

Specific 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.*

Government response

There is no evidence to support the recommendation to put on hold the online system (p. 8).

Implementation

Not implemented—recommendation rejected by Government.

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.*

Government response

The Australian Government is committed to improving public participation and engagement to enhance policy and service delivery outcomes for Australians. The Australian Government will continue to engage with key stakeholders including the Commonwealth Ombudsman, Australian Council of Social Services and the National Social Security Rights Network (p. 8).

Implementation

Government rejected premise of redesigned system and stated that they continue to engage with 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.*

Government response

The Government's clear position, supported by the independent Commonwealth Ombudsman Report, is that it is appropriate to ask people for information when there are differences between their income details held by the Department of Human Services and other third parties such as the Australian Taxation Office

...

The Department of Human Services is in the process of writing to all recipients who received a debt related to the online system to remind them of their review rights (p. 8).

Implementation

Government rejected the recommendation to re-assess all those who had debts raised and stated that it was in the process of writing to all recipients who received a debt to remind them of their review rights. In an [Answer to a Question on Notice](#) at the 2017–18 Supplementary Budget Estimates, the Department of Human Services (DHS) stated that they had sent 114,653 letters to recipients reminding them of their ability to ask for a review.

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.

Government response

The Department of Human Services conducts data-matching with the Australian Taxation Office in accordance with the Privacy Commissioner's Guidelines on Data-Matching in Australian Government Administration and the requisite Programme Protocol PA YG Data-Matching.

The Ombudsman noted that the data matching practices used have been long standing and supported by the *Social Security Act 1991*. The data matching processes have not changed as a result of the development of the online system (p. 10).

Implementation

The Government asserted that it already complied with the relevant guidelines and protocols.

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.

Government response

The Australian Government has a strong commitment to safeguarding individuals privacy. In October 2016 the Government introduced separate pieces of legislation to amend the Privacy Act to:

- make it an offence to deliberately re-identify personal information from open government data; and
- introduce mandatory data breach notification provisions requiring Australian Government agencies, private sector organisations and certain other entities regulated by the Privacy Act that suffer data breaches to notify individuals whose personal information has been compromised (p. 10).

Implementation

The Government did not agree with the recommendation and has not changed its policy in this respect.

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.

Government response

Apportioning of income is only used when the person has failed to provide the information needed to calculate their fortnightly income. In these cases, the Department of Human Services uses the best information available to it to calculate whether the person has a debt (p. 10).

Implementation

The Government stated that it only applied averaging where relevant information on fortnightly income was not provided.

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.

Government response

The Department of Human Services is in the process of writing to all recipients who had a debt related to the online system to remind them of their review rights, including the application of the recovery fee.

In addition, the Department of Human Services has attempted to directly call recipients who had a debt through the online system and who had been referred to an external collection agent, to inform them of how to ask for a review which would include a review of the application of recovery fees.

In February 2017 the online system was updated to include a reference to the existence of a reasonable excuse for failing to provide relevant information, resulting in no recovery fee applying in most instances (p. 12).

Implementation

The Government response indicated that the Government was attempting to contact those had a debt raised and those whose debts had been referred to an external collection agent to inform them of how to ask for a review (including a review of the application of a recovery fee). In an [Answer to a Question on Notice](#) at the 2017–18 Supplementary Budget Estimates, DHS stated that it had made approximately 12,500 phone calls to recipients who had been referred to an external collection agency to notify them how to ask for a review.

Of those who had been sent a letter regarding their review rights, 150 people had requested a review of a debt raised (including those who had not been referred to an external collection agency) by an Authorised Review Officer. Of these, 33 had a debt reduced or waived and out of those 30 people, 30 had a recovery fee removed. It stated that specific requests to have the recovery fee removed are not recorded.

During the inquiry DHS stated that as at May 2017, 83,480 individuals had a recovery fee applied— see inquiry Question on Notice 38.

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.

Government response

The Government response did not explicitly address this recommendation but did note that the Commonwealth Ombudsman report on the same program has found that DHS no longer applies 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' (p. 4).

Implementation

DHS does no longer automatically applies the debt recovery fee where there is no contact from the customer or where they respond that they had personal factors affecting their ability to accurately report their income.

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.

Government response

The Australian Government is committed to making it easier for people to deal with government services, by providing clear and accessible content.

Enhancements were made to the online system in February 2017 to make it easier for people to review and update their information online, ask for more time and pause debt recovery action while debts are under review. (p. 14)

Implementation

It does not appear the DHS has implemented the recommendation regarding 'Easy English' versions of publications.

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.

Government response

Vulnerable people have always been a priority for the Australian Government. As acknowledged by the Ombudsman, the online system was not rolled out to vulnerable people.

The Department of Human Services identifies people with vulnerabilities through information already available on their record, through conversations with them, or the Department may receive advice from a third party. When it is identified that a person is experiencing vulnerabilities, including family violence, compliance staff can consult with social workers about how to effectively interact with the person to achieve the best outcomes. These include suggesting internal and external avenues of support that staff can refer the person to, or inform them about.

