Submission by the
Commonwealth Ombudsman

Inquiry into Centrelink's compliance program

Submission by the Commonwealth Ombudsman, Michael Manthorpe

23 September 2019

Introduction and summary

The Office of the Commonwealth Ombudsman (the Office) has been monitoring Centrelink's automated compliance program since July 2016. We have released two reports on this issue, an initial investigation report (April 2017) with eight recommendations to improve the 'fairness, transparency and usability of the online system', and an implementation report (April 2019) that found while most of our earlier recommendations had been implemented, there was still some room for improvement. As a result, we made four further recommendations. We continue to receive complaints about debt data matching and continue to monitor this issue.

Background

The purpose of the Office of the Commonwealth Ombudsman is to:

- Provide assurance that the organisations we oversight act with integrity and treat people fairly.
- Influence systemic improvement in public administration in Australia and the region.

We seek to achieve our purpose through:

- correcting administrative deficiencies through independent review of complaints about Australian Government administrative action
- fostering good public administration that is accountable, lawful, fair, transparent and responsive
- assisting people to resolve complaints about government administrative action
- providing assurance that Commonwealth, State and Territory law enforcement, integrity and regulatory agencies are complying with statutory requirements and have sound administrative practices in relation to certain covert, intrusive and coercive powers.

The role of the Office is to investigate complaints about the administration of a number of Commonwealth agencies, including the Department of Human Services (DHS). In addition to resolving individual complaints, the Office monitors programs to identify systemic issues which raise concerns about public administration matters.

Complaints about Centrelink represent a substantial proportion of complaints to our Office. In 2018–19 we received 11,652 complaints about the Department of Human Services, of which 10,300 related to Centrelink payments, programs and services. These complaints centred on key themes such as delays in service delivery, programs such as Disability Support Pension and Newstart Allowance and debt related matters.

Response to Terms of Reference

Based on the terms of reference for this inquiry the Office has based its submission on looking at the ongoing impact of the Commonwealth Government's automated debt collection processes upon current and past income support recipients and data-matching techniques used by Centrelink, including limitations and uncertainties of data-matching techniques and error-handling processes.

The Office acknowledges that there is a clear interest on the part of taxpayers in ensuring that payments are administered effectively and that people only receive payments to which they are entitled. Social welfare payment recipients have a clear obligation to report changes in their

circumstances that may affect their entitlement, including income from employment and other sources.

These recipient obligations, however, need to be balanced with compliance systems that are fair, transparent and accountable, and that consider the needs and circumstances of vulnerable people. When relying upon automated systems of administrative decision-making, these principles become more important as more people are affected by programs operating at increasing levels of scale and complexity.

Accordingly, the Office is of the view that while it may be reasonable and effective for DHS to use information sourced from the Australian Taxation Office (ATO) to make enquiries regarding a person's entitlement, the process of inquiry prior to the debt being identified and raised needs to be reasonable and effective. In the course of conducting the April 2017 own motion investigation (and subsequent complaint investigations), the Office identified complaints that raised questions about the original Online Compliance Intervention system and approach.

As noted, the Office has an ongoing role in the investigation of complaints and systemic issues in regards to public administration. As such we have been monitoring the implementation of the online compliance measures since their introduction. This has included DHS providing 'walk-throughs' of the system from a user perspective. The walk-throughs also provided the Office with the opportunity to offer feedback on the range of letters and correspondence associated with the program.

Centrelink's Automated Debt Raising and Recovery System

Centrelink's Employment Income Confirmation (EIC) system for raising and recovering debts, originally called the Online Compliance Intervention (OCI) system, was introduced in 2015-16.

The EIC involves matching a customer's earnings data with historical Pay as You Go (PAYG) income data from the ATO. It automates some parts of the debt raising process previously done manually by the Department of Human Services (DHS). Where a discrepancy is detected, customers are asked to confirm/update their income using the EIC. Where a person does not provide all the fortnightly income information requested, the EIC uses averaged ATO data to fill in the gaps.

