencies because the rate was commercially sensitive.<sup>51</sup> The department confirmed that the external collection agencies receive a commission based on the amount they recover.<sup>52</sup> When asked the reason why the department pays a commission rather than flat-fee to its external debt collection agencies, the department did not provide a specific policy reason except that it 'has been the long-standing practice.'<sup>53</sup>

### ***Committee view***

5.53 The committee is pleased to see the department has amended the system to ensure that individuals are not automatically charged a 10 per cent recovery fee and for reviewing the debts that were referred to external debt collection agencies.

5.54 The committee is concerned that the department appears to be requiring individuals to pay a fee to cover the costs associated with external debt recovery. The committee considers that there is scope for the department to reconsider how it funds its external collections.

49 Mr Bligh, *Committee Hansard*, 26 April 2017, p. 30.

50 Mr Brody, *Committee Hansard*, 11 April 2017, p. 14.

51 Ms Anne Musolino, Chief Counsel, Department of Human Services, *Committee Hansard*, 8 March 2017, p. 65.

52 Ms Golightly, *Committee Hansard*, 8 March 2017, p. 64.

53 Ms Golightly, *Committee Hansard*, 8 March 2017, p. 64.

5.55 The committee considers that there is merit in the department exploring whether debt collection agencies should be engaged on a similar terms to those used by the ATO, particularly if those terms may better align the interests of the debt collection agency with those of the alleged debtor.

### *Actions of debt collectors*

5.56 The committee has received a number of complaints from individuals and organisations that have had interactions with debt collectors, including allegations of inappropriate conduct. These allegations included threats and demanding inappropriate repayments.

### *Inappropriate conduct*

5.57 ACOSS reported that there were multiple media articles that debt collectors may be demanding immediate repayment, threatening to seize individuals' assets or threatening other recovery actions.<sup>54</sup>

5.58 The Welfare Rights Centre South Australia told the committee of a case where an external debt collection agency suggested that the client could sell his only vehicle to satisfy the debt.<sup>55</sup>

5.59 Basic Rights Queensland explained that:

The experience of being contacted by debt collectors is probably the worst experience of all. I referred to that one where they had been threatened—the first they knew of it was via a debt collector, and they had been threatened: 'This is going to ruin your credit rating.'<sup>56</sup>

5.60 The committee is concerned by Phoebe's experience with an external debt collection agency that requested immediate payment of an amount she could not afford and continued to threaten to garnish her wages and require full payment of the debt after the matter was placed under review by the department. Phoebe's experience is below.

### **Case Study 5.2—Phoebe's experience**

My name is Phoebe. In October of last year I was notified via a text message of mail in my myGov inbox. When I logged in I found I had three letters regarding a Centrelink debt that added up to \$14,567. I had not received any prior communication regarding this debt—in particular, the initial letter informing me of the discrepancy between my reported earnings and my taxable earnings. After only two weeks of receiving the debt letters I was contacted by Dun and Bradstreet debt collectors, demanding that I pay the debt in full. My response to this was that I believed that I did not owe the debt and that I was submitting for a review with Centrelink before I was happy to commence any repayments. However, they then threatened to

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54 Ms Crowe, *Committee Hansard*, 8 March 2017, p. 4.

55 Mr Leahy, *Committee Hansard*, 10 April 2017, p. 33.

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

garnish my wages in full if I did not make a significant repayment, which was considered to be a minimum of \$500 on the spot, to which, as any normal person would, I panicked and paid \$500 on my credit card.

Whilst continuing to fight off debt collector phone calls, who persistently threatened me with garnishing wages and enforcing repayments that I could not afford, I was working with an accountant, trying to gather pay slips from previous employers in order to prove that I did not owe the debt. The debt spanned the period that I was studying and working casually, as we have heard a lot today, and this went back to 2010, so as long as seven years ago. As I said, I was working casually, as many university students do, whilst I was studying. Any time I gained employment I informed Centrelink of my new employer, and carefully and to the best of my knowledge always reported accurately. After my accountant initially submitted all the payslips that we had managed to gather together, I still had not heard anything from Centrelink for two weeks. After that two weeks, I was informed that my accountant had uploaded them to the incorrect platform—even though she uploaded to the platform that Centrelink told her to upload them to. The following week, I was told, by a Centrelink employee, that I had to upload these details myself and was told to log on to the online platform. I then had to make another phone call to gather my customer reference number and log in details, because at this point I had not been receiving payments for, I think, three or four years. When I did log in, the platform to upload the payslips to did not exist, and this was confirmed by another phone call. This back-and-forth process between Centrelink and me has been incredibly frustrating and is still ongoing.

I would estimate that I have spent probably 100 hours, if not more, gathering payslips from multiple employers; learning my rights about debt collectors, and what debt collectors can and cannot threaten; and learning my legal rights surrounding inaccurate welfare debts. I have spent hours on the phone to Centrelink, with many calls going unanswered and cut off midway. This process has resulted in emotional and physical stress, and increased sick leave from work.

I feel that these robo-debs [sic] are targeting the wrong people, those who honestly and diligently reported believing all they were doing was right. I am now a healthcare worker and every day give back to the community yet to now be labelled as a welfare fraud could impact my future and my career. My trust in the system is definitely shaken.<sup>57</sup>

5.61 As Phoebe's case above shows, some individuals have used credit cards to repay a Centrelink debt. The Victorian Council of Social Service told the committee that many people used more expensive forms of debt in order to pay their debt to Centrelink:

We certainly know people who have gone to payday lenders and we know of people who have loaded up credit cards and used other mechanisms to

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57 Phoebe, *Committee Hansard*, 19 April 2017, p. 66.

try to pay debts that—there is a fair chance—they simply did not owe in the first place.<sup>58</sup>

5.62 The debt collection agencies disagreed that complaints are a major issue. External debt collection agency Dun and Bradstreet informed the committee that:

...we have approximately one complaint per 100,000. We investigate them. The department investigates them. Our staff have got specific obligations and training including the ACCC and ASIC guidelines to which you referred. All communications are in a form agreed with the department. All communications happen with a frequency permitted by the guidelines so a maximum of three per week or 10 per month. When we hear of complaints and investigate them or the department investigates them, we are satisfied that our processes have been followed.<sup>59</sup>

### *Use of departmental data*

5.63 Another area of debt collection that some submitters expressed concern about related to data.

5.64 The Australian Privacy Foundation expressed concern that the external debt collection agencies may seek to use data provided by the department for their own commercial advantage.

5.65 The committee received evidence that the external debt collection agencies kept the department's data separate and that secure arrangements are in place.<sup>60</sup> Mr Kagan from Probe Group assured the committee that only staff working directly on behalf of the department had access to the information.<sup>61</sup>

5.66 The Australian Privacy Foundation suggested that external debt collection agencies should still be required to delete the department's data at the conclusion of the contract to ensure the integrity of individuals' personal information.<sup>62</sup>

5.67 At the committee's hearing on 18 May, the department undertook to confirm whether this was already a condition of the department's contract with each debt collection agency. However, at the time of drafting, the department had not provided confirmation of this to the committee.

### *Monitoring*

5.68 The committee notes that as part of the contracts with the debt collection agencies, the department conducts a regular program of monitoring. The department confirmed that the contracts with the external debt collection agencies require multiple

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58 Ms Emma King, Victorian Council of Social Service, *Committee Hansard*, 11 April 2017, p. 53.

59 Mr Bligh, *Committee Hansard*, 26 April 2017, p. 34.

60 Mr Kagan, *Committee Hansard*, 19 April 2017, p. 23.

61 Mr Kagan, *Committee Hansard*, 19 April 2017, p. 23.

62 Ms Kathrine Lane, Immediate Past Chair, Australian Privacy Foundation, *Committee Hansard*, 19 April 2017, p. 29.

reviews to be undertaken at various intervals, including some reviews that are conducted informally on a monthly basis together with a program of formal quarterly reviews.<sup>63</sup>

5.69 Ms Golightly from the department clarified that formal quarterly reviews are conducted:

...against the framework that is in the contract and against the policies and principles and law that the external collection agencies have to apply.<sup>64</sup>

5.70 The committee notes that formal quarterly reviews may examine various aspects of the collection agency's performance by using surveys of customers, an evaluation according to specifications of the contract or evaluations of monitored calls.<sup>65</sup>

5.71 The department clarified the monitoring of calls may include:

...a sample of calls, double-headsetting with them to listen in to how they are handling customers, both customers who may be calling them and customers they are calling.<sup>66</sup>

5.72 The committee received evidence that this may not be the most effective form of monitoring because the debt collectors are unlikely to demonstrate inappropriate behaviours if they know they are being listened to. Consumer Law Action Centre explained that another option for monitoring could include:

...shadow shopping or other sorts of things. It might be that they would put an example into the marketplace, for want of a better word, so that the debt collectors are required to contact someone that is not a real debtor. They experience the situation—they see what it is like—to see if the debt collection process is compliant with the standards that are required of them.<sup>67</sup>

5.73 If any one does have concerns, the department told the committee:

Certainly they can ring the department. We have got a dedicated line to deal with any debt inquiries, including any issues that people may be wanting to raise about the debt collectors.<sup>68</sup>

5.74 On notice, the department advised that individuals with complaints about an external debt collection agency could contact the department 'online, face-to-face, by calling 1800 132 468 or via mail'.<sup>69</sup>

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63 Ms Golightly, *Committee Hansard*, 18 May 2017, p. 50.

