



Submission:

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

March 2017

About ACTCOSS

ACTCOSS acknowledges Canberra has been built on the land of the Ngunnawal people. We pay respects to their Elders and recognise the strength and resilience of Aboriginal and Torres Strait Islander peoples. We celebrate Aboriginal and Torres Strait Islander cultures and ongoing contribution to the ACT community.

The ACT Council of Social Service Inc. (ACTCOSS) is the peak representative body for not-for-profit community organisations, people living with disadvantage and low-income citizens of the Territory.

ACTCOSS is a member of the nationwide COSS network, made up of each of the state and territory Councils and the national body, the Australian Council of Social Service (ACOSS).

ACTCOSS' vision is to live in a fair and equitable community that respects and values diversity and actively encourages collaborations that promote justice, equity and social inclusion.

The membership of the Council includes the majority of community based service providers in the social welfare area, a range of community associations and networks, self-help and consumer groups and interested individuals.

ACTCOSS receives funding from the ACT Government - Community Services Directorate.

ACTCOSS advises that this document may be publicly distributed, including by placing a copy on our website.

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Introduction

The ACT Council of Social Service Inc. (ACTCOSS) is the peak representative body for not-for-profit community organisations, people living with disadvantage and low-income citizens of the Territory. ACTCOSS is a member of the nationwide COSS network, made up of each of the state and territory Councils and the national body, the Australian Council of Social Service (ACOSS).

ACOSS and the COSS Network have repeatedly raised concerns about the Automated Debt Recovery Program. ACTCOSS like its peers have concerns about the system, its design and the subsequent process in which the Federal Government has pursued welfare recipients for alleged debts. Within this submission, we have identified key issues that we believe the Committee should review as part of its Inquiry.

ACTCOSS supports fair, respectful and humane efforts to recover overpayments but we believe this automated and digitised program implementation is fundamentally flawed and should cease.

This submission provides information about the ACT labour market including its areas of growth, and identifies issues for people attempting to get and keep a job. The submission provides responses to issues raised in the Terms of Reference of the Inquiry and makes a number of recommendations to help guide the Committee in developing its final report.

ACT labour market – our changing workforce and the impacts on demand for income support

While the ACT has historically had stable employment opportunities and a strong economy, some old assumptions about the labour market and income patterns in the Territory no longer hold true.

Our economy is changing and with it we are developing a different employment mix with an increased share of jobs that are in the service industry which offers more precarious and casualised employment than the public sector labour market. As some agencies move out of Canberra the overall mix of jobs is also changing

While the image of Canberra is of a public service town where people work a standard 9.00am to 5.00pm day, this no longer corresponds with reality, if it ever did. The public sector now only accounts for one third of our workforce.¹

Alongside this, public sector jobs are also increasingly casualised, part time or in contract work connected to short term projects.

People in the ACT are therefore more likely to make valid claims to Centrelink for income support and to use these payments for the purpose for which they were intended – to bridge dry or low paid periods of employment and to provide support during periods of illness, disability, family crisis or while transitioning from school or university. These people are not gaming the system.

The reality in Canberra isn't a binary divide between people who are working and paying taxes and people who are on Centrelink benefits. People move in and out of transitory employment and use the safety net as it was intended during various transitions, cracks or points of change in their lives – such as moving from school to work, during university, between jobs, when entering the labour market after a period of caring and while managing a pattern of unstable jobs that characterise the 21st Century labour market.

What the evidence tells us

The evidence backs up this picture and tells us that the ACT has a diverse economy and changing labour market. The labour market has changed and continues to change. The industrial relations system (as evidenced by the recent Fair Work Australia decision on penalty rates) is changing in response to the changing labour market. However, the tax and income support systems still assume people are in secure work with a predictable rate of income across a tax year.

The Centrelink automated debt recovery program has been designed and described to the public as a crackdown on fraud against the income support system. The design is

1 Department of Employment, *Employment Region - Employment by Industry, November 2016*, Labour Market Information Portal, viewed 22 February 2017, <<http://lmip.gov.au/PortalFile.axd?FieldID=2739698&.xls>>.

fundamentally flawed because it is unable to take proper account of precarious work in a changing labour market. As a result, the debt recovery program has targeted many people with legitimate entitlements to support who have struggled to report short periods of paid work to Centrelink and who in some cases, are being aggressively pursued for money they do not owe.

