

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

2016 - 2017

Division/Agency: Australian Taxation Office
Question No: 194
Topic: ICT server and data failures
Reference: Written
Senator: Ketter, Chris

1. Are you aware the Digital Transformation Agency (DTA) has indicated it plans to review, monitor and where it judges necessary intervene in poorly managed Government IT projects?
2. Do you consider oversight by the DTA could have prevented the ATO's recent IT failures?
3. Have you sought the assistance of the DTA?
4. Do you consider an intervention by the DTA could have restored services more quickly?
5. Do you consider the DTA has the capability to review and intervene in the ATO's technology projects?
6. How many complaints has the ATO received about the December and February IT failures?
7. Can the ATO please provide (on notice if necessary) a number of complaints, and a breakdown of their entity type and complaint type?
8. Does the ATO have estimates for the types of activity lost, including lost revenue collections, the duration of outages etc? Can he provide them?
9. How many complaints or cases is the ATO aware of involving tax practitioners potentially seeking compensation?
10. Does the ATO have estimates on the potential compensation bill?
11. In December, the Sydney Morning Herald reported the Inspector General of Taxation as saying the ATO could "set aside appropriate portions of the budget to account for potential compensatory payments". Has either the ATO or the Government looked at, or implemented, this?
12. Do you have estimates on what a suitable compensation funds set aside should amount to?
13. Will the ATO be reviewing the IT failures and the complaints that have resulted? Who will be undertaking that review?
14. Has the ATO worked the Assistant Minister for Digital Transformation on the recent ICT failures?
15. When was the ATO contacted by Government or Ministers about the ICT failures?
16. Can the ATO provide the total amount of time the ATO website and portals were unavailable? Can this be provided broken down by affected sites and portals?
17. Who provides the ICT services for the ATO?
18. Have they been involved in addressing the failures?
19. Will they be compensating the ATO for expenses, or will associated expenses be paid for by the ATO?

20. What is the current estimated cost of repairing the ICT failures?
21. The Department of Defence reportedly uses CCS for their ICT, which reportedly costs up to ten times more than the ATO systems. Has the ATO made representations to the Government to request higher quality ICT servers? If not, why not?
22. Has the ATO made representations to the Government before about the security and reliability of the data on the HP servers? If not, why not?
23. Is the back-end data and ICT infrastructure fully functional again?
24. When did the back-end data and ICT infrastructure come back on-line / when will it?
25. Can the ATO please provide the details for how long the backup infrastructure was down for?
26. Are there any known instances of legal cases being deferred due to ICT failures? How many? Is there an estimate of associated costs (e.g. legal, revenue deferred)?
27. Are there any known instances of legal cases being deferred due to other delays or resource constraints? What are they?

Answer:

- 1 The ATO is aware of the work of the DTA and our officers have been in communication on various issues.
- 2 The ATO does not consider that oversight by the DTA could have prevented the recent IT failure. Root cause analysis continues however these incidents were caused by the failure of storage hardware or a SAN (storage area network) provided and maintained by Hewlett Packard Enterprises on the ATO's behalf.

The SAN was considered 'state of the art' in 2015.

There are currently some 67,000 installations of the 3PAR SAN hardware in large organisations both here and internationally.

- 3 In this instance, the ATO has not sought the formal assistance of the DTA.
- 4 No, the issues experienced were highly technical in nature and required specialist engineers in SAN technologies. This skill set lies with ATO and Hewlett Packard Enterprises engineers who work on the SAN, together with other specialist contractors in Australia and from overseas.
- 5 The oversight of significant technology projects by external scrutineers and independent assurers is not new to the ATO and we welcome it. We have a strong partnership with the DTA and look forward to continuing to work with them.

The storage failure did not occur as a result of implementing an IT project.

- 6 The ATO has received a total of 136 complaints, from 12 December 2016.
- 7 In relation to the 136 complaints, 13 were lodged by tax practitioners. The majority of the remaining complaints were lodged by individuals.

A break up of the issues underlying the complaints is as follows:

| Complaint Issue | Complaints received direct to the ATO Complaints handling process | Complaints received via the Inspector General of Taxation | Total Complaints received |
|----------------------------------|--|---|---------------------------|
| HECS/HELP | 65 | 1 | 66 |
| Debt & Payment | 21 | 1 | 22 |
| Registrations ABN/TFN | 7 | | 7 |
| Lodgment – returns | 8 | | 8 |
| Access to our systems | 24 | | 24 |
| Tax Agent – Ability to function | 1 | 2 | 3 |
| Amendment not processed | 2 | | 2 |
| Superannuation | 4 | | 4 |
| Total Complaints received | 132 | 4 | 136 |

8 Government revenue for the 2016-17 year has not been impacted by the IT incidents.

No long term impacts have been identified for our audit and compliance work.

Details of the duration of the outages are provided at question 16.

9 The ATO is aware of two complaints involving tax practitioners potentially inquiring about compensation, both of which were received by the Inspector General of Taxation.

10 ATO compensation estimates have been prepared for the purpose of seeking a speedy commercial settlement with Hewlett Packard Enterprises. Given that our discussions with Hewlett Packard Enterprises are ongoing, it would not be appropriate to provide further details at this time.

11 The ATO Budget makes provision for compensation payable under the CDDA scheme generally. The ATO has not established these provisions specifically for compensation arising from our IT incidents.

12 The ATO is not proposing to establish a compensation fund specifically referable to these IT incidents.

13 There are three reviews that are being conducted following the IT incidents.

Following the December outage, the ATO engaged PricewaterhouseCoopers (PwC) to conduct an independent review of the incident and contributing events. The ATO and ICT providers have worked with PwC to meet their needs during the review.

