

Submission to the Community Affairs References Committee Inquiry into:

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

From the Western Australian Council of Social Service

April 2017

Thank you for the opportunity to participate in this inquiry.

The Western Australian Council of Social Service Inc. (WACOSS) is the peak body of community service organisations and individuals in Western Australia. WACOSS stands for an inclusive, just and equitable society. We advocate for social change to improve the wellbeing of West Australians and to strengthen the community sector service that supports them. WACOSS is part of a national network consisting of ACOSS and the State and Territory Councils of Social Service, who assist low income and disadvantaged people Australia wide.

Procedural Justice

WACOSS supports the principle of ensuring that people receive the level of support they are entitled to, that inadvertent errors are corrected in a fair and timely manner, and deliberate attempts to defraud the Commonwealth are prosecuted.

The Council is concerned however, that the Online Compliance Intervention System (OCI) is needlessly causing anxiety among people who have done the right thing and reported their earnings.

We urge the committee to consider (and the Commonwealth to adopt) a principled approach to procedural justice for those accessing all Commonwealth payments or subsidies or incurring Commonwealth debts (including through Medicare and our tax system).

We believe that, where a citizen has engaged in good faith with a Commonwealth service or support to which they are (or have just cause to believe to be) entitled, and have complied with all directions and requirements and provided all the information requested, have not withheld any relevant information or sought to mislead the relevant authorities – then they should not be held retrospectively liable and penalized for mistakes that were made by Commonwealth systems or staff.

In this context, we do not believe it is reasonable or fair to expect former-clients of Centrelink to be able to re-source information that they have already supplied to Centrelink staff many years previously, and the onus of proof should be on Centrelink to demonstrate there are reasonable grounds to believe they have deliberately defrauded or misled the Commonwealth.

The shifting of the onus of proof onto former service users in circumstances where the Commonwealth has yet to demonstrate the reliability and validity of its data-linking and data-matching techniques between DHS and ATO systems is simply not appropriate.

We argue that the onus should be on Centrelink investigative staff to demonstrate that all efforts have been made to cross-check all data and that an exhaustive search of client files has been made to rule out likely and well-known sources of error prior to an allegation being made and a debt being levied.

Given the number of stories presented in evidence to the Committee of errors of mis-categorisation of data provided to Centrelink, the failure to adequately match employer records and employment periods to Centrelink and ATO reporting periods, it is clear that a much higher level of human analysis and cross-checking must be required before it is appropriate for Centrelink to commence debt-recovery proceedings. This is particularly true where there is good reason to believe that many of the clients involved are likely to be extremely vulnerable and lack the capacity to engage with complex administrative systems.

Furthermore, there should be a limitation on how far back it is reasonable to expect former Centrelink clients to have kept employment records. We have been told that Centrelink used to advise its clients that it needed to keep copies of their pay-slips for at least six months, but have not yet been able to verify this information.

We are particularly concerned that one potential source of significant errors is the failure by employers to properly or accurately report on employment periods, leading the ATO and/or Centrelink to make assumptions about likely employment dates that may not match those reported in good faith by former Centrelink clients.

The potential impact and risk of over-recovering debts from vulnerable people should have been better considered before such a system was implemented. Doing so would have required the Department to engage with stakeholders, such as the community services sector and payment recipients. In the absence of that engagement, the system has inevitably been confusing, stressful and incapable of adequately addressing concerns as they have arisen.

The Changing Role of Centrelink

The Council is concerned that the role of Centrelink staff and the manner in which the social security system now operates has changed significantly over the past decade in ways that have made it increasingly less fit for the changing nature of work within our economy and community.

Centrelink staff used to play a key role in supporting and assisting disadvantaged and vulnerable clients to access, understand and navigate the social security support system to ensure they received the assistance to which they were entitled with a view to facilitating better life outcomes. Over the last decade we have increasingly seen the implementation of a new managerialism, which is increasingly rule-driven and risk adverse, and where the role of staff has shifted from that of helper and facilitator to that of gate-keeper and enforcer of compliance. These changes have coincided with a reduction in employee satisfaction, retention and morale, higher rates of turn-over and a de-skilling of the workforce.

This change in roles has coincided with a shift in attitudes, from an appreciation of the impacts of societal disadvantage and understanding of the personal consequences of structural unemployment and economic change, to a culture of individual blame and mistrust where reliance on income support is seen as a result of a personal failing, a lack of character and motivation rather than opportunity that is best tackled by compliance. There is no evidence to support the assumption that increasing the level of poverty and suffering of the un-employed and under-employed will lead to better workforce outcomes, and many reasons to suspect that it makes them less resilient and flexible, and hence less able to respond to emerging labour market opportunities.