The table below describes the current composition of the ACT labour market.

Table 1: Current composition of the ACT labour market²

Industry	Workforce	Percentage
Public Administration and Safety	64,600	30.30%
Professional, Scientific and Technical Services	24,700	11.58%
Health Care and Social Assistance	22,500	10.55%
Education and Training	16,300	7.64%
Retail Trade	15,100	7.08%
Construction	14,200	6.66%
Accommodation and Food Services	13,000	6.09%
Other Services	6,100	2.86%
Transport, Postal and Warehousing	6,000	2.80%
Financial and Insurance Services	5,000	2.35%
Administrative and Support Services	4,900	2.29%
Arts and Recreation Services	4,800	2.25%
Manufacturing	4,400	2.06%
Information Media and Telecommunications	3,500	1.64%
Rental, Hiring and Real Estate Services	3,300	1.55%
Wholesale Trade	2,000	0.93%
Electricity, Gas, Water and Waste Services	1,800	0.84%
Agriculture, Forestry and Fishing	1,000	0.46%
Total workforce	213,200	

Due to the participation rate of men in industries such as the Construction, Manufacturing, Transport, Postal and Warehousing and the Professional, Scientific and

² *ibid.*

Technical Services, 50.75% of the overall workforce are male. Women comprise 54.95% of the Public Administration and Safety workforce.

Job advertisements and skill levels

The ACT experiences unemployment rates of around 3.9% and good average weekly earnings, however, these averages can mask deep and entrenched disadvantage in the city. If you are on a low income, Canberra can be an expensive city to live in with high transport costs, high private rentals and higher costs of living in a range of tangible areas including food.³

Average weekly wages are also not available for all Canberrans. Not all Canberrans have the opportunity to undertake tertiary education or pursue other post-secondary qualifications. These are prerequisites for accessing employment in the relatively high paid and stable jobs available in the public sector and other private sector industries requiring higher skilled work (like Professional, Scientific and Technical industries).

For example, in January 2017, the majority of the 5194 advertised positions⁴ in that month required senior, experienced or skilled applicants.⁵ Advertised positions such as social services, administrative and clerical workers, sales workers, and labourers, also provided a significant number of advertised positions. However, these roles do not generally offer higher wages, like that of positions advertised in the professionals, public service and ICT professionals categories.⁶ Indeed, they are also often only part time, or involve irregular working hours or shift work.

Table 2: Advertised positions by skill level in the ACT⁷

Total advertised positions by skill level in the ACT	5200
Skill Level 1 - Bachelor degree or higher	2500
Skill Level 2 - Advanced Diploma or Diploma	530
Skill Level 3 - Certificate IV or III (Skilled VET)	470
Skill Level 4 - Certificate II or III	1200
Skill Level 5 - Certificate I or secondary education	500

3 ACTCOSS, *ACT Cost of Living Report, 2015: Tracking changes in the cost of living, particularly for vulnerable and disadvantaged households in the Australian Capital Territory*, ACTCOSS, Canberra, 2015, pp.4 & 12, <<http://www.actcoss.org.au/publications/advocacy-publications/act-cost-living-report-2015>>.

4 Department of Employment, *Vacancy Report January 2017*, Labour Market Information Portal, February 2017, viewed 22 February 2017, <<http://lmip.gov.au/default.aspx?LMIP/GainInsights/VacancyReport>>.

5 *ibid.*

6 Department of Employment, *IVI Data – January 2006 onwards*, Labour Market Information Portal, January 2017, viewed 22 February 2017, <<http://lmip.gov.au/PortalFile.axd?FieldID=2790177&.xlsx>>.

7 Department of Employment, *Vacancy Report January 2017*, *op. cit.*

In the same month, the total number of employed people in the ACT was 215,000 people, the total number of unemployed people were 8100 (3800 looked for fulltime work, and 4300 looked for part time work).⁸ This means that there is a shortfall in total positions advertised compared to the total number of people looking to join the workforce.

