



Robodebt Royal Commission Implementation update

November 2024

	Recommendation	Government Response (summary)	Status
10.1	<p>Design policies and processes with emphasis on the people they are meant to serve</p> <p>Services Australia design its policies and processes with a primary emphasis on the recipients it is meant to serve.</p>	<p>Accept</p> <p>The Department of Social Services and Services Australia will work together to ensure customer and staff feedback is considered in the design of policy and processes. When considering a change to a service, before policy, investment and service delivery decisions are made, the Government will gather an evidence-based understanding of the needs of recipients, which is based on the views of recipients, and explore how the proposed changes may impact recipients.</p>	Implemented
11.1	<p>Clear documentation of exclusion criteria</p> <p>Services Australia should ensure that for any cohort of recipients that is intended to be excluded from a compliance process or activity, there is clear documentation of the exclusion criteria, and, unless there is a technical reason it cannot be, the mechanism by which that is to occur should be reflected in the relevant technical specification documents.</p>	<p>Accept</p> <p>Services Australia will produce clear documentation for any exclusion criteria when any cohort of recipients is intended to be excluded from compliance or debt related activities.</p>	Ongoing

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<p>11.2 Identification of circumstances affecting the capacity to engage with compliance activity</p> <p>Services Australia should ensure that its processes and policies in relation to the identification of potential vulnerabilities extend to the identification of circumstances affecting a recipient's capacity to engage with any form of compliance activity.</p> <p>To this end, circumstances likely to affect a recipient's capacity to engage with compliance activities should be recorded on their file regardless of whether they are in receipt of a payment that gives rise to mutual obligations.</p>	<p>Accept</p> <p>Individual circumstances that might impact on an individual's capacity to engage with government services, or reviews of payments and services, should be taken into account during service delivery and customer engagements.</p> <p>Where an individual discloses a vulnerability, this will inform the way the agency engages with the individual in the delivery of programs and services, including connecting the customer with any additional support services. To support this, information about circumstances affecting a recipient's capacity to engage is recorded on customer records. This information is also accessible to service delivery partners.</p>	<p>Implemented</p>

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<p>11.3 Engagement prior to removing a vulnerability indicator from a file</p> <p>Services Australia should ensure that its processes and policies in relation to the identification of potential vulnerabilities require staff to engage with a recipient prior to the removal of an indicator on their file. For this purpose, Services Australia should remove any feature that would allow for the automatic expiry of a vulnerability indicator (or equivalent flagging tool). An indicator should only be removed where a recipient, or evidence provided to the Agency in relation to the recipient, confirms that they are no longer suffering from the vulnerability to which the indicator relates.</p>	<p>Accept</p> <p>Records held by Services Australia contain notes that alert staff to circumstances where a recipient is experiencing difficulties that might affect their ability to meet mutual obligation requirements. Where an individual discloses a vulnerability, staff will use this knowledge to tailor the discussion and interaction, including the promotion of appropriate programs and services, and connect the customer to specialist supports and/or referrals to local service providers. To support this, information about circumstances affecting a person’s capacity to engage in mutual obligation requirements is recorded on customer file.</p>	<p>Ongoing</p>
<p>11.4 Consideration of vulnerabilities affected by each compliance program, including consultation with advocacy bodies</p> <p>Services Australia should incorporate a process in the design of compliance programs to consider and document the categories of vulnerable recipients who may be affected by the program, and how those recipients will be dealt with. Services Australia should consult stakeholders (including peak advocacy bodies) as part of this process to ensure that adequate provision is made to accommodate vulnerable recipients who may encounter particular difficulties engaging with the program.</p>	<p>Accept</p> <p>Services Australia will continue to seek advice and input from civil society stakeholders to improve service delivery, particularly where changes are being made and there are opportunities for co-design.</p>	<p>Ongoing</p>