DHS has since developed an enhanced online system known as the Check and Update Past Information (CUPI), which was informed by input from stakeholders, user testing and complaints data. People who were sent initiation letters prior to October 2018 will continue to use the EIC online system, while people sent initiation letters on or after 1 October 2018 will use the CUPI online system. We understand from DHS that it is not feasible to transfer people initiated under the EIC system to CUPI due to technology and operational constraints.
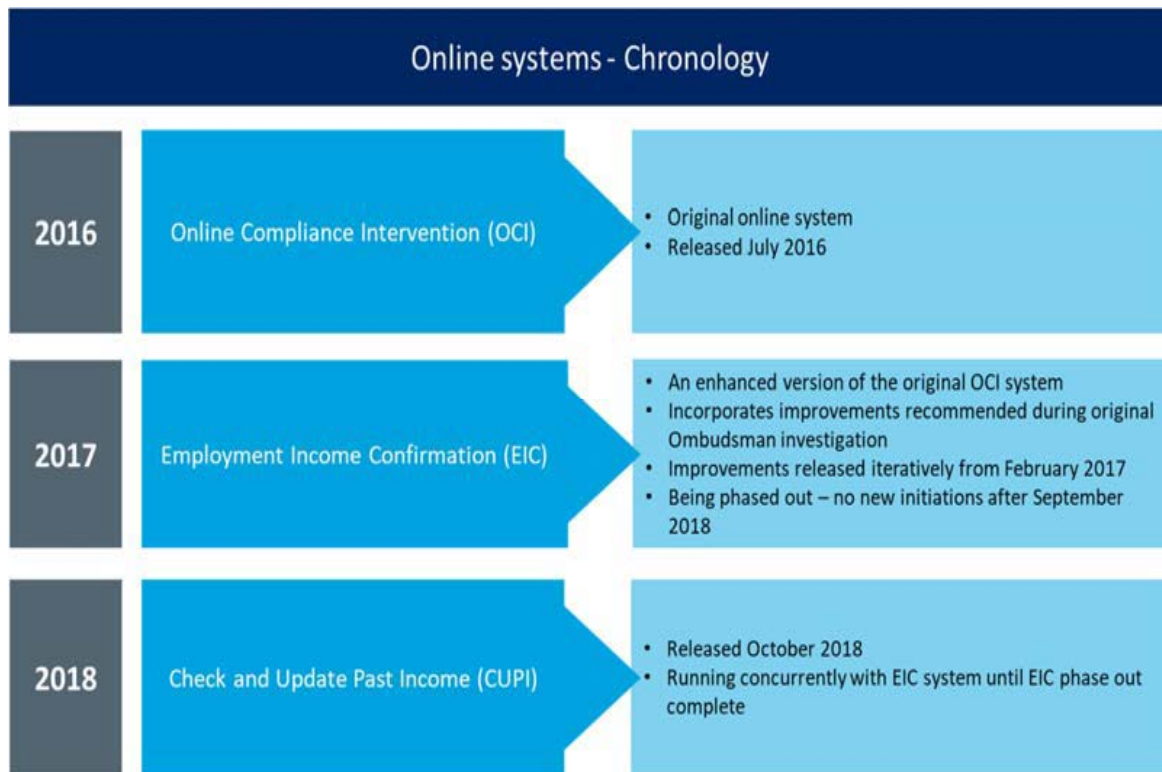
The initial own motion investigation report published in April 2017 focused on debts raised by the OCI system. It did not comment on the policy rationale behind the process, accepting that the purpose of the system was to protect the integrity of government expenditure through income support payments.

The investigation focused on the following issues raised in complaints made to the Office about the system:

- the accuracy of debts raised by the OCI, in particular those calculated using 'averaged' ATO income data
- the application of the ten per cent recovery fee
- the transparency and usability of the OCI system, and in particular whether the decision making process was clear to customers
- problems customers faced gathering evidence and effectively presenting their case in the OCI system
- the adequacy of DHS' assistance and communication to customers, including those who are vulnerable
- the adequacy of staff training and communication to support customers using the system
- DHS' approach to complaints
- the adequacy of DHS' project planning and governance mechanisms.

The report found that there were significant issues with the transparency, usability and fairness of the system, and that many of these problems could have been avoided by better project planning and stakeholder engagement. This included addressing risks associated with the application of ATO data, which provides an aggregate annual employment figure rather than fortnightly income earnt.

There were eight recommendations made to improve the system, focusing on:

- written and online communication with customers
- assistance for customers to gather income information in limited circumstances
- service delivery and support for vulnerable customers
- review of recovery fee decisions
- staff communication and training
- complaint information capturing and using complaint information for continuous improvement,
- program evaluation, including how to further mitigate the risk of over-recovery of debts.

Centrelink's Automated Debt Raising and Recovery System – Implementation Report

The Office assessed the implementation of the 2017 report recommendations in a subsequent own motion investigation, with a report published in April 2019. The purpose of this investigation was to seek assurance that DHS and the Department of Social Services (DSS) had implemented the agreed recommendations. This report found that DSS had fully implemented the recommendation it was responsible for (regarding the publication of guidance information), and that the DHS had made significant progress in implementing the remaining recommendations.

In the course of our investigation implementation report it was apparent that there have been improvements made to the system which have resulted in direct benefits to those who may be affected by these compliance systems. For example, under the original OCI system, the first that many people knew about the data matching discrepancy between DHS and ATO systems was when they received a debt letter or were contacted by a debt collector. Under the CUPI system, there is a stronger emphasis on engaging with people and ensuring that they have an opportunity to update their details including their income information. This, in turn, has led to fewer debts being raised as DHS applies better filtering before issuing debt initiation letters. The improved and more accurate process has also led to fewer debts being revised after being issued, with the April 2019 report finding a decrease in the proportion of debts being reduced under the CUPI system compared to the former OCI system.