As at September 2016, the number of welfare recipients receiving Newstart Allowance was 5739.⁹ If these individuals receiving this type of payment applied for a position which required a Skill Level 4 – this would be a ratio of 4.7. Include Skill Level 5 into this equation, the ratio would be 3.37.

In the ACT 17% of the total population receive some type of welfare payment, including a disability benefit, aged pension, Newstart Allowance and Youth Allowance.

Not all unemployed people in the ACT who are of working age have the capacity to take up and or apply for an advertised position. There are other constraints such as family commitments, disability, education attainment and changes in the employment market that can mean people spend significant periods out of work.

Some specific groups of people looking for or trying to keep a job do not fare well in the ACT labour market. For instance, the ACT has some of the worst rates of disability employment. Data from the Australian Human Rights Commission shows the ACT has a public sector disability employment rate of 2.2% (458 people) which is lower than all other jurisdictions except for South Australia at 1.3%.¹⁰

When jobs do become available, people who face barriers to work due to family commitments, disability, education attainment and changes in the employment market find these jobs often offer only temporary or casual work, and/or irregular hours. This type of precarious work does not provide a predictable or reliable income stream, making access to Centrelink income support vital for sustaining basic income levels in a household.

ACTOSS wrote to Senator Seselja in January 2017 asking about the numbers of ACT people who have been impacted by the program, managed to resolve matters or had their debt reduced or waived and received a response to the effect that the Department did not collect data at this level.

8 Australian Bureau of Statistics, *Labour Force, Australia, Jan 2017*, cat. no. 6202.0, ABS, Canberra, 2017, viewed 22 February 2017, <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/allprimarymainfeatures/ADB6105D000F877DCA2580E400117280?opendocument>>.

9 Department of Social Services, *DSS Payment Demographic Data, Payment recipients by payment type and Commonwealth Electoral Division*, Department of Social Services, September 2016.

10 Australian Human Rights Commission, *Willing to Work - Report of the National Inquiry into Employment Discrimination Against Older Australians and Australians with Disability*, Australian Human Rights Commission, 2016, pp.443-444.

Penalty rates

While not directly in the scope of this inquiry ACTCOSS also notes that the recent changes to Sunday and Public Holiday penalty rates for retail, hospitality and fast food workers is relevant to your considerations. This is because the increasing numbers of precarious jobs that offer unpredictable and unreliable income levels increase the likelihood of people cycling on and off Centrelink income support during a tax year.

Employees who currently receive a 200% loading on their Sunday rate, will be reduced to 150% as of 1 July 2017,¹¹ therefore these employees will have to work additional hours during the week or on the weekend to make up the income they would have otherwise made on a Sunday.

This provides a challenge for university students, elderly workers, single mums or even families attempting to access a dual income. While the majority of identified weekend workers are single and have no children, there are still many couples both with or without children or sole parents in these positions.¹² 24% of weekend workers were aged 18-24, with women more likely to work weekends than men.¹³ More so, 78% of all weekend workers were not dependent on family, and are solely responsible for paying their own bills.¹⁴

11 ABC, *Sunday and public holiday penalty rates will be reduced for hospitality, retail workers, Fair Work Commission Rules*, ABC News, 24 February 2017, <<http://www.abc.net.au/news/2017-02-23/weekend-penalty-rates-fair-work-commission-decision/8295758>>.

12 R Markey, *The continuing importance of penalty rates for weekend work: a review of the evidence*, Macquarie University Centre for Workforce Future, 2015, p.2.

13 *ibid.*, pp.2-3.

14 *ibid.*, p.3.

Response to Inquiry Terms of Reference

We have provided detailed responses to items a), b), c), e), g), and i) of the Terms of Reference. They appear below. We also make recommendations drawn from the work of ACOSS and the COSS network and consultations with members of the ACT Council of Social Service.

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

We believe that the automated debt recovery scheme has caused unnecessary frustration and anxiety for welfare recipients. It has had a significant impact on people living in the ACT who are vulnerable because of very low incomes.