64 Ms Golightly, *Committee Hansard*, 8 March 2017, p. 64.

65 Ms Golightly, *Committee Hansard*, 18 May 2017, p. 50.

66 Ms Golightly, *Committee Hansard*, 8 March 2017, p. 64.

67 Mr Brody, *Committee Hansard*, 11 April 2017, p. 13.

68 Ms Golightly, *Committee Hansard*, 8 March 2017, p. 38.

69 Department of Human Services, Answers to questions on notice, 8 March 2017 (received 10 April 2017), p. 9.

5.75 If contacting the department was not successful, a dissatisfied recipient could also contact the Commonwealth Ombudsman or the ACCC for assistance.<sup>70</sup>

### ***Impact***

5.76 The committee understands that being contacted by debt collectors can be stressful. In February 2017, an article appeared in *The Saturday Paper* titled 'Centrelink's debt recovery system "pushed him over the edge"'.<sup>71</sup> The article's thesis was that a young Melbourne man was so badly harassed by debt collectors about an OCI debt that he took his own life.

5.77 Ms Campbell, the secretary of the department told the committee that:

With the press story about the suicide—and this is a very sad event, and we do not want to make it harder for families—this was a former recipient, it was not a current recipient. That is why the debt collectors had been used on that occasion. There are always different dimensions to stories that appear in the media, as I am sure you are aware, and we have a different take on what was reported, I think it is fair to say.<sup>72</sup>

### ***Committee view***

5.78 The committee recognises that being pursued by debt collectors is likely to be very stressful. The committee is concerned about the number of reports it received about debt collectors' inappropriate behaviour.

5.79 The committee considers that the department's monitoring regime could be more rigorous and it calls on the department to do more to ensure that collection agencies are complying with all guidelines and standards.

70 Ms Golightly, *Committee Hansard*, 8 March 2017, p. 65; Department of Human Services, Answers to questions on notice, 8 March 2017 (received 10 April 2017) p. 9.

71 Martin McKenzie-Murray, 'Centrelink's debt collection "pushed him over the edge"', *The Saturday Paper*, 18 February 2017, <https://www.thesaturdaypaper.com.au/2017/02/18/centrelinks-debt-collection-pushed-him-over-the-edge/14873364004249> (accessed 21 February 2017).

72 Ms Campbell, *Committee Hansard*, 8 March 2017, p. 38.

# Chapter 6

## Conclusions and recommendations

The question that we ask the committee to consider in its deliberations is: where is good government, good decision-making and leadership when a system is failing? Where is the leadership that is bold enough to say: 'We got this wrong. We will pull it back. We will rework it. We will review it. We will talk to the stakeholders who know best to try and get it right.' Where is good government in understanding and taking seriously its duty of care to its citizens to protect the most vulnerable and not cause vulnerability or harm its own citizens?<sup>1</sup>

### Conclusion

6.1 It was made clear to the committee during the course of this inquiry, that the evidence consistently demonstrated a key flaw in the Online Compliance Intervention (OCI) program, a flaw which filtered throughout the OCI debt recovery process: a fundamental lack of procedural fairness.

6.2 This lack of procedural fairness is evident in every stage of the OCI program. It can be seen in the drafting of the policy where there was a lack of consultation with key stakeholders who could give feedback on the potential impact to vulnerable Australians. It is evident in the testing phase for the program website which did not include an adequate cross section of users, including those with vulnerabilities or communication barriers. It is in the failure to carry out a risk assessment before the process started. In sending letters without checking addresses and taking a lack of response as a refusal to engage. In the averaging of income data, which invents a fortnightly income-earned sum for the purposes of then charging people with a debt knowing full well it is going to be wrong. In the millions of calls that went unanswered, as people tried to contact the Department of Human Services (department) to discuss their debt matter, at the request of the department itself. In the lack of information released to individuals which they required in order to challenge a debt. In the imposition of an automatic 10 per cent debt recovery fee. It can be seen in the institution of a debt recovery program reaching back six years, despite online departmental advice that welfare recipients need only retain records for six months. A lack of procedural fairness is evident in all these stages. The system was so flawed that it was set up to fail.

6.3 This lack of procedural fairness disempowered people, causing emotional trauma, stress and shame. This was intensified when the Government subsequently publicly released personal information about people who spoke out about the process.

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1 Ms Kym Goodes, Chief Executive, Tasmanian Council of Social Service, *Committee Hansard*, 26 April 2017, p. 8.

6.4 What also become clear through the inquiry is that the department has a fundamental conflict of interest – the harder it is for people to navigate this system and prove their correct income data, the more money the department recoups.

6.5 Government departments must at all times act with 'best practice', and in legal issues must also act as a 'model litigant.' This principle is not just established to set an appropriate benchmark for the private sector to live up to. This principle of 'best practice' is also in recognition of the fundamental power imbalance between a government department and a single private citizen. Government departments must take all possible steps to ensure that the power imbalance that exists between an individual Australian and a large entity, such as the Department of Human Services, does not inadvertently favour the powerful to the extent that it becomes an infringement of each person's right to procedural fairness.

6.6 Witnesses and submitters unambiguously stated their support for a social security system that is fair and sustainable, which necessarily includes recovering income support payments from those who knowingly or inadvertently received overpayments. But the manner in which overpayments are recovered must also be fair and sustainable.

6.7 The department itself has agreed that there are improvements to be made to the OCI system:

It is fair to say that this process has highlighted a number of issues with debt collection that will benefit from review, because we have done more of them and we have had some exposure to have a look at some of these things. I think the officers at the table would agree that there is some opportunity for us to improve how we go about these things.<sup>2</sup>

6.8 The recommendations made in this chapter seek to address the procedural fairness problems within the OCI system. They are presented in the same order as the report itself was structured, to cover the key stages of the OCI process. The first two headline recommendations are made to address the issue of individuals being charged, or who may soon be charged, debts which have been calculated using the initial and current flawed model.

## **Committee recommendations**

### ***Headline recommendations***

#### **Recommendation 1**

**6.9 The committee recommends the Online Compliance Intervention (OCI) program should be put on hold until all procedural fairness flaws are addressed, and the other recommendations of this report are implemented. If these issues are addressed, the OCI should only be continued in its new form after the new One Touch Payroll system is implemented in 2018.**

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2 Ms Kathryn Campbell CSC, Secretary, Department of Human Services, *Committee Hansard*, 18 May 2017, p. 49.



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**Recommendation 2**

**6.10** The committee strongly recommends that the rollout of a redesigned system must include a robust risk assessment process, which includes consultation with relevant expert stakeholders.

**Recommendation 3**

**6.11** The committee recommends that all people who have had a debt amount determined through the use of income averaging should have their debt amounts re-assessed immediately by a team of departmental officers with specialist knowledge of the Online Compliance Intervention program, using accurate income data sourced from employers. This re-assessment must include the full range of unpaid, partially paid and fully paid debts incurred by current income payment recipients and those debts outsourced to debt collection agencies.

*Calculating debt*

**6.12** Government departments must, in all aspects of work, maintain 'best practice' in procedures, which includes publicly verifiable adherence to all relevant legislation, guidelines and protocols.

**6.13** It is a basic legal principle that in order to claim a debt, a debt must be proven to be owed. The onus of proving a debt must remain with the department. This would include verifying income data in order to calculate a debt. Where appropriate, verification can be done with the assistance of income support payment recipients, but the final responsibility must lie with the department. This would also preclude the practise of averaging income data to manufacture a fortnightly income for the purposes of retrospectively calculating a debt.

**Recommendation 4**

**6.14** The committee recommends all data-matching guidelines and protocols be adhered to, including the Data-matching Program (Assistance and Tax) Act 1990, regardless of whether the department is using tax file numbers. This will require the department to halt the Online Compliance Intervention process while steps are taken to ensure compliance with all mandatory and voluntary provisions. Adherence to these provisions should be verifiable by the public in order to maintain trust in the social security system.

