Lessons learnt about digital transformation and public administration: Centrelink's online compliance intervention

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Abstract

Australian government agencies are increasingly relying on computer systems in the administration of government programs as part of the Australian Government's digital transformation agenda. These systems can automate or semi-automate various functions in administrative decision making to either make decisions, or automate the decision making process, by assisting human decision makers in their duties. Automated systems can play a significant and beneficial role in administrative decision making. In the right areas and with appropriate management, these systems have the potential to improve the accuracy, consistency, transparency and accountability of decision-making processes. Using the recent own motion investigation by the Commonwealth Ombudsman into the rollout of the Department of Human Services – Centrelink Online Compliance Intervention as a case study, this paper provides important lessons for all government agencies to ensure decision making carried out by or with the assistance of an automated system is consistent with best practice principles in the Administrative Review Council (ARC) Report No. 46 *Automated Assistance in Administrative Decision Making* and the *Automated Assistance in Administrative Decision Making Better Practice Guide*.

Paper

Introduction

In July 2016 the Department of Human Services - Centrelink launched a new online compliance intervention system, known as the Online Compliance Intervention (OCI). [1]

The OCI automates much of the investigation and debt raising process where DHS detects a discrepancy between the amount of PAYG income a person declared in a year and the amount of PAYG income reported to the ATO.

DHS has investigated ATO data-match income discrepancies since 1991. Prior to the introduction of the OCI, resourcing considerations meant DHS could manually investigate only around 20,000 income data-match discrepancies *per year*. By contrast, the OCI generated approximately 20,000 letters *per week* and DHS expects to undertake around 783,000 assessments in the 2016-2017 year.

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[1] The OCI was introduced as part of a 2015-2016 Budget measure, 'Strengthening the Integrity of Welfare Payments' and a December 2015 Mid-Year Economic Fiscal Outlook announcement.

Commonwealth Ombudsman

By December 2016 the system, which was dubbed "Robodebt" by the media, had come under sustained public criticism. The Commonwealth Ombudsman experienced a spike in the number of Centrelink debt related complaints being received and commenced an own motion investigation in January 2017. A Senate Inquiry[2] was also announced and issued its reports on 21 June 2017.

The Commonwealth Ombudsman published its investigation report[3] in April 2017. The report found there were issues with the transparency, usability and fairness of the system. It found that many of these problems could have been avoided by better project planning and stakeholder engagement. It made a number of recommendations to improve the system which DHS accepted and has begun implementing.

Automated decision making is not new. Australian Government agencies, including DHS, have increasingly used automated and semi-automated administrative decision making platforms. DHS was part of the working group which delivered the *Automated Assistance in Administrative Decision Making Better Practice Guide* in February 2007 (*Better Practice Guide*)[4]. The guide built on the 27 best practice principles identified in the November 2004 ARC report to the Attorney General on *Automated Assistance in Administrative Decision Making (ARC Best Practice Principles)*.[5]

This paper considers the lessons to be learnt from the rollout of OCI and the continuing importance of the *ARC Best Practice Principles* and the *Better Practice Guide* in the context of a rapidly evolving technological and policy environment.

Automating the calculation of debts

In the investigation, our Office examined the accuracy of debts raised under the OCI and was satisfied the method of calculating debts had not changed, and debts raised by the OCI are accurate decisions, based on the information which is available to DHS at the time the decision is made (that is, ATO data).

So what was different about the OCI as an automated decision-making process?

First, there was a shift in the Department of Human Service's approach to fact finding and the quality of information on which it is prepared to make a decision. While the method of

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[2] Senate Standing Committee on Community Affairs: Design, scope, cost-benefit analysis, contracts awarded and implementation associated with the Better Management of the Social Welfare System Initiative
http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/SocialWelfareSystem accessed 6 June 2017.
[3] Commonwealth Ombudsman, Centrelink's automated debt raising and recovery system, Report No. 02/2017 http://www.ombudsman.gov.au/__data/assets/pdf_file/0022/43528/Report-Centrelinks-automated-debt-raising-and-recovery-system-April-2017.pdf accessed 8 June 2017.
[4] *Automated Assistance in Administrative Decision Making Better Practice Guide*, February 2007 http://www.ombudsman.gov.au/__data/assets/pdf_file/0032/29399/Automated-Assistance-in-Administrative-Decision-Making.pdf accessed 1 July 2017
[5] Administrative Review Council, *Automated Assistance in Administrative Decision Making,* Report No. 46, November 2004.

calculation had not changed, the information being fed into the calculation tool was qualitatively different.