Local legal services and financial counselling services organisations have told us about incidences where there have been adverse outcomes for people caught up in the automated debt recovery program and we provide de-identified examples below:

- A man received a large debt notice and had attempted suicide as a result of receiving the notice. He was referred to a financial counselling service as the debt notice was the tipping point. This individual had multiple issues and was clearly a vulnerable person even though his Centrelink record had not marked him out as vulnerable and thereby excluded him from the program
- A young woman sought legal advice from a local legal service after receiving a debt notice. She is in an extremely vulnerable situation. She has been in and out of precarious work for some time. She doesn't think the debt is owed but is struggling to get payslips or bank statements which will support a Centrelink reassessment. This woman has had ongoing family and mental health issues which has been compounded by Centrelink debt recovery proceedings
- One woman contacted us who had been caught up in the process over the Christmas/New Year period. She was now in secure employment in the Commonwealth public sector and was very concerned about the alleged debt and the impact it could have had to her employment.

ACT legal assistance and financial counselling services have told us that there was an increase in people contacting them and that there was a small but significant cluster of people dealing with automated debt recovery proceedings who have had contact with legal and financial counselling services. In terms of legal services, all the cases that they have managed to date have been resolved in the person's favour, either through the debt being found not to be owed or substantially reduced.

These issues have also highlighted the importance of properly funded legal services and highlighted the strains placed on legal services by cuts under the National Partnership Agreement on Legal Assistance Services. If the funding cut is not reversed, it will drastically impact on the ability of specialist community legal centres to

provide legal assistance to people on such issues like the automated debt recovery program.

This funding allows legal organisations to directly assist individuals who have been affected by civil and administrative law matters such as the automated debt recovery program. The impact of the program on already strained legal services should be noted and an undertaking sought by the Commonwealth Government to reverse the funding cuts.

Recommendation

The Inquiry should recognise the impact of the program on already strained legal services and seek guarantees from the Commonwealth Government regarding the continuation of the National Partnership Agreement on Legal Services and the restoration of funding cut under this Agreement.

While we have not had specific cases of people on Disability Support Pension (DSP) being targeted under the automated debt recovery program, the reality is that people with disability have been moved from DSP to Newstart over the past decade. A number of the people assisted by ACT legal and financial counselling services clearly had psycho-social disability associated with mental health problems. The experience of people with disability being targeted in this program was highlighted in national media coverage such as that of Rhys Cauzzo, as reported in *The Saturday Paper* on 18 February 2017.¹⁵

Aside from the automated debt recovery processes, we are aware of people with disability who have been targeted for debt recovery over the past 12-18 months and have been pursued aggressively for large amounts of money which were subsequently reduced when a dispute was raised with Centrelink, because the debt was inaccurately calculated.

ACTCOSS would be highly concerned if people with an intellectual or cognitive disability were targeted by debt recovery. Advocates point out that people with an intellectual disability sometimes say yes because of patterns of learned compliance that form in congregate settings and due to people's proximity to violence and abuse.¹⁶ This means that there is a chance that some people contacted by a debt collection agency could simply pay debts that were not owed.

People with intellectual and cognitive disabilities are more likely than the general workforce to be in jobs that are precarious and they may take longer to deal with an issue like this so they might lose their jobs. In addition, people's lives and independence are often fragile and receiving a debt notice can lead to a loss of trust in

15 M 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>>.

16 L Chenoweth, *Violence and Women With Disabilities: Silence and Paradox*, 1996.

a person's ability to manage their own affairs, by themselves or others, even when that is not warranted.

b) The administration and management of customers' records by Centrelink, including provision of information by Centrelink to customers receiving multiple payments

Some 200,000 letters have been distributed since November 2016 (20,000 week).¹⁷ As we now know through evidence from the Department of Human Services (DHS) to Senate estimates, only \$24million¹⁸ (of the total \$300million claimed by the Department)¹⁹ has been collected from recipients.

Despite the evidence of the automated debt recovery program being both inaccurate and poorly administered, people who have at some time in the past six years received a Centrelink payment have still been expected to provide information for claim periods or pay an alleged debt without question. Centrelink can be a confusing and intimidating institution, especially for people who need to rely on income support due to precarious work. People are being pursued for a debt that they do not owe but are paying the debt because they either:

- Fear retribution if they contest the debt
- Do not have the time, or ability to contest the debt, or
- Are unable to obtain the information from the former employers, due to the time period request.