**Recommendation 5**

**6.15** The committee recommends the department update its privacy policy to ensure that it does not publicly release sensitive information it holds about individuals, for any reason.

**Recommendation 6**

**6.16** The committee recommends the department resume full responsibility for calculating verifiable debts (including manual checking) relating to income support overpayments, which are based on actual fortnightly earnings and not an assumed average.

***Debt recovery fee***

6.17 In response to the Commonwealth Ombudsman's recommendations, the Department has ceased the automatic charging of a 10 per cent debt recovery fee, and now provides information on how individuals can apply not to have this fee imposed where they have a reasonable excuse. The committee believes that barriers to communication which impact a person's ability to complete income reporting should be included in the reasonable excuse framework for waiving the debt recovery fee.

**Recommendation 7**

**6.18 The committee recommends the department review all debt cases where the 10 per cent recovery fee was automatically imposed, and in line with procedural fairness, allow each person a fully-informed opportunity to apply to have the debt recovery fee waived.**

**Recommendation 8**

**6.19 The committee recommends personal or technical barriers to communication which impacted an individual's ability to undertake income reporting, should be included in the reasonable excuse framework for waiving the debt recovery fee.**

***Communicating***

6.20 The committee has found that a key impediment to procedural fairness in the OCI process has been a deficiency of appropriate and effective communication. This has presented both in the type of information available as well as the communication channels themselves. Barriers to communication throughout the OCI process have included:

- a lack of appropriately detailed information at each stage, from explaining the OCI process, through to providing the relevant debt calculation data required to challenge debts;
- a deficiency in the communication strategy to address the needs of vulnerable people and/or people with a communication barrier, including people with English as a second language and people with cognitive communication barriers;
- a shortage of sufficient communications portals. This included people not being able to reach the department via phone or online, not being able to access OCI specialist teams when finally speaking with the department, and no appropriate face-to-face assistance for people unable to use phone or internet communication channels; and
- a deficiency in the design of the OCI online portal, which is difficult to navigate even for computer literate users.

**Recommendation 9**

**6.21 The committee recommends Accessible Information, in particular Easy English versions, be made available in all debt recovery programs, including**

online portals. The committee strongly recommends this should be a whole-of-department change, to ensure that producing Accessible Information versions of all Centrelink communications material become standard operating procedure.

#### **Recommendation 10**

**6.22** The committee recommends the department ensure that in the re-design of the Online Compliance Intervention system, if it continues, the new system has the necessary protocols to protect vulnerable cohorts, including people experiencing mental health issues. The committee strongly recommends this should be a whole-of-department change, including reconvening the Consumer Consultative Group, the Service Delivery Advisory Group and the Mental Health Advisory Working Party.

#### **Recommendation 11**

**6.23** The committee recommends that the department provide all Online Compliance Intervention participants with the debt calculation data required to be assured any debts are correct.

#### **Recommendation 12**

**6.24** The committee recommends the Department of Human Services be adequately resourced to implement all recommendations of this report, and to improve the level of service provided to Centrelink recipients. In particular, the committee recommends increased investment in communication channels and staff, to ensure calls are answered in a more timely manner. The committee strongly recommends this as a whole-of-department change.

#### ***Challenging debts***

**6.25** When faced with a purported debt, many individuals were unaware of the possibility of an error in the calculations, their right to have a review of that purported debt or how to undertake a review. Many individuals were so daunted by what they saw as an insurmountable task, to challenge a large government department, they simply gave up and paid what they felt was a debt they did not owe.

**6.26** For many people, the department deadlines for people to provide evidence to challenge the purported income reporting discrepancy was simply not enough time to gather income documentation – resulting in a default debt amount being generated by the department and imposed.

**6.27** Evidence presented by legal services also indicated an increasing burden on their services, which they could not meet due to funding cuts. Evidence also indicated an impending surge in workload for the Administrative Appeals Tribunal which has not been adequately planned for.

**6.28** Of equal concern is the evidence presented which shows that where an individual has an OCI-related purported debt, even if that debt amount is being challenged, that person is not eligible for an advance payment, which is designed to assist people in financial crisis.

**Recommendation 13**

**6.29** The committee recommends that clear and comprehensive advice on the internal and external reassessment, review rights and processes are made available to all Online Compliance Intervention-impacted individuals.

**Recommendation 14**

**6.30** The committee recommends that clear and comprehensive advice on the ability to seek an extension of time to provide income documentation is made available to all Online Compliance Intervention-impacted individuals.

**Recommendation 15**

**6.31** The committee recommends that community legal service funding be reviewed in the next budget, to ensure community legal services are able to meet the community need for legal advice relating to Online Compliance Intervention matters.

**Recommendation 16**

**6.32** The committee recommends the operating budgets for the Administrative Appeals Tribunal be reviewed to plan for an increased workload on Online Compliance Intervention-related matters, to ensure these cases are progressed within appropriate timeframes.

**Recommendation 17**

**6.33** The committee strongly recommends that an outstanding debt should not exclude a person from advance payments needed for essential goods and services.

***Debt recovery***

**6.34** A disturbing body of evidence was presented to the inquiry regarding the recovery of purported debts. In some cases, ongoing debt repayments were enforced or coerced, even when the individual claimed the debt amount was wrong. Evidence showed that many income payment recipients often first found out about a debt when their payments were garnished. In many cases, these enforced debt payments meant the person could no longer pay for basic necessities, such as travel or food for their children. In other cases, individuals felt coerced to pay off debts using their credit card, resulting in payments of both debt recovery fees as well as credit card interest rates.

**6.35** The evidence also showed that the department is not bound by all debt collection legislation and guidelines, and in its procedures does not engage in 'best practice' nor is it a 'model litigant.' This extends to the debt recovery practices it engages external contractors to undertake on its behalf, which in many cases presented to the committee, appear to be coercive practices used against some of the most vulnerable Australians.

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**Recommendation 18**

**6.36** The committee recommends the department voluntarily undertake to be bound by all debt collection and consumer law legislation and guidelines, and ensure regular external scrutiny to ensure compliance. This should explicitly include the actions of external contractors working on behalf of the department.

**Recommendation 19**

**6.37** The committee recommends the department ensures an independent review of internal and external debt collection practices is undertaken, to ensure all procedures are adhering to industry standards, such as the suspension of debt collection where debt liability is disputed, and the provision of accurate and relevant information to debtors.

**Recommendation 20**

**6.38** The committee recommends the department consider adoption of the principles of the Victorian Judgement Debt Recovery Act which precludes debt collection to be made from Centrelink payments that are recognised minimum payments required for food, shelter and other life essentials.

**Recommendation 21**

**6.39** The committee further recommends the department develop guidelines on appropriate levels of debt repayment to income ratios, to ensure that debt repayment amounts do not impact any individual's ability to purchase life essentials.

**Senator Rachel Siewert**

**Chair**



# Coalition Senators' Dissenting Report

1.1 In the 2016-17 Mid-Year Economic and Fiscal Outlook, the Government announced that from 1 January 2017 it would implement a package of initiatives to enhance the integrity of social welfare payments, including expanding and extending data matching activities with the Australian Taxation Office and improving engagement with welfare recipients to ensure that they understand and meet their obligations.

1.2 Coalition Senators recognise that ensuring the integrity of the welfare system is a key focus for the Australian Government.

1.3 The Commonwealth Ombudsman's April 2017 Report, Centrelink's automated debt raising and recovery system (the report), noted that the Department of Human Services (DHS) made changes to the online compliance intervention (OCI) system, partly in response to feedback from the Ombudsman.

1.4 The report notes that the 'changes have been positive and have improved the usability and accessibility of the system. The changes were developed after more comprehensive user testing involving customers and after seeking input from the Digital Transformation Agency.'<sup>1</sup>

1.5 The report also welcomes 'DHS' advice that it has now removed the automatic application of the ten per cent recovery fee for customers who engage with DHS'<sup>2</sup>, and that 'we acknowledge the improvements DHS has made to its initial contact letters since 20 January 2017. The current letters now contain the dedicated 1800 compliance helpline number...'<sup>3</sup>

1.6 The report concludes that the 'February 2017 changes which include improvements to the help functions, explanations and overall usability of the OCI go some way to addressing our concerns about usability of the system.'<sup>4</sup>

1.7 Importantly, Coalition Senators recognise that there are elements of the current welfare system integrity process which are being further improved, clarified and modernised. These include:

1. Improved data-matching and case selection;
2. Enhanced communications and interactions with recipients, including the simplification of language in letters; and
3. Improved debt management processes.