In the past, investigations were done manually by a compliance officer. This meant there was human intervention in every investigation. Where it appeared an overpayment may exist, the customer was asked to provide payslips or other supporting documentation to verify their income.[6]

If the information requested was not forthcoming or did not adequately address the request, generally the compliance officer wrote to the customer's employer using information gathering powers[7] to obtain payroll records showing fortnightly income information.[8] This would then be manually entered by the DHS officer into a debt calculation tool.[9]

If fortnightly earnings information still could not be obtained DHS guidelines permitted compliance officers to apportion ATO annual earnings over the debt period, but only '*if every possible means of obtaining the actual income information has been attempted*.'[10] The same DHS guideline acknowledged that apportioning annual earnings could result in debts being over or under-calculated if the person's actual fortnightly income was different to the averaged amount (for example, if their employment was fluctuating or intermittent). This is because under the *Social Security Act 1991*, entitlements are calculated using fortnightly, not annual, income.

The OCI involved two departures from this previous manual process:

- first, the task of collecting and entering historical pay data shifted almost entirely to the customer[11]
- second, if income information was not provided by the customer within the requisite timeframes, the OCI used averaged ATO income information to calculate any debt.

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[6] This would be done by sending a legal notice under the *Social Security (Administration) Act 1999* (the Administration Act), that required the customer to produce the information. For current social security recipients, the notice was sent out under section 63 or section 80 of the Administration Act, and the consequence for non-compliance was suspension or cancellation of payment. For former social security recipients, the notice was sent out under the department's broader information gathering powers under Part 5, Division 1 sections 192-197 of the Administration Act, the penalty being up to 12 months imprisonment (unless the customer was unable to comply or had a reasonable excuse).

[7] Part 5, Division 1 sections 192-197, Administration Act

[8] If employer information was unavailable, DHS would seek information from other third parties, as appropriate.

[9] If a debt existed, the compliance officer could apply a ten per cent recovery fee if satisfied the customer had refused or failed to provide information about their income, or had recklessly or knowingly failed to declare their income, without reasonable excuse. Section 1228B Social Security Act 1991.

[10] DHS Operational Blueprint 107-02040020 - Acceptable documents for verifying income when investigating debts

[11] Note that social security recipients have a legal obligation to keep DHS informed of changes to their income. This obligation may be created by the issuing of a notice under the social security law. There is also a freestanding obligation to do so (irrespective of whether a notice has been given) in section 66A of the Administration Act. However, in the past, DHS compliance officers performed the task of collecting and entering historical pay data during compliance investigations.

Administrative decisions are made on the best available information at the time of the decision. If further information becomes available, a new decision can be made. To enable it to automate debt raising in situations where earnings information was not forthcoming from the customer, DHS decided to accept the best *already available* evidence[12] to calculate an approximate debt figure by averaging ATO data, rather than using its information gathering powers to obtain verified fortnightly data to calculate an exact debt figure.[13] This decision was fundamental to the efficiency and scale of the system, because it meant that compliance officers did not have to manually intervene to obtain fortnightly payroll data.

In other words, the system would calculate an accurate debt, but only if the customer was ready, willing and able to collect and enter the requisite information accurately. Debt raising decisions by the OCI, which are by their nature adverse decisions, may therefore be affected by a user's ability to engage effectively with the system. It follows that success of the system, and the integrity of any decisions it made, would rely on its usability, transparency, accessibility, fairness, and the adequacy of support for users of the system. Our investigation therefore concentrated on these aspects of the system, including quality of service delivery and procedural fairness.

Second, the OCI was different to existing automated systems.

To understand what was different about the OCI, it is also useful to look at other Commonwealth government systems which rely on self-assessment and data entry by individuals. DHS' self-service system for reporting income and the ATO's E-tax system are useful for the purposes of comparison.