Anecdotal evidence from our member organisations provides that only 20% of people who disputed a debt once they had received a debt notice, actually managed to rectify their debt. This resulted in a lower or zeroed debt being issued.

Recipients and NGOs alike have found that Centrelink and the DHS management and approach to this program has been problematic.

One of the risks we have identified at a local level is the compromise to the public's confidence in public administration and systems that they interact with on a regular basis.

It is important the Commonwealth Government acknowledges areas of administrative failure in this matter. Some senior officials seem reluctant to do this. For instance, DHS Deputy Secretary for Social Security, Ms Serena Wilson, stated that a core problem of

17 Community Affairs Reference Committee, *Better Management of the Social Welfare System*, Australian Government, 8 March 2017, p.1.

18 *ibid*, p.47.

19 ABC, *Centrelink debt recovery program to undergo changes following public criticism*, ABC News, 16 January 2017, <<http://www.abc.net.au/news/2017-01-16/government-to-change-centrelink-debt-recovery-program/8185366>>.

the Debt Recovery Program is the failure of recipients 'not engaging' with the system.²⁰ This appears to put fault in the hands of the people the system is designed to work with, instead of in the hands of the people who design and administer the system.

Recommendation

The Commonwealth Government should abandon the Automated Debt Recovery Program. This should include any existing debt recovery action that has arisen under this program. Planned automated debt recovery programs for pensioners and any other income support recipient group should also be halted.

Recommendation

The Commonwealth Government should acknowledge mistakes within the system and apologise to Centrelink customers who have been caused undue stress, anguish and financial difficulty, including instances where a debt has been recovered even when it was not owed.

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

ACTCOSS acknowledges the large work load that DHS and Centrelink undertake to provide support for recipients. This includes support through online, IT and telephone services.

It appears that if recipients are familiar with the Centrelink engagement processes, they are able to rectify issues with their claims and potentially remedy the debt.

However, we have been made aware of instances where people have reported waiting on the phone for long periods of time, then being connected to a person, then being told to come into an office, only to be redirected back to the online portal when they arrive in the office.

Many Centrelink customers have experienced complex, costly and confusing interactions with the agency and the automated debt recovery program has demonstrated failures in the system to respond to inadequacies in the systems that frustrate people's efforts to engage with and resolve disputes through the system. A recent estimates hearing identified that some 28million phone calls had already been

²⁰ Community Affairs Reference Committee, op. cit., p.57.

made this financial year (since 1 July 2016),²¹ a substantial increase from the previous financial year. Also, the number of abandoned calls is a staggering 4,118,686.²²

Similarly, we understand MyGov, a software program that has 11.1million²³ users, has the capacity to utilised quite effectively as a component of government administration and service delivery. However, the automated debt recovery program has demonstrated vulnerabilities in the system. From consulting with some of our members, it appears that if the flaws in the system can't be rectified, the software needs to be improved to ensure it offers straightforward functionality to all users.

Recommendation

DHS should rectify functionality problems in the MyGov program and provide opportunities for community organisations to have a demonstration/presentation of the Online Compliance Intervention (OCI) system.

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

As identified by ACOSS, there have been issues with data matching between Centrelink and the Australian Tax Office (ATO). Differences in the information employers have reported to the ATO for a particular financial year, and the information recipients have provided to Centrelink have caused frustration for recipients and has wasted the time of Centrelink staff trying to resolve disputes.

g) The error rates in issuing of debt notices, when these started being identified and steps taken to remedy errors

This Online Compliance Intervention program has affected, in one way or another, at least 200,000 people around the country. Towards the end of last year, 20,000 letters were sent out by the department every single week.²⁴ This is a huge operation which has generated a significant error rate. The types of errors that have been identified are:

- Incorrect debt amounts
- Incorrect personal details for individuals
- Incorrect employment information or duplication of information.

While it may be the intention of Centrelink to simply notify recipients of issues with their welfare payments and employment information, the consequences have been (in some

21 Community Affairs Reference Committee, Estimates, 2 March 2017, p.36.

22 *ibid.*, p.36.

23 *ibid.*, p.29.