A Fit-for-purpose Social Safety Net for the Twenty-first Century

The technology and administrative systems that have enabled the development of the Online Compliance Intervention (OCI) system that links DHS and ATO data have the potential to greatly

simplify and strengthen the administration of income support and supplementary payment systems. Currently the administration of Centrelink services and supports has become unnecessarily complex, burdensome and expensive for both staff and recipients alike. This level of complexity is both unnecessary and counter-productive, reflecting a policy pre-occupation with compliance and risk-management rather than one geared towards producing better economic and social outcomes.

Given the emergent capacity that has been (poorly) demonstrated by OCI to link income support, social security entitlement, income and tax data, there is an opportunity to develop and put into place a simpler, easier to use, more flexible and responsive system of managing and delivering entitlements and reporting workforce participation and income that is more fit-for-purpose.

The nature of work within our community has changed dramatically in the last two decades, with increasing levels of short-term and insecure employment, increasing uncertainty in hours worked and income received from week to week, and increasing levels of underemployment. A fit-for-purpose social security safety net would allow greater simplicity and flexibility in the application of reporting periods and compliance activities, secure in the knowledge that it would ultimately have access to all income data. Such data and analysis will increasingly move from being retrospective to real-time, and clients will increasingly expect to have access to their records to enable them to track their entitlements and obligations so they can make more informed budgeting and work activity decisions. Doing so would also substantially reduce the administrative overheads of the system, while providing greater income security and hence social resilience for clients.

While such a move makes clear economic and social sense, it is at odds with the prevailing political narrative that seeks to blame the unemployed and under-employed for their own disadvantage and increasingly take control of their daily lives through participation requirements, compliance activities and income management. An evidence-based approach to workforce preparedness, resilience and flexibility that takes its lead from best practice in other jurisdictions with more developed and diversified knowledge and service economies will result in a modern and progressive social security safety net that makes us forwardly competitive in a rapidly changing world and better able to respond to innovation and opportunity.

Vulnerability and Risk

It seems clear that in designing the system, the Department of Human Services gravely underestimated the complexity of what they are seeking from people in order to respond to the debt notices. The OCI system has placed undue emotional and financial burden on recipients, as they seek to provide income evidence. Recipients were not provided with any increase in support or assistance, despite the demands being made upon them being significantly more severe.

It should be noted that, before the implementation of OCI, Centrelink systems were already difficult and burdensome for many people from disadvantaged backgrounds and vulnerable populations to navigate. The Council is concerned that the implementation of OCI has exacerbated existing and long standing issues with Centrelink access, customer service delivery and support.

WACOSS is greatly concerned that people who are vulnerable and at risk are being targeted by OCI, with Centrelink being too restrictive as to who they are marking as 'vulnerable'. The criteria for vulnerability needs to be reviewed and potentially expanded in light of OCI impacts, along with greater support for clients be provided. It should be noted that the OCI process has significant potential to *make* someone vulnerable or increase their level of vulnerability, and that needs to be taken into account in any attempt to design a debt-recovery program and client engagement strategy by the Department of Human Services.

The prioritisation of on-line channels like myGov as primary access points creates issues for those without access or the ability to manoeuvre through digital systems. Further, there have been longstanding usability issues with the myGov website, making its prioritisation inappropriate at such a time. Given that a number of historic alleged debts are being targeted that predate the implementation of myGov, it is neither fair nor reasonable to expect that former clients will be able to navigate or have access to the system.

Though WACOSS understands the minor changes announced in January have made small improvements, the system remains fundamentally flawed and continues to place too great a burden on potentially vulnerable individuals.

It is clear from the evidence that has been reported to the Committee to date that the accuracy of the automated information needs to be validated by a human before being acted upon and significant efforts need to be undertaken to cross-check all existing client information and file-notes. The removal of the human element in this process has not led to any positive outcomes.

By placing the onus of proof on recipients, with highly onerous demands (such as providing income evidence retrospectively over a six-year period) and without appropriate support being provided to Centrelink clients to adequately respond to the debt notices, it is difficult to come to any conclusion other than that the likelihood of clients over-paying debts was of no concern to the Department or the Government.