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<p>12.1 Easier engagement with Centrelink</p> <p>Options for easier engagement with Centrelink by advocacy groups – for example, through the creation of a national advocate’s line – should be considered.</p>	<p>Accept</p> <p>Services Australia will actively identify opportunities to engage with advocacy groups.</p> <p>Services Australia will pilot an ‘advocates’ channel for legal advocates.</p>	<p>Ongoing</p>
<p>12.2 Customer experience reference group</p> <p>The government should consider establishing a customer experience reference group, which would provide streamlined insight to government regarding the experiences of people accessing income support</p>	<p>Accept in principle</p> <p>The Australian Public Sector Reform Office and Services Australia will partner to develop evidence-based whole-of-government Service Design Standards to support agencies to design, administer and improve new and existing services and payments. The Standards will be informed by the needs and expectations of the Australian community.</p>	<p>Ongoing</p>
<p>12.3 Consultation</p> <p>Peak advocacy bodies should be consulted prior to the implementation of projects involving the modification of the social security system.</p>	<p>Accept</p> <p>The Government will consult with peak advocacy groups when implementing modifications to the social security system.</p>	<p>Ongoing</p>
<p>12.4 Regard for funding for legal aid commissions and community legal centres</p> <p>When it next conducts a review of the National Legal Assistance Partnership, the Commonwealth should have regard, in considering funding for legal aid commissions and community legal centres, to the importance of the public interest role played by those services as exemplified in their work during the Scheme.</p>	<p>Accept</p> <p>The Terms of Reference for the independent review of the National Legal Assistance Partnership 2020-25 (NLAP) required the review to evaluate whether the objectives, outcomes and outputs of the NLAP have been achieved.</p>	<p>Implemented</p>

Recommendation	Government Response (summary)	Status
<p>13.1 Consultation process</p> <p>Services Australia should put in place processes for genuine and receptive consultation with front-line staff when new programs are being designed and implemented.</p>	<p>Accept</p> <p>Services Australia will ensure the experiences of front-line staff are sought and fed into design practice and service delivery policy.</p>	<p>Implemented</p>
<p>13.2 Feedback processes</p> <p>Better feedback processes should be put in place so that front-line staff can communicate their feedback in an open and consultative environment. Management should have constructive processes in place to review and respond to staff feedback.</p>	<p>Accept</p> <p>The Government commits to ensuring agencies have processes in place to gather feedback from front-line staff, noting their first-hand experiences in engaging with the community.</p>	<p>Implemented</p>
<p>13.3 “Face-to-face” support</p> <p>More “face-to-face” customer service support options should be available for vulnerable recipients needing support.</p>	<p>Accept in principle</p> <p>Services Australia will continue to adopt a customer-centred approach. Ongoing efforts to transform service delivery by Services Australia will be directed toward better assisting customers to navigate services tailored to their needs, including through identifying opportunities to engage and collaborate with government service delivery partners and support more customers to access government services from a single location.</p>	<p>Ongoing</p>

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<p>13.4 Increased number of social workers</p> <p>Increased social worker support (for both recipients and staff), and better referral processes to enable this support, should be implemented.</p>	<p>Accept in principle</p> <p>The Services Australia Social Work Servicing Strategy (2021-2025) outlines how the agency is transforming the way it delivers social work services.</p> <p>To maximise access to social work support for customers and staff, Services Australia is also exploring additional delivery methods to support connections with customers and continues to respond to customer needs through their preferred method of contact.</p>	<p>Ongoing</p>
<p>15.1 Legislative change better defined in New Policy Proposals</p> <p>The Budget Process Operational Rules should include a requirement that all New Policy Proposals contain a statement as to whether the proposal requires legislative change in order to be lawfully implemented, as distinct from legislative change to authorise expenditure.</p>	<p>Accept</p> <p>In providing advice to Cabinet, Ministers, departments and agencies should indicate whether a new policy proposal will require legislative change in order for it to be lawfully implemented, in addition to giving advice on whether legislation is required to authorise expenditure. In circumstances where it has not been possible to determine whether legislative change is required, this should also be clearly stated. Relevant Cabinet procedures will be updated to reflect this.</p>	<p>Implemented</p>