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1 Commonwealth Ombudsman, *Centrelink's automated debt raising and recovery system, Report No. 2 of 2017*, April 2017, p. 26.

2 Commonwealth Ombudsman report, p. 26.

3 Commonwealth Ombudsman report, p. 27.

4 Commonwealth Ombudsman report, p. 27.

## **1. Improved data-matching and case selection**

1.8 The Commonwealth Ombudsman report examined the accuracy of debts raised under the OCI. The Ombudsman was 'satisfied the data matching process itself is unchanged'<sup>5</sup> [from its use in past programmes] and that the 'number of instances where no debts were raised following contact with a customer (approximately 20 per cent) was consistent with DHS' previous manual debt investigation process.'<sup>6</sup> Further, the report concluded that 'this figure has been incorrectly referred to as an "error" rate.'<sup>7</sup>

1.9 The Ombudsman further noted that 'We would be concerned if this figure was significantly higher under the OCI than under the previous manual process. However, this does not appear to be the case.'<sup>8</sup>

1.10 It is important to note that should the information available to DHS be incomplete, the debt amount may be affected. The Ombudsman noted that 'it is important for the system design for customers to respond to information requests from DHS so decisions are made on all available information.'<sup>9</sup>

1.11 This approach was endorsed by the Ombudsman which reported 'In our view, it is entirely reasonable and appropriate for DHS to ask customers to explain discrepancies following its data matching activities as a means of safeguarding welfare payment integrity.'<sup>10</sup>

1.12 Further, the Ombudsman noted that 'DHS has always asked customers to collect employment income information during its compliance reviews.'<sup>11</sup>

1.13 The Ombudsman also noted 'DHS has told our office the implementation of future compliance measures will take into account lessons learnt from the OCI.'<sup>12</sup>

1.14 Coalition Senators reject the view in the Chair's report that DHS has reversed the burden of proof onto recipients. The DHS Secretary stated:

How we assess income and calculate debts has not changed. The data matching process identifies differences, which we ask people to check. No debt is raised until we have attempted to contact a person and give them the opportunity to explain differences. Initial letters are not debt letters. The initial letter requests people to confirm employment and income details and

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5 Commonwealth Ombudsman report, p. 1.

6 Commonwealth Ombudsman report, p. 1.

7 Commonwealth Ombudsman report, p. 1.

8 Commonwealth Ombudsman report, p. 8.

9 Commonwealth Ombudsman report, p. 1.

10 Commonwealth Ombudsman report, p. 7.

11 Commonwealth Ombudsman report, p. 2.

12 Commonwealth Ombudsman report, p. 6.



to correct any inaccuracies. No assumptions about debt are made. A second letter is also sent to remind people of the need to engage.<sup>13</sup>

1.15 Additionally, in its submission DHS stated:

People have always been responsible for providing the department with correct information – this has not changed. People are obliged to tell the department when their circumstances change. This can include changes to their relationship status, living arrangements, care arrangements, assets or income from work. Debts can arise when people do not provide timely updates to the department about changes in their circumstances.<sup>14</sup>

1.16 Further, as previously reported, the Ombudsman confirmed that the data-matching process remained unchanged. This supports the information from DHS that 'The way debts are calculated has not changed. The automated debt calculation tool has been in use since 2003.'<sup>15</sup>

1.17 It was apparent in the course of the course of the inquiry that there was misunderstanding on the part of recipients and some representative organisations that recipients have not previously been required to provide information to support or clarify their claim or payments. The Coalition Senators do not regard this expectation as a transfer of the burden of proof to recipients but instead a pragmatic reality that recipients are best placed to provide information that clarifies or explains their situation.

1.18 This expectation must be made clearer to recipients across the welfare system and explained that this is an ongoing requirement, not just at the time a payment claim is made. Recipients need to be empowered to manage their payments and sufficient information provided to recipients from DHS. Further, in providing information to recipients, DHS ought to draw upon all information available to it, to both verify the calculations made by DHS and reduce the requirement for recipients to seek information held by various Commonwealth authorities which can also be accessed by DHS.

1.19 Coalition Senators note and agree with changes made to allow the use of readily available sources of information such as bank statement. The Ombudsman noted that:

The ATO only requires individuals with simplified tax affairs to retain records for two years. In the OCI context, it may be reasonable for customers to retain their employment and payroll records for a similar period, but not for six or seven years, particularly where they have not been forewarned about this requirement. Some customers may face challenges

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13 Ms Kathryn Campbell, Department of Human Services, *Community Affairs Legislation Committee – Additional Budget Estimates Hansard*, 2 March 2017, p. 8.

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

15 Department of Human Services, *Submission 66.1*, p. 9.

collecting this information where their employer no longer exists, is being unco-operative or has not retained payroll records.<sup>16</sup>

1.20 Coalition Senators recommend that DHS continue to invest in its data and analytical capabilities be further improved. This ought to include an integrated case selection methodology that draws information together from data sources such as annual tax returns, financial income, company tax, foreign pension, family day care and trust income.

1.21 Developing a 'whole of recipient' review capability to inform an enhanced case selection would improve the recipient experience and interaction with the welfare system, further enhance the integrity of the system and more efficiently use Australian Government resources.

## **2. Enhanced communications and interactions with recipients**

1.22 It was widely recognised, both during this inquiry and in public discourse around OCI, that communications with recipients, including through letters and online portals, needs to be clear and include crucial information.

1.23 The Ombudsman reported 'In our view, DHS could make further improvements to improve the clarity of the initial letters and give customers better information so they understand the information and can properly respond to it.'<sup>17</sup>

1.24 DHS explained that

...data matching, sending letters and assessing and calculating differences in income and payments has been part of the department's compliance activities for many years. What has changed is the introduction of the online self-service portal.<sup>18</sup>

1.25 Through the inquiry the committee heard of difficulties experienced by recipients in using the portal. Subsequent to these concerns, DHS undertook improvements and reported '...the screens for the employment income confirmation system have recently been clarified and simplified...'<sup>19</sup>

1.26 The Ombudsman also recognised the improvements that had already been made, reporting 'Overall, communication within the OCI is improved by greater clarity. In particular, there are more prominent help functions and explanations within the system.'<sup>20</sup>

1.27 DHS explained that letters have long been used as the primary means in making contact with recipients in the first instance

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16 Commonwealth Ombudsman report, p. 13.

17 Commonwealth Ombudsman report, p. 27.

18 Department of Human Services, *Submission 66.2*, p. 1.

19 Department of Human Services, *Submission 66.2*, p. 1.

20 Commonwealth Ombudsman report, p. 37.

The department has always sent letters to recipients and former recipients, if the data-matching process has identified a difference between an individual's income tax data issued by the ATO and income data previously provided by that individual to the department, and the individual is identified for a compliance intervention. These letters explain that data-matching has identified a difference, and invites people to log-in to the online portal to clarify or confirm their income and employment information.

Initial letters are not debt letters. They simply request people to confirm their employment and income details, and to correct any inaccuracies. No assumption about debt is made. The letters invite people to provide additional information. A second letter is also sent 14 days after the initial letter to remind people of the need to engage with the department.<sup>21</sup>

1.28 DHS also confirmed that it is making several changes to improve the initial contact letters and messages within OCI to make it clearer and more accessible, in consultation with key external stakeholders.

The department is currently in the process, along with the Digital Transformation Agency (DTA) and the Australian Taxation Office (ATO), of undertaking four-weeks of user research to see whether the changes have been successful.<sup>22</sup>

1.29 Coalition Senators reject the view in the Chair's report that a lack of clarity in communications to recipients represents a lack of natural justice or procedural fairness.

1.30 The DHS Secretary explained the process for recipients following receipt of the first letter:

Currently, people have 28 days to confirm or update their information online, with a reminder sent at the 14-day mark. Even with this amount of time, our experience is that some people will not engage with our initial letters. Indeed, sometimes they do not engage with us until their payments are suspended or they receive a debt notice. For example, in 2016 we sent 260,000 reminder letters to Family Tax Benefit recipients who had not lodged a tax return. We still needed to raise 65,000 debt notices. Once the recipients engaged with us, almost a third of those were changed to \$0. By contrast, only 3.5 per cent of the 130,000 online compliance debts raised from July 2016 to January 2017 were later reduced to \$0.<sup>23</sup>

1.31 Further, in its submission to the committee DHS explained the avenues available to recipients to seek a review of the debt calculations:

If recipients do not agree with the assessment of the information they have provided to the department, there are options for re-assessment, formal

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21 Department of Human Services, *Submission 66.1*, p. 4.