24 Community Affairs Reference Committee, Estimates, *op. cit.*, p.1.

cases) quite dire. Even if there is the imposition of a perceived debt, some recipients are seeing this as a threat of further financial penalties or imprisonment. Comments by government spokespeople that cast this as an issue of fraud, rather an erroneous overpayment of an income support payment a person was entitled to seek, reinforces these fears.

These errors are the result of the initial failure of Centrelink to vet and proof-check its debt notices and recipient data prior to distribution. Indeed, ACOSS identified in evidence that some 6,600 recipients had first heard their debt notice when they were approached by debt collectors.²⁵ Through evidence by DHS, it has also been identified that these debt collectors make a commission off the debts they return.²⁶

h) The government's response to concerns raised by affected individuals, Centrelink and departmental staff, community groups and parliamentarians

As ACOSS mentioned in its evidence at the Inquiry, the sector has consistently warned about the adverse and perverse impacts of a program of this kind and it is unfortunate that this advice and warnings have not been heeded. The result has been an avoidable sweep of misery and fear amongst a large number of people who have done nothing worse than live complicated lives slipping in and out of employment in the modern labour market.

The government's official response to individuals, staff and community concerns so far has been minimalist. ACTCOSS wrote to Senator Seselja in January 2017 expressing concerns about the program and asking about the numbers of ACT people who have been impacted, managed to resolve matters or had their debt reduced or waived and received a response in February to the effect that the department did not collect data at this level.

Similarly, the initial statements by Ministers that Centrelink was conducting a 'welfare crackdown' and the statement, 'we'll find you, we'll track you down and you will have to repay those debts and you may end up in prison,'²⁷ are problematic on several levels.

In many instances, the reality is that people were entitled to benefits and were paid incorrect amounts – through either misreporting, administrative errors or due to the complexity of the system. On other occasions people owed no money at all.

The statements of Ministers appear to assume that Centrelink recipients who received a debt notice are welfare cheats or criminals. However, the Commonwealth Department of Public Prosecution (CDPP) only deals with relatively low levels of

25 *ibid.*, p.11.

26 *ibid.*, p.68.

27 A Current Affair, *Government pins hopes on automated welfare debt recovery system to claw back \$4 billion*, 9 News, 2016, <<http://www.9news.com.au/national/2016/12/05/19/14/government-pin-hopes-on-automated-welfare-debt-recovery-system-to-claw-back-4-billion#t3ctla967CuuWLHE.99>>.

indictable charges referred to by Centrelink. In the 2015/16 year, the CCPP dealt with 29 defendants.²⁸ The same amount was detected in the previous year.²⁹

We would also go on the record as being concerned by claims that the sector have a philosophical objection to widespread compliance checking, and that these organisations were intimidating clients and placing Centrelink staff in a morally compromised position.³⁰

These comments are wrong. We are not against well targeted income support compliance programs and actually argue for the better targeting of a number of government programs. Instead our concerns derive from the heavy handed and inaccurate nature of the program, the use of aggressive private debt collectors, the creation of complexity for Centrelink customers and the pursuit of overpayments from people who are later found not to owe money.

The automated debt recovery program is inconsistent with other policy objectives in government service delivery. For example, the advice received by the Review of Australia's Welfare System chaired by Patrick McClure recommended making it easier for people to move in and out of work; using work to activate people and increase their confidence and reducing complexity in movements between income support and part time employment.³¹

It is not productive for the government to assume all individual recipients are 'welfare cheats' and that the voices of organisations attempting to represent and respect these people are agenda driven or disingenuous.

Rather than mislabelling Centrelink customers, the government actually owes a significant apology to people who have been subject to harassment, stress and intimidation for recovery of inaccurately calculated debts through careless administration and the misapplication of automated digital processes.

i) Centrelink's Online Compliance Intervention (OCI) and its compliance with debt collection guidelines and Australian privacy and consumer laws

Like other organisations, ACTCOSS is concerned about the public release of personal information in recent weeks. While the Minister has argued that this has been part of a

28 Commonwealth Director of Public Prosecutions, *Annual Report 2015-16*, Commonwealth Director of Public Prosecutions, 2016, p.33, <https://www.cdpp.gov.au/sites/g/files/net2061/f/0086_2016%20Annual%20report_v28%20web.pdf>.