DHS' self-reporting tool has enabled Centrelink customers to enter their fortnightly income information online or via an automated telephone service for many years. The system uses this information to automatically calculate the person's fortnightly entitlement resulting in an automated decision about the person's rate of payment for that fortnight.

The ATO's E-tax tool enables a person to enter their annual income information online by answering a series of questions. The answers given to those questions opens and closes alternative question pathways according to what is relevant to the person. At the end of the process the person is presented with an assessment of their income tax or refund for that financial year.[14]

No doubt there are a number of differences between these two examples and the OCI, but for the purposes of this paper, it is worth observing the following features of the DHS self-reporting and ATO E-tax tools:

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[12] That is, ATO income data

[13] A 10 per cent recovery fee was also added to a debt if the debtor refused or failed to provide information about their income without reasonable excuse. In the OCI as it was originally designed, a person was provided with an opportunity to provide a reasonable excuse by ticking a box about "personal factors" which may have affected their ability to declare their income.

[14] The Hon Justice Melissa Perry, *iDecide: the Legal Implications of Automated Decision Making'* Cambridge Centre for Public Law Conference 2014: Process and Substance in Public Law, 15-17 September 2014, p 2 http://www.fedcourt.gov.au/digital-law-library/judges-speeches/justice-perry/perry-j-20140915

1. both systems rely on the user inputting information which relates to a relatively recent period, normally the preceding fortnights or annual year respectively
2. users of both systems will generally have been warned in advance, or ought reasonably to be aware,[15] they may need to have kept relevant income documentation for these purposes
3. users of both systems are generally current or relatively recent customers of the relevant agency.

By contrast, the OCI system relies on users inputting data which relates to a historical period, up to six financial years past. Our investigation found that DHS customers had not been forewarned they may need to retain their detailed fortnightly earnings information (such as payslips) indefinitely. For some, employers could no longer be contacted or may refuse to provide the relevant income information. Many users were not current DHS customers and had no reason to keep the agency updated about their current contact information. This meant they did not receive the originating OCI notices inviting them to go online.

What can be learnt from the OCI experience?

Communication with users

One aim of digital transformation is to help citizens provide the information needed to assess their eligibility for benefits or services. As her Honour Justice Perry points out in her paper *iDecide: the Legal Implications of Automated Decision Making*, this self-service function holds great promise for government agencies, as it may help them process a high volume of transactions quicker, more reliably and less expensively than using human decision-makers.[16]

One of the key lessons from the OCI experience is that an agency's strategy for communicating with citizens about a new digital process is at the heart of successful digital transformation. A digital process that relies on electronic coding to process data is only as good as the information the citizen provides, so the citizen needs sufficient guidance to successfully navigate the new process.

How much guidance is necessary depends on the circumstances, including the complexity of the new process. However, generally consideration should be given to providing sufficient guidance to ensure:

*   the citizen understands from the outset what the process will require from them, including what information they will need to hand to successfully navigate it
*   where they have options or choices about how to use the process, guidance about which option is appropriate for them and/or the consequences of their choice
*   where to go for help if they have questions or difficulties with the process.

There are likely to be a number of points where this information needs to be provided – in the online space itself, on a website, through a help line. Providing guidance to manage user

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[15] The ATO publishes information explaining how long people need to keep their tax records, for example on its website https://www.ato.gov.au/Individuals/Income-and-deductions/In-detail/Keeping-your-tax-records/ accessed 8 June 2017.
[16] The Hon Justice Melissa Perry, *op cit,* p 2

input to reduce the risk of error or misinterpretation is recommended in the *Better Practice Guide.[17]*

However, one of the key lessons from the rollout of the OCI was the importance of the quality of initial communication with users of a new digital service. The OCI's initial messaging to customers, both through its letters and in the system itself, was unclear and did not include crucial information.[18] What we learned from the OCI was that the first communication with users can influence their response to the process and how successfully a new digital service meets its objectives.

The initial communication should clearly explain:
- the process and key steps to be taken
- the consequences of engaging with the process (either fully, partially) or not at all
- the options available, including if there is more than one way of engaging with the process
- what support is available, and how to access it, for example via a website, instructional videos, dedicated help line.