22 Department of Human Services, *Submission 66.2*, p. 2.

23 Ms Kathryn Campbell, Department of Human Services, *Community Affairs Legislation Committee – Additional Budget Estimates Hansard*, 2 March 2017, p. 9.

review and appeal ... The department has continued to make improvements to the debt recovery process, such as pausing the debt recovery action while the department reviews the debt.<sup>24</sup>

1.32 Coalition Senators agree that letters should be in plain, simple and straightforward language so as to ensure recipients understand them.

1.33 It is important that the design and implementation of programmes is informed by user testing in order to better understand the experience and behaviour of the users of a service. Coalition Senators recognise that significant improvements are being undertaken, including more rigorous user testing and the release of the new-look portal for myGov that has been informed by detailed user-acceptance testing.

1.34 With regard to user testing Coalition Senators note the comments of the Ombudsman that:

The OCI is a complex automated system that was rolled out on a large scale within a relatively short timeframe. There will inevitably be problems with the rollout of a system of this scale. In our view the risks could have been mitigated through better planning and risk management arrangements at the outset that involved customers and other external stakeholders in the design and testing phases.<sup>25</sup>

1.35 Coalition Senators recommend that all changes to compliance processes be subjected to rigorous user testing with recipients to ensure that advice is as clear as possible and appropriately toned while complying with legislative requirements.

1.36 System enhancements should be tested, designed and implemented in consultation with relevant stakeholders and government agencies, especially the Digital Transformation Agency. Combined with better data analytics, an iterative and tailored approach to engaging with recipients should also enhance the integrity of the welfare system and address the concerns raised in the early stages of the OCI.

### **3. Improved debt management processes**

1.37 The committee heard through the inquiry that the majority of people who have a debt owing to the Government make arrangements to pay that debt following the information they receive from DHS. If however, the person fails to engage with DHS to arrange payment DHS will initiate debt recovery.<sup>26</sup>

1.38 The committee also heard that external collection agents are not engaged for recipients currently receiving payments. Debt repayments for current recipients are organised through alternate means, such as withholding or reducing payments. For people who are no longer in receipt of welfare payments, DHS may engage an external collection agency.<sup>27</sup>

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24 Department of Human Services, *Submission 66.1*, p. ii.

25 Commonwealth Ombudsman report, p. 26.

26 Department of Human Services, *Submission 66.2*, p. 2.

27 Department of Human Services, *Submission 66.2*, p. 2.

1.39 The committee heard that external debt collection services are contractually required to meet all relevant Australian laws and standards, good industry practice and relevant industry codes, policies and guidelines, such as '...the *Competition and Consumer Act 2010*, and the *Debt Collection Guideline for Collectors and Creditors* issued by the Australian Competition and Consumer Commission and the Australian Securities and Investments Commission.'<sup>28</sup>

1.40 Coalition Senators recommend that DHS undertake an examination of the welfare debt recovery process and identify areas where reforms might improve the efficiency and effectiveness of debt recovery, including the customer's experience, and the cost benefit of pursuing debts.

### **Adherence to privacy**

1.41 Throughout the inquiry much comment was made regarding privacy of recipient information. In its supplementary submission DHS confirmed that it:

...is legally authorised to conduct data-matching activities, and deals with all personal information it holds in accordance with the *Privacy Act 1988* (Privacy Act) and relevant secrecy provisions in programme legislation.<sup>29</sup>

1.42 Coalition Senators note that DHS:

...notifies recipients of data-matching in its Privacy Policy, as required under Australian Privacy Principle 1. In April 2017, the department's Privacy Policy, which is publicly available, was shortened and simplified in consultation with the Office of Australian Information Commissioner.<sup>30</sup>

1.43 Further, DHS advised the committee that:

When conducting data-matching activities which do not involve matching Tax File Numbers, the department adheres to the Australian Information Commissioner's Guidelines on Data-matching in Australian Government Administration, which are issued under section 28(1)(a) of the Privacy Act. Compliance with these Guidelines is not mandatory, but is considered to be best privacy practice.<sup>31</sup>

1.44 Coalition Senators recommend that DHS continues to work with the Office of the Australian Information Commissioner to protect the privacy of welfare recipients.

1.45 Coalition Senators note that DHS has updated the *2004 Pay As You Go Data Matching Program Protocol* in consultation with the Australian Taxation Office to reflect relevant changes such as the names of applicable privacy principles and data-matching guidelines.<sup>32</sup>

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28 Department of Human Services, *Submission 66.1*, p. 11.

29 Department of Human Services, *Submission 66.2*, p.3.

30 Department of Human Services, *Submission 66.2*, p.3.

31 Department of Human Services, *Submission 66.2*, p.3.

32 <https://www.humanservices.gov.au/sites/default/files/2017/05/program-protocol-payg-data-matching-may-2017.docx>.

**Conclusion**

1.46 The Coalition Senators highlight the changes and improvements made by the Government to OCI, many of which were made before the commencement of this inquiry. It has been widely acknowledged by the Government that the initial rollout should have received more robust planning and consideration of the impact and operation of increasingly moving to digital engagement. It was also clear through the early stages of the rollout that further effort was required to ensure customers had sufficient information and access to resources to understand their requirements and to navigate the established review processes.

1.47 Coalition Senators acknowledge the evidence given by some recipients from the early stages of the OCI rollout about the confusion they experienced in being advised of a debt and in providing the information requested. At all stages of this inquiry the Coalition Senators have been focussed on practical measures and improvements to address the concerns raised by those who participated in this inquiry.

1.48 Coalition Senators reject the central conclusion of the Chair's report that the OCI process lacked procedural fairness. Coalition Senators, as did the Government and Ombudsman, acknowledge that communications early in the OCI rollout lacked clarity and gave rise to potential confusion on the part of recipients. However, at no stage did this constitute a lack of procedural fairness as review avenues remained open to recipients, and still do to this day – any person with a debt arising from OCI can request a review and provide new information at any time.

1.49 Coalition Senators further note the input from some third parties, such as #notmydebt, which were aiming solely at scoring political points and inflaming the situation rather than offering practical assistance in resolving the issues raised.

1.50 To that end, Coalition Senators thank all Senators involved in this inquiry, the many individuals and organisations genuinely focussed on improving the process who shared their experiences and, most importantly, the committee secretariat for the support throughout this inquiry.

**Senator Jonathon Duniam**

**Senator Linda Reynolds**

# **APPENDIX 1**

## **Submissions and additional information received by the Committee**

### **Submissions**

- |           |   |
|-----------|---|
| <b>1</b>  | Name Withheld                                   |
| <b>2</b>  | Name Withheld                                   |
| <b>3</b>  | Confidential                                    |
| <b>4</b>  | Mr David Tennant                                |
| <b>5</b>  | Name Withheld                                   |
| <b>6</b>  | Name Withheld (plus a supplementary submission) |
| <b>7</b>  | Name Withheld                                   |
| <b>8</b>  | Name Withheld                                   |
| <b>9</b>  | Mr Victor Olenych                               |
| <b>10</b> | Name Withheld                                   |
| <b>11</b> | Dr Thorold May                                  |
| <b>12</b> | Confidential                                    |
| <b>13</b> | Confidential                                    |
| <b>14</b> | Name Withheld                                   |
| <b>15</b> | Confidential                                    |
| <b>16</b> | Mr John Mayger                                  |
| <b>17</b> | Confidential                                    |
| <b>18</b> | Confidential                                    |

- 19** Confidential
- 20** Confidential
- 21** Ms Sally Keeley
- 22** Dr Mary Edmunds
- 23** Confidential
- 24** Confidential
- 25** Confidential
- 26** Confidential
- 27** IsCentrelinkDown.com
- 28** Confidential
- 29** Name Withheld
- 30** Australian Unemployed Workers' Union
- 31** Australian Council of Social Service
- 32** Fair Go For Pensioners Coalition Incorporated Victoria
- 33** Consumer Action Law Centre
- 34** Mount Druitt Ethnic Communities Agency
- 35** Willing Older Workers W.O.W! Inc.
- 36** Children and Young People with Disability Australia
- 37** Mr Rob Swalling (plus two attachments)
- 38** Mr Justin Warren
- 39** Confidential
- 40** Confidential
- 41** Anglicare Australia



