

Robodebt Royal Commission – Overview of Final Report

Background

- The Royal Commission into the Robodebt Scheme was established in August 2022 under Catherine Holmes SC AC to inquire into the “Robodebt” Scheme, at a budgeted cost of @\$30million¹.
- The Scheme was developed by the Department of Human Services (DHS) and designed to recover overpayments from welfare recipients going back to FY 2010-11 and relied heavily on a process known as “income averaging” to assess income and entitlement to benefit.
- By the end of 2016, the Scheme was the subject of heavy public criticism but was persisted with until November 2019, when it was announced that debts would no longer be raised solely on the basis of averaged income. That was followed in 2020 by the settlement of a class action and a decision to reduce all debts raised in whole or part through averaging to zero. In June 2020 then prime minister, the Hon Scott Morrison MP, apologised for the Scheme.
- The Royal Commission focused on how, by whom and why the Scheme was established, designed, implemented; how risks and concerns in relation to it were dealt with and how complaints and challenges were managed by the Government; the use of third-party debt collectors; and the effects of the Scheme – human and economic.
- The Final Report (released 7th July 2023) found that the Scheme produced inaccurate results and did not comply with the income calculation provisions of the Social Security Act.

Key Recommendations

The Final Report makes a number of recommendations, the key ones being:

- Strengthen accountability (especially at SES level) and capability in the public service
- Policies and processes should be designed with an emphasis on the people they are meant to serve
- Specify in New Policy Proposals whether they need legislative change to be effective (include underlying legal advice) and include standard, specific statements about legal risk(s)
- Increase review and oversight of automated decision making
- Improving the processes of the Department of Social Services and Services Australia
- Measures to reinforce the duties and responsibilities of government lawyers, including integrity and independence and compliance with the Legal Services Directions
- Amend the law to enable investigation of former agency heads
- Limit when Cabinet documents can be considered to be confidential.
- Improve the relationship between departments and ministerial offices
- Bolster capability of oversight agencies (such as Commonwealth Ombudsman Office, Office of Legal Services Coordination, the Office of the Australian Information Commissioner and the AAT)
- Referrals of information (in a sealed chapter) concerning some individuals for further investigation, to hold those individuals to account, in order to reinforce the importance of public service officers acting with integrity

Reflections of the Commissioner

¹ As a reference point, the Hayne Royal Commission cost @\$70 million and the Royal Commission into institutional child abuse cost @\$340 million.

Personal

“It is remarkable how little interest there seems to have been in ensuring the Scheme’s legality, how rushed its implementation was, how little thought was given to how it would affect welfare recipients and the lengths to which public servants were prepared to go to oblige ministers on a quest for savings. Truly dismaying was the revelation of dishonesty and collusion to prevent the Scheme’s lack of legal foundation coming to light. Equally disheartening was the ineffectiveness of what one might consider institutional checks and balances – the Commonwealth Ombudsman’s Office, the Office of Legal Services Coordination, the Office of the Australian Information Commissioner and the Administrative Appeals Tribunal – in presenting any hindrance to the Scheme’s continuance.” (Preface of Final Report)