The OCI experience also demonstrated the need to take extra care to ensure that initial communication is received if the user is not a current customer of the agency. When agencies are implementing new systems, and non-engagement may adversely impact an individual, careful attention needs to be paid to the agency's ability to contact former customers or determine whether contact has successfully been made.

Design of digital platforms

Digital transformation often involves the creation of an online platform for citizens to use to engage with a new process. The development of online access promises increased convenience for citizens and reduces expense for agencies. As identified in the *ARC Best Practice Principles* and the *Better Practice Guide*, when developing an online system, agencies should take into account access and equity considerations in the delivery of their services.

A key lesson from the OCI experience is that the design of the online platform may have a significant bearing on the successful launch of the new process.

Seemingly micro-level issues of design may have significant consequences. For example: if there is a helpline, how visible should the phone number be? What icon should be used? Should the phone number appear prominently on each webpage? This may determine whether people access help at critical points or instead give up in frustration, failing to complete the process correctly or at all. It may influence whether people seek to use other

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[17] *Automated Assistance in Administrative Decision Making Better Practice Guide*, February 2007, at page 26

[18] In particular, there was no clear explanation that income would be averaged across the employment period if they did not enter their income against each fortnight and that this may affect the amount of the debt. Complaints to our office showed that even users with high levels of education and digital readiness experienced difficulty understanding what information was required of them and how to enter the information once online.

access points to an agency, attending a shopfront, instead of using the dedicated helpline into which resources have been put.

There are also more fundamental design questions to be considered. Where information is required from the citizen before a decision may be made, one standard design approach is to mandate in the business rules that certain critical questions be answered before the digital process may be completed by the citizen. We are all familiar with this kind of design – we get to the bottom of a webpage, answering a series of questions, click on the "next" button but are told we have not answered all the required questions (now marked with an asterix).

However, an agency may consider for various reasons that it is appropriate to allow a citizen choice in how they access, or interact with a digital process. This in turn presents a different set of issues. It may require greater attention to the communication issues already mentioned – ensuring that citizens are clearly informed of their options and the consequences of those options.

The OCI was an optional process. A person was invited to update their income details, but engagement with DHS was not legally required. However, there was a consequence for non-engagement, as DHS would apply their ATO income data to their record. Within the OCI itself, a person could make choices about whether to enter data (for example, they could choose to provide some but not all of the fortnightly income data for a relevant period).

What we learnt from the OCI is that if a compulsory process is not used this increases the need for clear communication and messaging both outside and within the online platform, particularly in regard to the consequences of opting not to engage with the system, or of providing only partial information. It demonstrated that agencies designing optional systems should give close attention to:

- layout, for example, the helpline should be clearly displayed on every page
- warnings, for example, warning of the consequences of skipping a step, and prompts to review information
- messages about options and consequences.

Transparency

An important lesson from the OCI is that, when designing a digital system where human interaction may not eventuate, the messaging of the system is key to ensuring transparency.

Transparency is not just a fundamental administrative law value. It is also essential to the process of continuous improvement that is so important in digital transformation processes. It became apparent during our OCI investigation that poor communication was at the heart of the complaints we received about transparency, and it followed that improving the quality of communication was the key to improving transparency and usability of the system.

It was also clear that much of the misinformation about the system in the public domain derived from the lack of visibility of the system for commentators. Privacy is a key consideration in digital systems designed to be accessible only to the citizen and the staff of the owning agency. DHS ensured that its staff could access the system directly to talk people

through the process and even enter data on behalf of the customer while they were on the telephone, where appropriate.

However the lack of visibility of the system for third parties was an issue in the public domain, where critics and commentators formed and voiced opinions without having seen the screens that customers were presented with when they went online. Our Office's understanding of the system was greatly improved by the "walk through" and "screen shots" we received of the system, which we annexed to our report, placing them in the public domain for the first time. Once we were able to "see" the system we were able to provide feedback to DHS that lead to revisions and improvements to the system.