- 42 Maxden Library and Information Manager
- 43 Ms Meredith Lewis
- 44 Name Withheld
- 45 Confidential
- 46 Northern Suburbs Action Group
- 47 Social Security Rights Victoria
- 48 Community Legal Centres Queensland
- 49 Mental Health Australia
- 50 ACT Council of Social Service
- 51 National Union of Students
- 52 Federation of Ethnic Communities' Councils of Australia
- 53 People with Disability Australia
- 54 Queensland Council of Social Service
- 55 Confidential
- 56 Name Withheld
- 57 Confidential
- 58 Confidential
- 59 Name Withheld
- 60 Name Withheld
- 61 Mr John Stannard
- 62 Mr Michael Griffin
- 63 Australian Association of Social Workers
- 64 Tasmanian Council of Social Service

<b>65</b>	Community and Public Sector Union
<b>66</b>	Department of Human Services (plus a supplementary submission)
<b>67</b>	Confidential
<b>68</b>	Confidential
<b>69</b>	Name Withheld
<b>70</b>	Ms Lyndsey Jackson
<b>71</b>	Confidential
<b>72</b>	Name Withheld
<b>73</b>	Confidential
<b>74</b>	Confidential
<b>75</b>	Confidential
<b>76</b>	Name Withheld
<b>77</b>	Confidential
<b>78</b>	GetUp
<b>79</b>	Queensland Advocacy Incorporated
<b>80</b>	Confidential
<b>81</b>	Confidential
<b>82</b>	Confidential
<b>83</b>	Confidential
<b>84</b>	Confidential
<b>85</b>	Confidential
<b>86</b>	Confidential
<b>87</b>	Confidential

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<b>88</b>	Confidential
<b>89</b>	Confidential
<b>90</b>	Confidential
<b>91</b>	Confidential
<b>92</b>	Confidential
<b>93</b>	Confidential
<b>94</b>	Confidential
<b>95</b>	Name Withheld
<b>96</b>	Name Withheld
<b>97</b>	Name Withheld
<b>98</b>	Name Withheld
<b>99</b>	Name Withheld
<b>100</b>	Name Withheld
<b>101</b>	Name Withheld
<b>102</b>	Name Withheld
<b>103</b>	South Australian Council of Social Service
<b>104</b>	Mr Andrew Wilkie MP
<b>105</b>	Mr John Rawson OAM
<b>106</b>	Australian Privacy Foundation
<b>107</b>	National Social Security Rights Network
<b>108</b>	Office of the Australian Information Commissioner
<b>109</b>	Ms Emma Hawkes
<b>110</b>	#NotMyDebt (plus a supplementary submission)

- 111** Victoria Legal Aid (plus an attachment)
- 112** LawRight
- 113** Confidential
- 114** Mr Gerard McPhee
- 115** Asst Prof Kate Galloway
- 116** Access Easy English (plus an attachment)
- 117** Name Withheld
- 118** Name Withheld
- 119** Confidential
- 120** Name Withheld
- 121** Dr Darren O'Donovan
- 122** Dr Kristina Murphy
- 123** Financial Counselling Australia
- 124** North Australian Aboriginal Justice Agency
- 125** Western Australian Council of Social Service
- 126** Name Withheld
- 127** Adelaide University Student Representative Council
- 128** UNSW Student Representative Council
- 129** Name Withheld
- 130** Australian Lawyers Alliance
- 131** Confidential
- 132** Confidential
- 133** Dr Daniel Angus

<b>134</b>	Confidential
<b>135</b>	Name Withheld
<b>136</b>	Confidential
<b>137</b>	Confidential
<b>138</b>	Confidential
<b>139</b>	Confidential
<b>140</b>	Assistant Professor Narelle Bedford
<b>141</b>	Ms Elizabeth Stary
<b>142</b>	Confidential
<b>143</b>	Uniting Communities
<b>144</b>	Confidential
<b>145</b>	Name Withheld
<b>146</b>	Confidential
<b>147</b>	TPI Federation
<b>148</b>	Townsville Community Legal Service Inc
<b>149</b>	Sydney University Postgraduate Representative Association
<b>150</b>	Confidential
<b>151</b>	Confidential
<b>152</b>	Ms Emma McBride MP
<b>153</b>	Legal Aid Queensland
<b>154</b>	Ms Em Wilson
<b>155</b>	Law Council of Australia
<b>156</b>	Confidential

**Additional Information**

- 1 Correspondence between Australian Council of Social Service and The Hon Alan Tudge MP, from Australian Council of Social Service, received 15 March 2017

**Answers to Questions on Notice**

- 1 Answers to Questions taken on Notice during 8 March public hearing, received from Australian Taxation Office, 24 March 2017
- 2 Answers to Questions taken on Notice during 8 March public hearing, received from Australian Taxation Office, 27 March 2017
- 3 Answers to Questions taken on Notice during 8 March public hearing, received from Department of Human Services, 7 April 2017
- 4 Answers to Questions taken on Notice during 8 March public hearing, received from Department of Human Services, 11 April 2017
- 5 Answers to Questions taken on Notice during 8 March public hearing, received from Department of Social Services, 13 April 2017
- 6 Answers to Questions taken on Notice during 8 March public hearing, received from Department of Human Services, 13 April 2017
- 7 Answers to Questions taken on Notice during 8 March public hearing, received from Department of Human Services, 18 April 2017
- 8 Answers to Questions taken on Notice during 8 March public hearing, received from Department of Human Services, 19 April 2017
- 9 Answers to Questions taken on Notice during 8 March public hearing, received from Department of Human Services, 27 April 2017
- 10 Answers to Questions taken on Notice during 8 March public hearing, received from Department of Human Services, 1 May 2017
- 11 Answers to Questions taken on Notice during 8 March public hearing, received from Department of Human Services, 3 May 2017
- 12 Answers to Questions taken on Notice during 8 March public hearing, received from Department of Human Services, 8 June 2017
- 13 Answers to Questions taken on Notice during 8 March public hearing, received from Department of Human Services, 14 June 2017
- 14 Answers to Questions taken on Notice during 8 March public hearing, received from Department of Human Services, 19 June 2017
- 15 Answers to Questions taken on Notice during 8 March public hearing, received from Department of Human Services, 21 June 2017
- 16 Answers to Questions taken on Notice during 10 April public hearing, received from National Council of Single Mothers and their Children, 13 April 2017
- 17 Answers to Questions taken on Notice during 10 April public hearing, received from Legal Services Commission of South Australia, 5 May 2017
- 18 Answers to Questions taken on Notice during 10 April public hearing, received from Department of Human Services, 10 May 2017

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- 19 Answers to Questions taken on Notice during 10 April public hearing, received from Department of Human Services, 12 May 2017
  - 20 Answers to Questions taken on Notice during 10 April public hearing, received from Department of Human Services, 23 May 2017
  - 21 Answers to Questions taken on Notice during 10 April public hearing, received from Department of Human Services, 9 June 2017
  - 22 Answers to Questions taken on Notice during 10 April public hearing, received from Department of Human Services, 13 June 2017
  - 23 Answers to Questions taken on Notice during 10 April public hearing, received from Department of Human Services, 14 June 2017
  - 24 Answers to Questions taken on Notice during 10 April public hearing, received from Department of Human Services, 19 June 2017
  - 25 Answers to Questions taken on Notice during 10 April public hearing, received from Department of Human Services, 20 June 2017
  - 26 Answers to Questions taken on Notice during 11 April public hearing, received from Australian Unemployed Workers' Union, 2 May 2017
  - 27 Answers to Questions taken on Notice during 11 April public hearing, received from Fair Go For Pensioners Coalition Incorporated, 5 May 2017
  - 28 Answers to Questions taken on Notice during 11 April public hearing, received from Victoria Legal Aid, 12 May 2017
  - 29 Answers to Questions taken on Notice during 11 April public hearing, received from Department of Human Services, 23 May 2017
  - 30 Answers to Questions taken on Notice during 11 April public hearing, received from Department of Human Services, 9 June 2017
  - 31 Answers to Questions taken on Notice during 11 April public hearing, received from Department of Human Services, 13 June 2017
  - 32 Answers to Questions taken on Notice during 11 April public hearing, received from Department of Human Services, 14 June 2017
  - 33 Answers to Questions taken on Notice during 11 April public hearing, received from Department of Human Services, 16 June 2017
  - 34 Answers to Questions taken on Notice during 11 April public hearing, received from Department of Human Services, 19 June 2017
  - 35 Answers to Questions taken on Notice during 19 April public hearing, received from Commonwealth Ombudsman, 3 May 2017
  - 36 Answers to Questions taken on Notice during 19 April public hearing, received from National Social Security Rights Network, 5 May 2017
  - 37 Answers to Questions taken on Notice during 19 April public hearing, received from Department of Human Services, 12 May 2017
  - 38 Answers to Questions taken on Notice during 19 April public hearing, received from Department of Human Services, 23 May 2017
  - 39 Answers to Questions taken on Notice during 19 April public hearing, received from Department of Human Services, 9 June 2017
  - 40 Answers to Questions taken on Notice during 19 April public hearing, received from Department of Human Services, 13 June 2017
  - 41 Answers to Questions taken on Notice during 19 April public hearing, received from Department of Human Services, 19 June 2017
  - 42 Answers to Questions taken on Notice during 19 April public hearing, received from Department of Human Services, 20 June 2017