The categories of vulnerable people have already been expanded as recommended by the Ombudsman, such as those with payment nominees. (p. 14)

Implementation

While the Government response indicates vulnerable people were excluded from the Online Compliance Intervention program, there were [reports in August 2018](#) and some people with vulnerability indicators were targeted by a trial program to resolve reported income discrepancies. On 15 August 2018, [Minister for Human Services Michael Keenan stated](#) that the trial would be paused to 'make sure that when we go to recover these debts we are doing it in the most sensitive way possible'.

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.

Government response

Enhancements were made to the online system in February 2017 to make it easier for people to review and update their information online, ask for more time and pause debt recovery action while debts are under review. (p. 14)

Implementation

As noted in the response, the Government has updated the online system to make it easier for people to review their information. Not clear if these changes meet the Committee's recommendations for 'debt calculation data'.

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.

Government response

Staffing resources in the compliance area have been boosted in recent years. Over 700 staff have been allocated to undertake the online system work and related compliance budget measures

since October 2014. The dedicated compliance phone number is adequately resourced with the aim of having wait times of less than a minute. (p. 14)

Implementation

The Government response suggested staffing numbers were adequate. In 2018, the Minister for Human Services has [announced](#) two measures to outsource call centre work—an additional 1,000 staff were announced in April to help with surges in demand and 1,500 additional staff announced in August 2018. On 8 September 2018, [Fairfax media reported](#) that 80 non-ongoing staff from the debt management branch of DHS would not have their contracts renewed.

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.

Government response

As stated above, the Department of Human Services is in the process of writing to all recipients who had a debt related to the online system to inform them of their review rights.

People using the online system have always been able to request two extensions of 14 days online and a further 14 days through phone contact with the Department of Human Services. (p. 16)

Implementation

The Government sent letters to those with a debt arising from the system reminding them of their review rights.

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.

Government response

The Australian Government recognises the important role of the legal assistance sector in providing access to justice to the most vulnerable Australians. The Commonwealth contribution to the legal assistance sector is now a record \$1.77 billion over five years to 2020. This includes \$55.7 million over the next three years to community legal centres (\$39 million) and Aboriginal and Torres Strait Islander Legal Services (\$16.7 million) in the 2017-18 Budget. State and territory governments are responsible for allocating Australian Government funding for community legal centres, alongside state funding contributions, using evidence-based collaborative service planning processes. (p. 16)

Implementation

The Government did not accept the recommendation that funding for legal services be reviewed.

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.

Government response

The rate of Administrative Appeals Tribunal appeals for online compliance cases is currently 0.2 per cent. This is lower than for cases processed manually for the budget compliance measure, which is 0.8 per cent. The Administrative Appeals Tribunal will continue to be funded at a level which ensures it can manage its workload in a timely manner. (p. 16)

Implementation

The Government did not accept the recommendation.

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.

Government response

The Australian Government is committed to assisting people with repaying debts by providing flexible ways to make payments. Where a person has difficulties repaying a welfare debt, the Department of Human Services organises a repayment arrangement that ensures they are not put in serious financial hardship. (p. 16)

Implementation

The Government does not appear to have accepted this recommendation and suggested that it does organise repayment arrangements that ensure people are not put in serious financial hardship.

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.

Government response

The Australian Government supports a flexible, fair and realistic approach to debt collection. This approach is documented in the *Debt Collection Guideline for Collectors & Creditors* produced by the Australian Competition and Consumer Commission and Australian Securities and Investments Commission.

As provided in evidence to the Committee, the Department of Human Services has used external debt collectors since 1996, and it is a contractual requirement that external debt collection agencies follow these guidelines. (p. 18)

Implementation

The Government states that its approach to debt collection is documented in the guidelines produced by the ACCC and ASIC and that it requires external debt collection agencies to follow these guidelines as part of their contracts with DHS.

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.

Government response

The Department of Human Services takes any allegations against its contracted debt collectors seriously. The Department of Human Services investigates complaints and has comprehensive processes in place to monitor its contracted debt collectors' actions, including through call recording and other quality monitoring activities. This was provided in evidence to the Committee from both the Department of Human Services and the external debt collection agencies. (p. 18)

Implementation

The Government did not accept the recommendation to undertake an independent review of internal and external debt collection practices and states that it has comprehensive processes in place to monitor external debt collection agencies' actions.

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.

Government response

The Government response did not appear to address this specific recommendation.

Implementation

The Government did not accept this recommendation.

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.

Government response

The Australian Government is committed to ensuring debt repayment amounts are tailored to an individual's circumstances. In determining the amount of a deduction for non-current recipients the debtor's financial circumstances must be considered in some detail to determine an appropriate rate of recovery. This could be as little as \$5 per week. (p. 18)

Implementation

The Government's response stated that it was already committed to tailoring repayment amounts to an individual's financial circumstances.