The April 2019 report also identified further areas for improvement and so made the following further four recommendations:

1. Recovery fees—for customers who incurred a recovery fee prior to 27 May 2017, DHS should explain in compliance debt recovery correspondence why the fee was applied and options for people to advise of personal circumstances.
2. Debt explanations—DHS should provide an improved debt explanation in all compliance debt letters within the next 12 months.
3. Initiation letters—DHS should take steps to ensure that CUPI initiation letters explain averaging, and warn customers that if they do not check and update past information, ATO data might be used.
4. Additional messaging—DHS should include clear information in compliance debt recovery correspondence about the consequences of using ATO information.

Complaints to the Office

As noted in our April 2019 report, the Office records EIC complaints as 'automated data matching' complaints. There was an overall decrease in complaints following improvements made to the system after February 2017, and then an increase in complaints in the latter part of

the 2018 calendar year consistent with increased DHS compliance activity. The following table, illustrates the compliance complaint trends experienced by the Office for the period of January 2017 to June 2019.

Debt data matching complaints Jan 2017 to Jun 2019
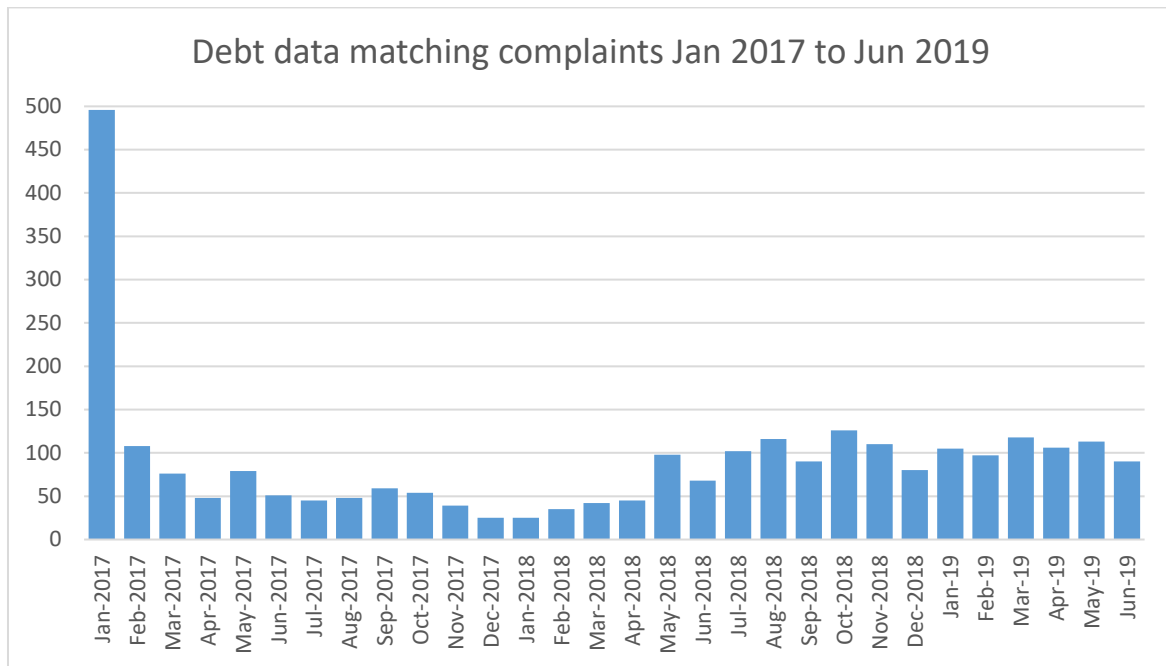
The Office is also monitoring DHS' development and implementation of the Single Touch Payroll system with the ATO, enabling the collection and use of real-time Pay As You Go income data from employers. This promises to reduce the potential for debts, make compliance easier for income support recipients, and provide savings for government through lower administrative costs.

While the Office has identified improvements that have been made following our investigations and expect further improvements with the implementation of systems such as Single Touch Payroll, complaints about debt raising and recovery still represent a significant proportion of overall complaints made about DHS and continue to be the subject of active monitoring and assessment.

The Office retains an ongoing interest in ensuring that the lessons learned from the OCI system experience are retained and applied to new measures, such as the implementation of new Child Care Subsidy payment arrangements from 2 July 2018. This includes providing transparent, accessible and easily-understood information about the basis for debts and that opportunities are available to provide clarifying information and to seek review.

Lessons for other agencies

From our reports, the Office has identified several lessons for other government agencies to be aware of when designing, testing and implementing systems that rely on digital platforms and automated decision making processes. These lessons included the importance of:

1. Initial communication with users of a new service, ensuring that it is clear, includes the crucial information required, and explains the intended process.

2. Digital platform design, making it as easy as possible for intended users to engage with the system, and with clear information about the possible consequences associated with not engaging.

3. Systems transparency that serves to address and mitigate the risk of misinformation in the public domain and provides visibility for oversight bodies such as the Ombudsman.

4. User support that takes account of the:

   a. systems complexity relative to user sophistication

   b. availability of alternative channels

   c. types of support made available

   d. accessibility of user support services.

5. The benefit of external perspectives, ensuring that new systems and services are tested thoroughly prior to wider implementation.