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<p>15.2 Include legal advices with New Policy Proposals</p> <p>The Budget Process Operational Rules should include a requirement that any legal advice (either internal or external) relating to whether the proposal requires legislative change in order to be implemented be included with the New Policy Proposal in any versions of the Portfolio Budget Submission circulated to other agencies or Cabinet ministers.</p>	<p>Accept in principle</p> <p>The Government agrees that Cabinet should be clearly informed of identifiable legal issues associated with the implementation of new policy proposals. The Government considers that clear, concise and succinct summaries of legal issues are likely to be of greater assistance to entities and Ministers than copies of entire legal advices. Relevant Cabinet procedures will be updated to reflect this.</p>	<p>Implemented</p>
<p>15.3 Australian Government Solicitor statement in the NPP</p> <p>The Budget Process Operational Rules should include a requirement that where legal advice has been given in relation to whether the proposal requires legislative change in order to be implemented, the New Policy Proposal includes a statement as to whether the Australian Government Solicitor has reviewed and agreed with the advice</p>	<p>Accept</p> <p>Sponsoring Ministers and entities are responsible for ensuring that they present clear information on what is required to implement a new policy proposal. Where legal advice is provided on a new policy proposal, Cabinet should receive complete and accurate information, particularly regarding whether or not the Australian Government Solicitor has reviewed and agreed with any legal advice on whether legislative change is required. Relevant Cabinet procedures will be updated to reflect this.</p>	<p>Implemented</p>

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<p>15.4 Standard, specific language on legal risks in the NPP</p> <p>The standard language used in the NPP Checklist should be sufficiently specific to make it obvious on the face of the document what advice is being provided, in respect of what legal risks and by whom it is being provided.</p>	<p>Accept</p> <p>Cabinet should receive clear and accurate advice on new policy proposals, to ensure it fully understands associated legal issues and risks. Relevant Cabinet procedures will be updated to make it clear what legal advice has been obtained, in respect of what risks, and by whom it was provided. The updates will provide clearer information on legislative authority issues relating to spending, and on legal issues relating to other aspects of the proposal.</p>	<p>Implemented</p>

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<p>15.5 Documented assumptions for compliance Budget measures</p> <p>That in developing compliance Budget measures, Services Australia and DSS document the basis for the assumptions and inputs used, including the sources of the data relied on.</p>	<p>Accept</p> <p>All Ministers, departments and agencies are expected and required to comply with the rules outlined in the Cabinet Handbook and the Budget Process Operational Rules when developing new policy proposals and measures with financial implications.</p> <p>The Department of Social Services and Services Australia will ensure budget initiatives are progressed in consultation with the Department of Finance, and in compliance with the Budget Process Operational Rules. Data sources will be identified, and assumptions will be required to be documented and provided in a transparent manner.</p>	<p>Ongoing</p>

Recommendation	Government Response (summary)	Status
<p>15.6 Documentation on the basis for assumptions provided to Finance</p> <p>That in seeking agreement from Finance for costings of compliance Budget measures, Services Australia and DSS provide Finance with documentation setting out the basis for the assumptions and inputs used, including related data sources, to allow Finance to properly investigate and test those assumptions and inputs</p>	<p>Accept</p> <p>All Ministers, departments and agencies are expected and required to comply with the rules outlined within the Cabinet Handbook and the Budget Process Operational Rules when developing new policy proposals and measures with financial implications.</p> <p>The Department of Social Services and Services Australia will ensure budget initiatives are progressed in consultation with the Department of Finance, and in compliance with the Budget Process Operational Rules. Data sources will be identified, and assumptions and inputs will be provided for compliance measures. These will be required to be documented and provided in a transparent manner.</p>	<p>Implemented</p>
<p>16.1 Legal advice on end-to-end data exchanges</p> <p>The Commonwealth should seek legal advice on the end-to-end data exchange processes which are currently operating between Services Australia and the ATO to ensure they are lawful.</p>	<p>Accept</p> <p>The Australian Taxation Office and Services Australia have obtained independent, external legal advice in respect of the Pay As You Go (PAYG) and Single Touch Payroll (STP) data exchange programs, which confirm that both agencies are complying with the required legislative frameworks governing each aspect of the data exchange, specifically, the confidentiality and Tax File Number (TFN) provisions in the <i>Taxation Administration Act 1953</i>, the confidentiality provisions of the <i>Social Security (Administration) Act 1999</i>, and the <i>Privacy Act 1988</i>.</p>	<p>Implemented</p>