The value of a clear communication strategy cannot be overstated, and a key consideration for agencies is whether the inability of third parties to access a digital system may cause confusion in the public domain, or impede third party organisations, such as legal services and community organisations, from supporting users. There is value in providing "walk throughs", "screen shots" and instructional video-on-demand resources to oversight bodies, peak bodies and other organisations that support users prior to and at the time of rollout as part of a comprehensive communication strategy. This approach is consistent with the *Better Practice Guide* which recommends agencies consider providing access to customers, call centre operators (for providing general advice and information), outsourced service delivery agents and/or providers, and community organisations assisting their clients to properly achieve the benefits of the transition to digital service delivery.

Support for users

Understanding user needs is paramount when designing digital systems, and is the first standard of the Digital Transformation Agency's Digital Service Standards.[19]

The design and implementation of a new digital process should include consideration of user needs and support for them. The nature and degree of support required will depend on a number of circumstances, including the novelty of the new process, its complexity, the demands made of users and the characteristics of the user group.

At one end of the spectrum are systems which require only clear information for users. For example, where the new process is relatively simple and users are relatively sophisticated, the process is similar in nature to other processes users will already be familiar with.

However, as the complexity and demands of a new process increase, so does the need to carefully consider the support required for users. In fact, the successful implementation and operation of the new process may depend on it.

There are a number of key issues for agencies to consider. These include:

- **the complexity of the process relative to the sophistication of the user.** For example, a portal for tax accountants may be able to assume a degree of knowledge and sophistication among its users that a portal for taxpayers could not.

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[19] https://www.dta.gov.au/standard/ accessed 1 July 2017

- **the extent to which alternatives to a new digital process should remain available**. What are the consequences if non-digital alternatives are not retained? If they are to remain available, questions of inclusion and exclusion may arise. For example, if access to alternatives is restricted to "vulnerable persons" how are they to be identified and defined? Will it be available short, medium or long term?

- **the novelty of the process for users.** If the process is new some people may continue – at least at first – to seek to undertake the transaction in the way they are familiar with. What training should be given to front of house staff who may be the first point of contact for people seeking help?

- **the form support should take.** This may range from information (for example, website, video on demand, a help button in the online platform) to specialist trained staff to assist people. It may be helpful to user test some forms of support in the planning stages to test its effectiveness. There needs to be a clear communication strategy directing users to sources of support.

- **how to ensure support is accessible.** Considerations include timing (when it is needed, for example, at rollout) cost (including time, financial and emotional) user capacity (particularly where users may be vulnerable, for example, due to literacy, language, disability) communication (in particular, pathways directing users to support). Steps should be taken to identify vulnerable customers prior to rollout, where possible, and a strategy developed for identifying and servicing customers whose vulnerability only presents after rollout. [20]

The OCI was an example of a complex system relative to the user. It followed that there would be a higher need for user support.

DHS had maintained non-digital channels and had set up a dedicated help line with specialist trained staff, however the existence of these supports was poorly communicated as the help line number was initially excluded from letters and was not obvious in the system. This meant customers called general customer service lines resulting in long wait times, instead of the help line.

The OCI provided other accessibility lessons for agencies rolling out complex digital systems on a large scale. It showed that instructional resources, such as user guides, factsheets, Video on Demand and other "How to" resources should be developed and be available at the time a new system is launched. An incremental rollout approach should be taken if there is a risk that demand for support may reduce accessibility (for example, long telephone wait times).

Finally, the OCI demonstrated that when designing systems where citizens enter data which will inform an automated decision, consideration must also be given to how readily available that information will be to the user. Wherever possible, agencies designing self-service systems should forewarn people to retain records they may need for future interaction with

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[20] DHS identified vulnerable customers using existing records prior to rollout, developed an alternative servicing strategy for those customers.

the system.[21] Where this is not possible, and where appropriate, agencies need to give consideration to whether they have adequate assistance and support people to obtain the documentation or information they need to effectively engage with self-service systems. During our investigation, for example, DHS redesigned its system to enable people to enter bank statement data where payslips or payroll data were unavailable.

External Perspectives

A key lesson for agencies and policy makers when proposing to rollout large scale measures that require people to engage in a new way with new digital channels, is for agencies to user test thoroughly and engage early with external stakeholders. Many of the problems outlined in this paper and in our report could have been mitigated through better project planning, engagement, change management and communication at the outset.