- 43 Answers to Questions taken on Notice during 19 April public hearing, received from Department of Human Services, 21 June 2017
- 44 Answers to Questions taken on Notice during 19 April public hearing, received from Probe Group, 26 May 2017
- 45 Answers to Questions taken on Notice during 21 April public hearing, received from Welfare Rights and Advocacy Service, 8 May 2017
- 46 Answers to Questions taken on Notice during 21 April public hearing, received from Department of Human Services, 12 May 2017
- 47 Answers to Questions taken on Notice during 21 April public hearing, received from Financial Counsellors' Association of Western Australia, 22 May 2017
- 48 Answers to Questions taken on Notice during 21 April public hearing, received from Department of Human Services, 23 May 2017
- 49 Answers to Questions taken on Notice during 21 April public hearing, received from Mental Health Australia, 30 May 2017
- 50 Answers to Questions taken on Notice during 21 April public hearing, received from Department of Human Services, 9 June 2017
- 51 Answers to Questions taken on Notice during 21 April public hearing, received from Department of Human Services, 13 June 2017
- 52 Answers to Questions taken on Notice during 21 April public hearing, received from Department of Human Services, 14 June 2017
- 53 Answers to Questions taken on Notice during 21 April public hearing, received from Department of Human Services, 16 June 2017
- 54 Answers to Questions taken on Notice during 21 April public hearing, received from Department of Human Services, 19 June 2017
- 55 Answers to Questions taken on Notice during 21 April public hearing, received from Department of Human Services, 20 June 2017
- 56 Answers to Questions taken on Notice during 26 April public hearing, received from COTA Tasmania, 22 May 2017
- 57 Answers to Questions taken on Notice during 26 April public hearing, received from Department of Human Services, 23 May 2017
- 58 Answers to Questions taken on Notice during 26 April public hearing, received from Department of Human Services, 9 June 2017
- 59 Answers to Questions taken on Notice during 26 April public hearing, received from Department of Human Services, 14 June 2017
- 60 Answers to Questions taken on Notice during 26 April public hearing, received from Department of Human Services, 16 June 2017
- 61 Answers to Questions taken on Notice during 26 April public hearing, received from Department of Human Services, 19 June 2017
- 62 Answers to Questions taken on Notice during 26 April public hearing, received from Department of Human Services, 20 June 2017
- 63 Answers to Questions taken on Notice during 26 April public hearing, received from Department of Human Services, 20 June 2017
- 64 Answers to Questions taken on Notice during 26 April public hearing, received from Dun and Bradstreet, 31 May 2017
- 65 Answers to Questions taken on Notice during 27 April public hearing, received from Launceston Community Legal Centre, 5 May 2017
- 66 Answers to Questions taken on Notice during 16 May public hearing, received from Basic Rights Queensland, 25 May 2017



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- 67 Answers to Questions taken on Notice during 16 May public hearing, received from Department of Human Services, 9 June 2017
  - 68 Answers to Questions taken on Notice during 16 May public hearing, received from Department of Human Services, 20 June 2017
  - 69 Answers to Questions taken on Notice during 18 May public hearing, received from Australian Taxation Office, 30 May 2017
  - 70 Answers to Questions taken on Notice during 18 May public hearing, received from Office of the Australian Information Commissioner, 2 June 2017
  - 71 Answers to Questions taken on Notice during 18 May public hearing, received from Department of Human Services, 16 June 2017
  - 72 Answers to Questions taken on Notice during 18 May public hearing, received from Department of Human Services, 19 June 2017
  - 73 Answers to Questions taken on Notice during 18 May public hearing, received from Department of Human Services, 20 June 2017
  - 74 Answers to Questions taken on Notice during 18 May public hearing, received from Department of Human Services, 20 June 2017
  - 75 Answers to Questions taken on Notice during 18 May public hearing, received from Department of Human Services, 21 June 2017
  - 76 Answers to written questions on Notice from Senator Kakoschke-Moore, received from Office of the Australian Information Commissioner, 16 May 2017

## **Correspondence**

- 1 Correspondence clarifying evidence given at Canberra public hearing on 8 March 2017, received from Department of Human Services, 24 May 2017
- 2 Correspondence clarifying evidence given at Canberra public hearing on 18 May 2017, received from Australian Taxation Office, 30 May 2017

## **Tabled Documents**

- 1 OCI information, tabled by Department of Human Services, at Canberra public hearing, 8 March 2017
- 2 Western Australian Underemployment Rate chart, tabled by Western Australian Council of Social Service, at Perth public hearing, 21 April 2017
- 3 Screenshot of Department of Human Services website regarding reporting of superannuation contributions, tabled by Senator Siewert, at Hobart public hearing, 26 April 2017



# **APPENDIX 2**

## **Public hearings**

*Wednesday, 8 March 2017*

*Parliament House, Canberra*

### **Witnesses**

#### **Australian Council of Social Service**

GOLDIE, Dr Cassandra, Chief Executive Officer

CROWE, Ms Charmaine, Senior Policy and Advocacy Officer

HELYAR, Ms Susan, Director, Australian Capital Territory Council of Social Service

WALLACE, Mr Craig, Advocacy Manager, Australian Capital Territory Council of Social Service

#### **Community and Public Sector Union**

FLOOD, Ms Nadine, National Secretary

NEWMAN, Ms Lisa, Deputy National President

#### **Australian Taxation Office**

WILLIAMS, Mr Greg, Deputy Commissioner, Smarter Data

TODD, Mr Jonathan, General Counsel

RAVANELLO, Mr Robert, Deputy Commissioner, Debt

#### **Department of Human Services**

CAMPBELL, Ms Kathryn CSC, Secretary

HUTSON, Mr Jonathan, Deputy Secretary, Enabling Services

GOLIGHTLY, Ms Malisa, Deputy Secretary, Integrity and Information

JACKSON, Mr Barry, Deputy Secretary, Service Delivery Operations

MUSOLINO, Ms Annette, Chief Counsel

JONGEN, Mr Hank, Departmental Spokesperson

THIVEOS, Mr George, General Manager, Families

McNAMARA, Mr Jason, General Manager, Integrity Process Modernisation

WITHNELL, Mr Mark, General Manager, Business Integrity

STOREN, Mr Craig, General Manager, Strategic Information and Redesign

McHARDIE, Mr Charles, Chief Technology Officer

LARKIN, Mr Andrew, General Manager, Adelaide Delivery Centre

HUDSON, Mr Adrian, General Manager, People Services

McMAHON, Mr Jim, Acting General Manager, Customer Payment Services

McCANN, Ms Alison, Acting General Manager, Customer Compliance

SEAR, Ms Cathy, Acting General Manager, Community Engagement

**Department of Social Services**

WILSON, Ms Serena, Deputy Secretary, Social Security

HALBERT, Ms Cath, Group Manager, Payments Policy

DeBURGH, Mr Russell, Branch Manager, Pensions and Integrity

*Monday, 10 April 2017*

*Education Development Centre, Adelaide*

**Witnesses****Department of Human Services**

McNAMARA, Mr Jason, General Manager, Integrity Process Modernisation

EDWARDS, Mr Simon, Service Leader Zone, South Australia

**Legal Services Commission of South Australia**

BOUNDY, Mr Christopher, Manager, Access Services

SIMPSON, Ms Tara, Team Leader, Access Services

**South Australian Council of Social Service**

WOMERSLEY, Mr Ross, Chief Executive Officer

SAUNDERS, Mr Phil, Senior Policy Officer

**Anti-Poverty Network South Australia**

FORGIONE Mr Pasquale, Coordinator

**Ian**, Private capacity

**Jade**, Private capacity

**Youth Affairs Council of South Australia**

BAINBRIDGE, Ms Anne, Executive Director

**Welfare Rights Centre, South Australia, Inc.**

LEAHY, Mr Mark, Manager

**Law Society of South Australia**

ROSSI, Mr Tony, President

**#NotMyDebt**

JACKSON, Ms Lyndsey, Coordinator

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**National Council of Single Mothers and their Children Inc**