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<p>16.2 Review and strengthen governance of data-matching programs</p> <p>The ATO and DHS should take immediate steps to review and strengthen their operational governance practices as applied to jointly conducted data-matching programs. This should include:</p> <ul style="list-style-type: none"> • reviews to ensure that all steps and operations relating to existing or proposed data-matching programs are properly documented • a review of all existing framework documents for existing or proposed data-matching programs • a review of the operations of the ATO/DHS Consultative Forum and the ATO/DHS Data Management Forum • a review of the existing Head Agreement/s, Memoranda of Understanding and Services Schedule • a joint review of any existing or proposed data-matching program protocols to ensure they are legally compliant in respect of their provision for the data exchanges contemplated for the relevant data-matching program. 	<p>Accept</p> <p>The Australian Taxation Office and Services Australia are reviewing all existing data exchanges operating between the agencies to ensure all legal and ethical requirements are met, and that the governance arrangements and supporting framework documentation, including Memoranda of Understanding and joint forum terms of reference, are in place and accurately reflect the processes and procedures of the exchange.</p> <p>The Australian Taxation Office and Services Australia will review new and existing data sharing arrangements in line with guidance material issued by the Office of the Australian Information Commissioner and the Office of the National Data Commissioner, and will consult with these oversight bodies where required.</p>	<p>Ongoing</p>

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<p>17.1 Reform of legislation and implementation of regulation</p> <p>The Commonwealth should consider legislative reform to introduce a consistent legal framework in which automation in government services can operate. Where automated decision-making is implemented:</p> <ul style="list-style-type: none"> • there should be a clear path for those affected by decisions to seek review • departmental websites should contain information advising that automated decision-making is used and explaining in plain language how the process works • business rules and algorithms should be made available, to enable independent expert scrutiny. 	<p>Accept</p> <p>The Government will consider opportunities for legislative reform to introduce a consistent legal framework in which automation in government services can operate ethically, without bias and with appropriate safeguards, which will include consideration of:</p> <ul style="list-style-type: none"> • review pathways for those affected by decisions, and • transparency about the use of automated decision-making, and how such decision-making processes operate, for persons affected by decisions and to enable independent scrutiny. 	<p>Ongoing*</p>

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<p>17.2 Establishment of a body to monitor and audit automated decision-making</p> <p>The Commonwealth should consider establishing a body, or expanding an existing body, with the power to monitor and audit automate decision-making processes with regard to their technical aspects and their impact in respect of fairness, the avoiding of bias, and client usability.</p>	<p>Accept</p> <p>The Government will ensure there is appropriate oversight of the use of automation in service delivery. This includes oversight of technical aspects to identify potential bias and ensure the use of automated decision-making or artificial intelligence is ethical and in accordance with legislative protections. In implementing this recommendation, the Government will consider establishing a body, or expanding the functions of an existing body, with the power to monitor and audit automated decision-making processes.</p> <p>The Government will examine existing regulatory frameworks that provide safeguards for artificial intelligence and automated decision-making to ensure a consistent legal, ethical and governance framework in which automation in government services can operate with appropriate safeguards.</p> <p>The Government commits to ensuring new technologies are integrated in a safe and responsible manner.</p> <p>Governance of automated decision-making will also be further considered as part of current work to develop appropriate whole-of-government assurance and governance of artificial intelligence.</p>	<p>Ongoing</p>

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<p>18.1 Comprehensive debt recovery policy for Services Australia</p> <p>Services Australia should develop a comprehensive debt recovery management policy which among other things should incorporate the Guideline for Collectors and Creditors' issued by the Australian Competition and Consumer Commission (ACCC) and the Australian Securities and Investments Commission (ASIC). Examples of such documents already exist at both federal and state levels. Any such policy should also prescribe how Services Australia undertakes to engage with debtors, including that staff must:</p> <ul style="list-style-type: none"> • ensure any debt recovery action is always ethical, proportionate, consistent and transparent • treat all recipients fairly and with dignity, taking each person's circumstances into account before commencing recovery action • subject to any express legal authority to do so, refrain from commencing or continuing recovery action while a debt is being reviewed or disputed, and • in accordance with legal authority, consider and respond appropriately and proportionately to cases of hardship. <p>Services Australia should ensure that recipients are given ample and appropriate opportunities to challenge, review and seek guidance on any proposed debts before they are referred for debt recovery.</p>	<p>Accept</p> <p>The Government commits to ensuring income support and other services are available to vulnerable Australians when they need it, without stigma; and that debt recovery practices are undertaken in a manner that is fair, empathetic and respectful, and takes into account individual circumstances.</p> <p>The Government will continue to implement changes to improve debt recovery policy and practice, within the underpinning legal framework.</p>	<p>Ongoing</p>