29 Commonwealth Director of Public Prosecution, *Annual Report 2014-15*, 2015, p.78, <https://www.cdpp.gov.au/sites/g/files/net2061/f/15205%20CDPP%20Annual%20Report%202014-15_web_accessible_FINAL.pdf>.

30 ABC Radio National, *Alan Tudge defends Centrelink 'robodebt' program on RN Breakfast*, ABC Radio, 9 March 2017 <<https://radio.abc.net.au/programitem/pgYRGqemkG?play=true>>.

31 Department of Social Services, Reference Group on Welfare Reform to the Minister for Social Services, *A New System for Better Employment and Social Outcomes*, Department of Social Services, 2015.

process of maintaining public confidence in the system,³² in reality it has had the opposite effect for recipients and the broad Australian community.

From evidence provided in a recent Senate Estimates hearing and a hearing for this Inquiry, the appropriate application of 'Part 3 Confidentiality' of the *Social Security (Administration) Act 1999* (Cth) has been placed into uncertainty. That is, what right does DHS and the government have to disclose a recipient's information?

Recommendation

The Inquiry as part of forming its recommendations should seek legal advice on the contestability of the existing privacy laws within the Social Security Administration Act and review the necessity of public disclosure processes.

In relation to Consumer Law, the National Credit Code (NCC) and the *National Consumer Credit Protection Act 2009* (Cth) (NCCPA) provide guidelines for credit providers and protections for individuals who enter into credit contracts. There are obligations that credit providers must uphold and penalties are enforced for breaches of these obligations. For example, a credit fee or charge cannot be charged in respect of a contract, unless the contract otherwise stipulates.³³

However, similar legislation is not enforced to ensure that Centrelink (or other government agencies) cannot issue a debt notice where there is only an assumed debt. That is, the government should be required to provide evidence to prove that a recipient is at fault and therefore owe a debt. At the moment, it appears that it is 'hearsay'. This process places the onus of proof on the recipient to disprove the debt.

Recommendation

The Inquiry should recommend changes to Social Security Legislation to include provisions which prevent assumptions of debt being owed. Legislation should mirror similar laws implemented within the National Credit Act and National Competition Consumer Protections Act. Debt recovery agencies acting for the Australian Government should not be exempted from the requirements, probity considerations, protocols and accountabilities that they are subject to when acting in the consumer credit realm.

32 The Hon Alan Tudge, Minister for Human Services, media release, 2 March 2017, <<https://www.mhs.gov.au/media-releases/2017-03-02-media-statement>>.

33 National Credit Code (2009) Cth, s23(3).

Recommendations

ACTCOSS has been consulted in the construction of the national submission by ACOSS and supports the range of recommendations in that submission.

However as identified, ACTCOSS has made the following recommendations:

RECOMMENDATION: The Commonwealth Government should abandon the Automated Debt Recovery Program. This should include any existing debt recovery action that has arisen under this program. Planned automated debt-recovery programs for pensioners and any other income support recipient group should also be halted.

RECOMMENDATION: The Commonwealth Government should acknowledge mistakes within the system and apologise to Centrelink customers who have been caused undue stress, anguish and financial difficulty, including instances where a debt has been recovered even when it was not owed.

RECOMMENDATION: DHS should rectify functionality problems in the MyGov program and provide opportunities for community organisations to have a demonstration/presentation of the Online Compliance Intervention (OCI) system.

RECOMMENDATION: The Inquiry should recognise the impact of the program on already strained legal services and seek guarantees from the Commonwealth Government regarding the continuation of the National Partnership Agreement on Legal Services and the restoration of funding cut under this Agreement.

RECOMMENDATION: The Inquiry as part of forming its recommendations should seek legal advice on the contestability of the existing privacy laws within the Social Security Administration Act and review the necessity of public disclosure processes.

RECOMMENDATION: The Inquiry should recommend changes to Social Security Legislation to include provisions which prevent assumptions of debt being owed. Legislation should mirror similar laws implemented within the National Credit Act and National Competition Consumer Protections Act. Debt recovery agencies acting for the Australian Government should not be exempted from the requirements, probity considerations, protocols and accountabilities that they are subject to when acting in the consumer credit realm.

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