An important consideration for agencies is at what point external stakeholders should be consulted in the design and implementation of a new digital service. This may be particularly difficult if there is a high risk the new system could be jeopardised by criticism of early prototypes. However, this must be weighed against the risk that a lack of external perspective may impact the design and delivery of the project.

DHS did not ensure all relevant external stakeholders were consulted during key planning stages and after the full rollout of the OCI. This was evidenced by the extent of confusion and inaccuracy in public statements made by key non-government stakeholders, journalists and individuals. Better consultation processes would have provided important feedback both in terms of improving the system design, and for identifying gaps in the communication strategy.

Our investigation found the OCI required more rigorous user testing and would have been improved by greater use of the co-design approach the department has adopted elsewhere. After DHS worked with the now Digital Transformation Agency (DTA) in February 2017 to review and re-design the OCI and undertook comprehensive user testing, this resulted in a more user-friendly system. In future, systems like the OCI should be developed in collaboration with the DTA and other oversight agencies. Consultation and use of multidisciplinary teams during design and testing is consistent with the *ARC Best Practice Principles.*

The OCI demonstrated the need for external perspectives in the design, testing and implementation of new digital systems. Wherever possible, systems should be tested with citizens, service delivery staff, oversight agencies and other organisations that support users at the earliest possible stages.

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[21] Our office was also concerned about the fairness of a system which relied on users being able to provide historical employment income information, when those people had not been informed in advance they may need to keep that information. Many complainants to our office had problems collecting evidence about their employment income, particularly for periods from several years ago. Although it was subsequently amended, at the time the OCI was rolled out the DHS website advised people to keep their income information for six months.

Guidance and oversight

As her Honour Justice Perry commented in her paper, the ARCs *Automated Assistance in Administrative Decision-Making* report was ground breaking and appears to have been the first report to systematically review the administrative law implications of automated decision-making systems. The *Better Practice Guide,* which assists agencies in their design and implementation of automated systems, was also the first of its kind.[22]

Somewhat prophetically, most of the problems with the OCI were foreshadowed by the *Better Practice Guide*. For example, the *Better Practice Guide* identified the risk that user interface design problems may "artificially limit the effectiveness of the information gathering process that is essential to good administrative decision-making". It also articulated the importance of access to support including telephone and face to face support and considering the impact the new system may have on existing service delivery channels.

However, it is now ten years since the *Better Practice Guide* was published and questions arose about its currency in a rapidly changing environment. Our experience with the OCI suggests that, in particular, more guidance is needed on managing user input and the importance of effective communication strategies to ensure that public confidence in government administration is preserved during digital transformation.

The OCI experience also raises questions about whether greater project management oversight is required, particularly in pre-implementation phases.

In its 2004 report, the ARC recommended the establishment of an independent interdisciplinary advisory panel to oversee automated systems. It envisaged the panel would focus on the extent to which administrative law values are reflected in the use of such systems and proposed the panel would include the Auditor General and Commonwealth Ombudsman, as well as community organisations that represent users of these systems.

When DHS redesigned its system in February 2017, it incorporated feedback from the Commonwealth Ombudsman and the DTA. This was six months after implementation when the insights and expertise of oversight agencies and other external stakeholders could have been captured in the early design and planning stages. One solution to this problem may be for agencies rolling out automated decision making systems to consider establishing advisory panels or delivery units to oversee major digitalisation projects, which include external stakeholders, in particular the DTA, the Commonwealth Ombudsman, the Office of the Australian Information Commissioner and the Australian National Audit Office in the earliest stages of design and planning.

In October 2016 the Commonwealth Government expanded the role of the DTA, which now has central oversight of the Government's ICT agenda. In February 2017, the DTA announced the establishment of a new Digital Investment Management Office within the agency to improve transparency of ICT design and delivery across government and provide independent assurance. The DTAs *Digital Service Standard* has a strong focus on understanding user needs. DHS indicated that it will apply these standards and collaborate with the DTA in future. All government agencies embarking on the digital transformation journey would do well to ensure decision making carried out by or with the assistance of an

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[22] The Hon Justice Melissa Perry, *op cit,* p 3.

automated system is consistent with *ARC Best Practice Principles*, the *Better Practice Guide* and the *Digital Service Standards.*