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<p>18.2 Reinstating the limitation of six years on debt recovery</p> <p>The Commonwealth should repeal s 1234B of the Social Security Act and reinstate the effective limitation period of six years for the bringing of proceedings to recover debts under Part 5.2 of the Act formerly contained in s 1232 and s 1236 of that Act, before repeal of the relevant subsections by the <i>Budget Savings (Omnibus) Act (No 55) 2016 (Cth)</i>. There is no reason that current and former social security recipients should be on any different footing from other debtors.</p>	<p>Accept in principle</p> <p>The Government will improve social security debt arrangements and is committed to ensuring debt raising and recovery is undertaken in a timely, fair and respectful manner.</p> <p>The Government will carefully consider options for legislative reform, including appropriate statutory limitation periods for the raising and recovery of social security debts to comprehensively address the issues identified by the Royal Commission.</p> <p>The Government will continue to implement administrative changes to make the system fairer for those who incur debts, and to reduce the likelihood of recipients incurring a debt in the first place.</p>	<p>Ongoing*</p>
<p>19.1 Selection of chief counsel</p> <p>The selection panel for the appointment of chief counsel of Services Australia or DSS (chief counsel being the head of the entity's legal practice) should include as a member of the panel, the Australian Government Solicitor.</p>	<p>Accept</p> <p>The Government recognises the specialist input the Australian Government Solicitor or their representative could provide in the selection of the chief legal officers of Services Australia and the Department of Social Services.</p>	<p>Implemented</p>

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<p>19.2 Training for lawyers – Services Australia</p> <p>Services Australia should provide regular training to its in-house lawyers on the core duties and responsibilities set out in the Legal Practice Standards, including:</p> <ul style="list-style-type: none"> • an emphasis on the duty to avoid any compromise to their integrity and professional independence and the challenges that may be presented to a government lawyer in fulfilling that obligation. • appropriate statutory and case authority references in advice writing. 	<p>Accept</p> <p>Services Australia legal staff are subject to Legal Practice Directions issued by the Chief Counsel which set out the obligations and requirements of agency legal staff, including a requirement to undertake regular training. In addition, performance agreements for all Services Australia legal staff will require staff to comply with the Legal Practice Directions.</p>	<p>Ongoing</p>
<p>19.3 Legal practice standards – Social Services</p> <p>DSS should develop Legal Practice Standards which set out the core duties and responsibilities of all legal officers working at DSS.</p>	<p>Accept</p> <p>The Department of Social Services (DSS) has developed a new package of legal practice governance documents, which include updates to the Legal Practice Manual issued by the Chief Counsel that set out the core duties and responsibilities of all legal officers working at DSS. Compliance with these duties and obligations will be included in the performance agreements for all legal staff.</p>	<p>Implemented</p>

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<p>19.4 Training for lawyers – Social Services</p> <p>DSS should provide regular training on the core duties and responsibilities to be set out in the Legal Practice Standards which should include: an emphasis on the duty to avoid any compromise to their integrity and professional independence and the challenges that may be presented to a government lawyer in fulfilling that obligation appropriate statutory and case authority references in advice writing.</p>	<p>Accept</p> <p>The Department of Social Services (DSS) is establishing a regular training program for in-house lawyers that will include a focus on core studies and responsibilities laid down in DSS Legal Practice Standards. DSS is also actively taking steps to engage providers to deliver integrity and professional independence training for all lawyers in the Department. This training will be in addition to the lawyers' obligation to complete Continuing Legal Education (CLE) associated with maintaining the required Practising Certificate</p>	<p>Implemented</p>

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<p>19.5 Draft advice – Social Services</p> <p>DSS should issue a further direction providing that, if the administering agency decides that a draft advice need not be provided in final form, that decision and the reasons for it must be documented. One of those steps – finalisation, or a documented decision against finalisation – should have been taken within three months of the receipt of the draft advice.</p>	<p>Accept</p> <p>The Secretary of the Department of Social Services issued guidance on the practice of requesting, clarifying and finalising legal advice on 14 November 2022.</p> <p>The Chief Counsel of the Department of Social Services has also issued Legal Services Practice guidance on obtaining external legal advice, including draft advice, clearly articulating that external advice is not to be left in draft form indefinitely, but should be finalised as soon as is practicable.</p> <p>The Government also considers it is important that the treatment of draft legal advice is consistent across agencies. On 15 May 2023, the Secretary of the Attorney-General’s Department circulated initial guidance to all the heads of legal services functions across the APS on the use of draft legal advice within government, making it clear that legal advice cannot be disregarded because it is in draft form and that it is never acceptable for legal advice not to be finalised on the basis that the advice may be inconvenient or unwelcome. The Attorney-General’s Department is reviewing the guidance in light of the observations made by the Royal Commission.</p>	<p>Implemented</p>