The ATO is conducting a Post Incident Review of how the ATO responded to the December 2016 and February 2017 system incidents. Hewlett Packard Enterprises is conducting its own “root cause review”.

Subject to sensitive issues (including settlement negotiations, legal privilege and commercial in confidence communications), the ATO will be transparent about the findings of these reviews.

- 14 The ATO has not worked directly with the Assistant Minister for Digital Transformation in relation to the ICT failures.
- 15 Regular updates were provided both verbally and in writing to the Minister for Revenue and Financial Services’ Office from the afternoon of 12 December.

Updates were provided to the Prime Minister’s Office and to his key digital advisors by senior ATO staff in the early stages of the incident and then via our Public Affairs Branch from 14 December.

The Minister and Prime Minister’s Office were provided with all media and other public statements in relation to the incident just prior to the time these were issued by the ATO.

- 16 The ATO recognises the following key “top 6” systems – these systems facilitate the ATO’s engagement with taxpayers and define what is considered to be the ATO’s minimum viable product:

December 2016 outage

- Portals (Tax Agent, BAS Agent and Business), which allow business to pay amounts and lodge activity statements, and allow agents to lodge and pay on behalf of their clients – online 15 December 2016
- Standard Business Reporting (SBR) services, which are critical for the business of the superannuation industry and software developers – online 20 December 2016, with increasing functionality until fully restored on 22 December 2016
- the Australian Business Register (ABR) – online 20 December 2016
- ATO Online services, which, amongst other things, allow individuals to lodge tax returns using myTax – online 13 December 2016, with calculators and tools progressively made available. This also includes the ato.gov.au website and payment systems
- Siebel, the ATO’s core case management system and records our interactions with clients – online 13 December 2016, with increasing functionality until fully restored on 17 December 2016.
- Outbound correspondence systems, which allow the ATO to initiate communication with taxpayers- online 16 December 2016.

February 2017 outage

During the February outage, all services were unavailable from 3am on Thursday 2 February 2017 for 2 business days. Services restored to pre-incident functionality before the start of business on 6 February 2017.

- 17 The ATO engages a number of service providers to provide ICT services. Key ICT partners are Hewlett Packard Enterprises, Leidos and Optus.
- 18 Yes, a number of ICT providers have been involved in addressing the failures, primarily Hewlett Packard Enterprises as the provider of centralised computing services, and provider of the infrastructure impacted in this instance. In addition, Leidos, as the ATO's provider of Service Management Services has been involved in providing this service through and across the outage.

- 19 The ATO has initiated discussions with Hewlett Packard Enterprises regarding compensation and to identify the best process to resolve our claims.
The ATO's priority is to achieve the best possible outcome for the ATO and the community, and in this context our preference is to resolve our claims as expeditiously as possible.

Given these issues and that our discussions with Hewlett Packard Enterprises are ongoing, it would not be appropriate to provide further details at this time.

- 20 See the answer to question 19.
- 21 The ATO works closely with our ICT providers to ensure we have infrastructure services that are reliable and available in line with organisational needs.

It is important to note that there are many factors for consideration in relation to ICT costs and solutions including:

- The needs of the Department e.g. in terms of volume consumed
- The services and geographic dispersion required by the Department
- The number of services included within the contract
- The specialities required within the contract.

The ATO often liaises with other Government departments to exchange experiences in relation to ICT services to test if there are ways in which we can improve our own services.

The ATO works internally to assess the need for ICT services and presents this to the organisation to take into consideration as a whole.

The ATO frequently assesses its services, including ICT services, to ensure they meet the needs of the organisation, are contemporary, provide value for money and are the best fit for purpose.

The impacted infrastructure demonstrated that it met these criteria, with an unfortunate and unexpected series of events contributing to the outage.

- 22 No, before these incidents the ATO had not made representations to Government about our data stored on Hewlett Packard Enterprises SANs. The risk assessment determination was that these functions are typically dependable and with low overall risk. Hewlett Packard Enterprises confirms that these issues had not been previously experienced by any Hewlett Packard Enterprises clients worldwide.

- 23 The infrastructure is functional, with back end-data restored and returned to service as needed.

To ensure the impacted ICT infrastructure is as resilient as possible it will be replaced, with associated outages to facilitate this work communicated to the community (this work is expected to occur around 1-2 April 2017, from 10pm on 13 April to 17 April 2017 (Easter), and 1 to 2 May 2017).

- 24 Back-end data and infrastructure were unavailable during the December incident (12-15 December 2016) and also during the February incident (2-5 February 2017).

Infrastructure and data were available outside of these times, but with services restoration required to have appropriate connecting services made available to the ATO and Community.

- 25 Backup infrastructure was not out of service during the outage. Where appropriate, backup infrastructure was utilised to restore services.

- 26 There were 114 ATO debt litigation matters (routine winding up applications and creditor petitions) before the courts that were adjourned due to these IT incidents. This was principally due to the ATO's inability to confirm factual details during the ICT failure e.g. the size of outstanding tax debts.

Legal costs associated with these deferrals are a matter for the Courts to decide. The ICT failures in December and February have not impacted the revenue collections for the financial year.

- 27 The ATO is unaware of other legal cases being deferred due to resourcing constraints.

There are currently some delays in some income tax and superannuation cases due to a technical issue with the drafting of the evidence provisions in the *Taxation Administration Act 1953*. The Treasury has been consulted in relation to this matter and the issue will be resolved by 1 April 2017.