EDWARDS, Ms Terese, Chief Executive Officer

SAYNER, Ms Aradia, Board of Governance

**Ann-Marie**, Private capacity

**Michelle**, Private capacity

**Ruth**, Private capacity

*Tuesday, 11 April 2017*

*Monash University Law Chambers, Melbourne*

**Witnesses****Department of Human Services**

MOWBRAY-d'ARBELA, Mr Marc, National Manager, Whole of Government  
Coordination Division

STEINKAMP, Ms Jane, Service Leader, Eastern Victoria

**Consumer Action Law Centre**

BRODY, Mr Gerard, Chief Executive Officer

**WEstjustice**

NELTHORPE, Mr Denis, Chief Executive Officer

**Social Security Rights Victoria**

WELLS, Mr Graham, Principal Solicitor and Clinical Supervisor

WILKS, Ms Gillian, Director

**Victoria Legal Aid**

WARNER Mr Bevan, Managing Director

MILLER, Ms Katie, Executive Director, Legal Practice

**National Union of Students**

JOHNSTON, Ms Sophie, President

MOLLOY, Ms Jill, Welfare Officer

**Children and Young People With Disability Australia**

GOTLIB, Ms Stephanie, Chief Executive Officer

**Fair Go For Pensioners Coalition Inc. Victoria**

LEARMONTH, Ms Anne, Executive Member

**Australian Unemployed Workers Union**

BENNETT, Mr Owen John, President

ZIZYS, Miss Kate, Branch Coordinator and Advice and Advocacy Volunteer

**Willing Older Workers W.O.W. Inc.**

KING, Mrs Marilyn, President and Advocate

**Victorian Council of Social Service**

KING, Ms Emma, Chief Executive Officer

SAYERS, Ms Mary, Deputy Chief Executive Officer

**Anne**, Private capacity

**Ewen**, Private capacity

**Geoff**, Private capacity

**Heather**, Private capacity

**Justin**, Private capacity

**Kevin**, Private capacity

**Russell**, Private capacity

**Susan**, Private capacity

**Tom**, Private capacity

***Wednesday, 19 April 2017***

***Portside Centre, Sydney***

**Witnesses****Department of Human Services**

MOWBRAY-D'ARBELA, Mr Marc, National Manager, Whole of Government Division

CHANT, Mr Scott, Service Leader, Sydney

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**Probe Group**

KAGAN, Mr Jarrod Nicholas, Chief Operating Officer

**Australian Privacy Foundation**

VAILE, Mr David, Vice Chair

LANE, Ms Kat, Immediate Past Chair

**National Social Security Rights Network**

BOLTON, Ms Genevieve, Chairperson

BUTT, Mr Matthew, Executive Officer

**People with Disability Australia**

PRICE, Mr Dean, Advocacy Project Manager: Social Justice

**Illawarra Legal Centre**

TURTON, Mr Ian James, Solicitor

**Legal Aid New South Wales**

HITTER, Ms Monique, Director of Civil Law

GEROGIANNIS, Mr Bill, Senior Solicitor, Civil Law Division

**Welfare Rights Centre**

ODGERS, Ms Carolyn, Solicitor

**Office of the Commonwealth Ombudsman**

GLENN, Mr Richard, Acting Ombudsman

MACLEOD, Ms Louise, Acting Senior Assistant Ombudsman, Social Services, Indigenous and Disability Branch

**Amy**, Private capacity

**Ana**, Private capacity

**Irma**, Private capacity

**Lyn**, Private capacity

**Phoebe**, Private capacity

***Friday, 21 April 2017***

***Mercure Hotel, Perth***

**Witnesses**

**Department of Human Services**

HUTSON, Mr Jonathan, Deputy Secretary, Enabling Services

MOWBRAY-d'ARBELA, Mr Marc, National Manager, Whole of Government Division

WILLIAMS, Ms Rhonda, Acting Service Leader, Western Australia

**Financial Counsellors Association of Western Australia**

JOWLE, Ms Bev, Executive Officer

**Welfare Rights & Advocacy Service**

BEAUMONT, Ms Kate, Executive Officer

EAGLE, Ms Catherine, Principal Solicitor

**Community Legal Centres Association (WA) Inc.**

CREED, Ms Helen, Executive Director

**Mental Health Australia**

QUINLAN, Mr Frank, Chief Executive Officer

HIGHMORE, Ms Belinda, Manager, Policy and Projects

**Western Australian Council of Social Service**

TWOMEY, Mr Chris, Research and Policy Development Leader

**People With disabilities WA Inc.**

JENKINSON, Ms Samantha, Executive Director

**Margaret**, Private capacity

***Wednesday, 26 April 2017***

***Old Woolstore Apartment Hotel, Hobart***

**Witnesses**

**Council on the Ageing Tasmania**

LEITCH, Mrs Susan (Sue), Chief Executive Officer



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**Tasmanian Council of Social Service**

GOODES, Ms Kym , Chief Executive

**CatholicCare Tasmania**

GOURLAY, Mr Timothy (Tim), Executive Director

**Mission Australia**

MUNDY, Mr Noel, State Director

**Dun & Bradstreet**

BLIGH, Mr Simon, Chief Executive Officer

**Department of Human Services**

HUTSON, Mr Jonathan, Deputy Secretary, Enabling Services

MOWBRAY-d'ARBELA, Mr Marc, National Manager, Whole of Government Division

MOLE, Mr David, Service Leader - Tasmania

**Henry**, Private capacity

**Ian**, Private capacity

*Thursday, 27 April 2017*

*Albert Hall, Launceston*

**Witnesses****Youth Network of Tasmania**

AMERIKANOS, Mrs Lisa, Board Member

**Launceston Community Legal Centre**

SMITH, Ms Emma, Welfare Rights Advocate

SNARE, Ms Nicky, Chief Executive Officer

**Tasmanian Aboriginal Centre Inc.**

COULSON, Mrs Lisa, Northern Regional Manager

**Access Easy English**

BASTERFIELD, Ms Cathy, Consultant Speech Pathologist and Owner

***Tuesday, 16 May 2017***

***Queensland Parliament House, Brisbane***

**Witnesses**

**Basic Rights Queensland Inc**

WARRINGTON, Ms Georgina, Director

**Queensland Council of Social Service**

HENLEY, Mr Mark, Chief Executive Officer

**Australian Association of Social Workers**

HEALY, Professor Karen, National President

SCARFE, Ms Angela, Professional Officer, Social Policy and Advocacy

**Australian Council of Social Service**

GOLDIE, Dr Cassandra, Chief Executive Officer

CROWE, Ms Charmaine, Senior Policy and Advocacy Officer

**Queensland Advocacy Incorporated**

PHILLIPS, Dr Emma, Systems Advocate

COLLYER, Dr Nick, Systems Advocate

**Lawright**

HUGHES, Ms Paula, Policy Lawyer

THATCHER, Ms Fiona, Lawyer

**Department of Human Services**

MOWBRAY-d'ARBELA, Mr Marc, National Manager, Whole of Government Coordination

McNAMARA, Mr Jason, General Manager, Integrity Modernisation

McINNES, Mr Ian, Service Leader, Central Queensland

**UnitingCare Queensland**

KLINTWORTH, Ms Samantha, General Manager, Child and Family Services

LOGOVIK Ms Jodie, Program Manager, Financial Wellbeing and Resilience

**Andrej**, Private capacity

**Michael**, Private capacity

**Sally**, Private capacity

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*Thursday, 18 May 2017*

*Parliament House, Canberra*

**Witnesses**

**Office of the Australian Information Commissioner**

PILGRIM, Mr Timothy, Australian Information Commissioner and Australian Privacy Commissioner

FALK, Ms Angelene, Deputy Commissioner

**Anglicare Australia**

McGARRY, Ms Kate, Senior Manager, Community Services, AnglicareSA

**Federation of Ethnic Communities' Councils of Australia**

CAMPBELL, Dr Emma, Director

SMITH, Mr Benjamin, Senior Policy and Project Officer

**Australian Lawyers Alliance**

BARNS, Mr Greg, Barrister and Spokesperson on Criminal Justice and Human Rights

TALBOT, Ms Anna, Legal and Policy Adviser

**Department of Human Services**

CAMPBELL, Ms Kathryn, CSC, Secretary

GOLIGHTLY, Ms Malisa, Deputy Secretary, Integrity and Information Group

HUTSON, Mr Jonathan, Deputy Secretary, Enabling Services

McNAMARA, Mr Jason, General Manager, Integrity Modernisation

MUSOLINO, Ms Annette, Chief Counsel, Legal Services

**Australian Taxation Office**

WILLIAMS, Mr Greg, Deputy Commissioner, Smarter Data

**TPI Federation of Australia**

McCABE, Ms Patricia, OAM, National President

**Judith**, Private capacity