We believe that serious questions need to be answered about the lawfulness and accuracy of the debt-matching process, and support the recommendations made in the *Victorian Legal Aid* submission, in particular:

- To ensure responsible, lawful, government decision making and action (recommendations 1-6)
- To ensure responsible engagement with Centrelink customer (recommendations 7-9);
- To ensure transparency and access to Departmental operational information (recommendations 10-12)
- To ensure responsible handling of social security information (recommendations 13-15)

Policy rationale and workforce outcomes

As far as we are aware, there is no rational policy justification for the personal impacts and financial consequences for individuals required to disprove allegations of overpayment or fraud retrospectively. The lack of information and support provided to current and former Centrelink clients placed in these circumstances is unfair and unjust. It cannot be linked in any credible way to improving employment outcomes for those who have at some point relied on income support. If anything the added personal and financial stress may put at risk their ability to maintain current employment arrangements and act as a disincentive for them to take on any short-term, casual, precarious or part-time work in the future.

This program should have been suspended as soon as the flaws and high error-rates became clear. OCI is undermining public confidence in our social security system (and other critical Federal tax, transfer and entitlements systems by association, including the ATO and Medicare) and creating distrust in the capabilities and opportunities presented by data linkage. It is fundamentally undermining trust in the governance of our personal data during a period of significant change where we face many challenging data policy issues relating to privacy and social licence.

The program places undue and unnecessary pressure on government support recipients, and making people more vulnerable, when it seems clear that a modern, responsive workforce policy would seek to enhance the resilience of those moving in and out of precarious employment to support them to achieve more secure employment and financial arrangements to make a greater contribution to our community and economy.

A Case Study – Patricia’s Story

Patricia is 75 years old and lives in an aged care residential community facility. Patricia officially retired ten years ago. Since this time Patricia has taken some casual employment, which ceased about five years ago. Because she notified the Department about this work, Patricia was understandably very shocked to recently receive an automated debt recovery notification of approximately \$2,000 for overpayments that were incurred 5-10 years ago. Most distressing to Patricia was the nominated deduction of \$180 per fortnight that commenced almost immediately. Diagnosed with the early stages of Alzheimer’s, and too confused to respond to the letter alone, Patricia sought support from a lawyer at a local Community Legal Centre. On her behalf, this practitioner negotiated a much lower repayment rate of \$25/fortnight. Patricia would not have been able to survive on her remaining disposable pensioner income if this had not happened.

Patricia also relayed a story about another couple in the aged care centre who received an automated account from the Department for \$15,000. Like Patricia, this was the first time that these pensioners were aware that they had any debt outstanding. Unlike Patricia, however, this elderly couple did not have the confidence or resources to have the notification verified. Absolutely distraught and feeling helpless, they have made a decision to sell their car to settle this debt. This couple have opted to remain anonymous with Patricia encouraging them to get support in the interim.

Recommendations:

WACOSS and other members of the COSS Network has been consulted in the construction of the national submission by ACOSS, and endorses all the recommendations in that submission.

In particular, WACOSS believes the following recommendations need to be actioned immediately by the Government and Department.

- The Commonwealth Government must immediately stop the Online Compliance Intervention program, including any existing debt recovery action that has arisen.
- There must be an independent review of all alleged debts raised by the OCI that are under repayment or have been repaid, to assess whether they are owed and, if so, whether they are accurate. This should include review of the 10% recovery fee.
- The Government and the Department must not publicly release people’s protected information under any circumstances.
- The Government must reverse planned funding cuts to Community Legal Centres and properly fund Community Legal Centres and Legal Aid Commissions that assist people with social security issues, including programs such as the OCI (with proper assessment of the impact on demand of new programs).
- The Government must restore Centrelink staffing levels to adequate levels. Centrelink staff must be involved in the assessment of potential debts, and to be able to respond in a timely way people adversely affected by Centrelink decision.

Further, in response to the changing nature of employment within our economy and in recognition that our current social security safety-net is no longer fit for purpose:

- The Commonwealth Government should commit to a broader review of our social security system that considers the opportunities offered by date linkage processes and online reporting systems to develop a simple and more flexible system that is ‘fit for purpose’ and increases the capacity of those in insecure and precarious work to respond more readily to labour market opportunities (and hence to improve their financial security and enhance their contribution to our economy and community).

Should you wish to discuss the contents of this submission further, please contact Chris Twomey, Research and Policy Development Leader, at chris@wacoss.org.au or 08 9420 7222.

Yours sincerely

Louise Giolitto

A handwritten signature in black ink, appearing to read "Louise Giolitto".

Chief Executive Officer