Recommendation	Government Response (summary)	Status
<p>19.6 Draft advice – Services Australia</p> <p>Services Australia should issue a direction that legal advice is to be left in draft form only to the extent that the administrative step of finalising it has not yet been undertaken by lawyers or there are remaining questions to be answered in relation to the issues under consideration and that, if the administering agency decides that a draft advice need not be provided in final form, that decision and the reasons for it must be documented. One of those steps – finalisation, or a documented decision against finalisation – should have been taken within three months of the receipt of the draft advice.</p>	<p>Accept</p> <p>The Chief Counsel of Services Australia has issued internal Legal Practice Standards on obtaining external legal advice, including draft advice. Legal Officers are required to have regard to the Chief Counsel’s expectation that draft legal advice will ordinarily be finalised, that legal advice cannot be disregarded on the basis that it is in draft form, that it is never acceptable for draft legal advice not to be finalised because it may be unwelcome or inconvenient, and that draft legal advice should be finalised before it is relied upon to make decisions. Where finalisation of draft advice is not practicable, Legal Officers must place a file note on the relevant file confirming the reason the advice was not finalised.</p> <p>The Government also considers it is important that the treatment of draft legal advice is consistent across agencies. On 15 May 2023, the Secretary of the Attorney-General’s Department circulated initial guidance to all the heads of legal services functions across the APS on the use of draft legal advice within government, making it clear that legal advice cannot be disregarded because it is in draft form and that it is never acceptable for legal advice not to be finalised on the basis that the advice may be inconvenient or unwelcome. The Attorney-General’s Department is reviewing the guidance in light of the observations made by the Royal Commission.</p>	<p>Ongoing</p>

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<p>19.7 The Directions</p> <p>The <i>Legal Services Directions 2017</i> should be reviewed and simplified.</p>	<p>Accept</p> <p>The Government will review and redraft aspects of the Legal Services Directions 2017 with a view to ensuring the Directions are fit-for-purpose in supporting agencies to undertake Commonwealth legal work and manage legal risk in an effective, consistent and whole-of-Commonwealth manner.</p>	<p>Ongoing</p>
<p>19.8 Office of Legal Services Coordination to assist agencies with significant issues reporting</p> <p>OLSC should provide more extensive information and feedback to assist agencies with the significant legal issues process.</p>	<p>Accept</p> <p>The Attorney-General’s Department will review its practices to provide improved guidance and support to better enable agencies to identify significant issues arising in their legal work, and to provide the relevant information at the appropriate time to support the Attorney-General perform the functions of the First Law Officer.</p>	<p>Ongoing</p>
<p>19.9 Recording of reporting obligations</p> <p>OLSC should ensure a documentary record is made of substantive inquiries made with and responses given by agencies concerning their obligations to report significant issues pursuant to para 3.1 of the Directions.</p>	<p>Accept</p> <p>The Attorney-General’s Department will build on existing work to ensure it has appropriate processes to document and record all inquiries with agencies on whether a legal issue is required to be reported.</p>	<p>Implemented</p>

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<p>19.10 The Directions 2</p> <p>OLSC should issue guidance material on the obligations to consult on and disclose advice in clause 10 of the <i>Legal Services Directions 2017</i>.</p>	<p>Accept</p> <p>The Attorney-General’s Department will develop new guidance material to support agencies’ understanding of and compliance with the obligations in paragraph 10 of the <i>Legal Services Directions 2017</i> on the consultation on and sharing of legal advices.</p>	<p>Ongoing</p>
<p>19.11 Resourcing of the Office of Legal Services Coordination</p> <p>OLSC should be properly resourced to deliver these functions.</p>	<p>Accept</p> <p>The Government will ensure that OLSC is adequately resourced to perform its functions, which will enable it to provide the support necessary for agencies to manage legal issues effectively. The Government has provided additional funding for OLSC.</p> <p>The Government is providing \$5.2 million over the forward estimates and \$1.1 million per year, ongoing, including additional ongoing staff for the Attorney-General’s Department, to provide improved support and guidance on the significant legal issues regime.</p>	<p>Implemented</p>
<p>19.12 Chief counsel</p> <p>The Australian Government Legal Service’s General Counsel Charter be amended to place a positive obligation on chief counsel to ensure that the <i>Legal Services Directions 2017</i> are complied with and to document interactions with OLSC about inquiries made, and responses given, concerning reporting obligations under those Directions.</p>	<p>Accept</p> <p>The Attorney-General’s Department, in consultation with the Australian Government Legal Service Board and General Counsel, will review and update the General Counsel Charter in light of the recommendations and observations of the Royal Commission.</p>	<p>Implemented</p>

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<p>19.13 Review of Bilateral Management Agreement</p> <p>The revised Bilateral Management Agreement should set out the requirement to consult on and disclose legal advices between the two agencies where any intersection of work is identified.</p>	<p>Accept</p> <p>In April 2023, the Secretary of the Department of Social Services and the Chief Executive Officer of Services Australia executed a new Head Agreement to support the Bilateral Management Arrangement. Under that agreement both committed to reviewing all Protocols, Service Arrangements and Service Schedules entered into under the former Head Agreement.</p> <p>Work is underway by both agencies to include the requirement to consult on and disclose relevant legal advices in an updated Protocol. In conjunction, Chief Counsels within the social services portfolio have updated the advice-sharing arrangements agreed in 2021.</p>	<p>Ongoing</p>

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<p>20.1 AAT cases with significant legal and policy issues</p> <p>Services Australia should put in place a system for identifying AAT cases which raise significant legal and policy issues and ensuring that they are brought to the attention of senior DSS and Services Australia officers.</p>	<p>Accept</p> <p>Services Australia and DSS legal areas are updating their Standing Operational Statement which prescribes arrangements to ensure matters which raise significant legal and policy issues are brought to the attention of senior officials, and are also raised with the Office of Legal Services Coordination when required.</p> <p>Services Australia will also review any revised settings and approaches required, including systems implementation, to support the establishment of the new federal administrative review body, and its procedures, once established.</p>	<p>Ongoing</p>
<p>20.2 Training for DHS legal officers</p> <p>Services Australia legal officers whose duties involve the preparation of advices in relation to AAT decisions should receive training which emphasises the requirements of the Standing Operational Statements in relation to appeal recommendations and referral to DSS; Services Australia’s obligations as a model litigant; and the obligation to pay due regard to AAT decisions and directions.</p>	<p>Accept</p> <p>Services Australia will update its training packages and provide specific training to lawyers within the Litigation Branch on the Model Litigant Obligations under the Legal Services Directions 2017, as well as the Standing Operational Statement with the Department of Social Services (DSS).</p> <p>In addition, all in-house lawyers admitted to practice are required to complete mandatory Continuing Legal Education and provide monthly reports of active significant matters.</p>	<p>Ongoing</p>

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<p>20.3 Identifying significant AAT decisions</p> <p>DSS should establish, or if it is established, maintain, a system for identifying all significant AAT decisions and bringing them to the attention of its secretary.</p>	<p>Accept</p> <p>Identification and reporting on significant AAT decisions is governed by Services Australia and the Department of Social Services Standing Operational Statement. The Statement requires Services Australia to notify DSS of significant AAT decisions and provide monthly reporting of active matters.</p> <p>DSS and Services Australia will consider the impact of the establishment of the new federal administrative review body on its processes for identifying significant matters and will further adjust any processes as required.</p>	<p>Implemented</p>

Recommendation	Government Response (summary)	Status
<p>20.4 Publication of first instance AAT decisions</p> <p>The federal administrative review body which replaces the AAT should devise a system for publication on a readily accessible platform of first instance social security decisions which involve significant conclusions of law or have implications for social security policy.</p>	<p>Accept</p> <p>On 29 September 2023, the Government announced that by the end of the year it will introduce legislation to abolish the Administrative Appeals Tribunal (AAT) and replace it with a new body, the Administrative Review Tribunal (ART).</p> <p>The Government's proposed legislation to establish the new administrative review body will provide for decisions of the new administrative review body to be published, and will require the publication of decisions that involve a significant conclusion of law or have significant implications for Commonwealth policy or administration. Decisions could also be de-identified before being published if non-disclosure requirements and privacy considerations apply in a particular matter.</p>	<p>Implemented</p>

Recommendation	Government Response (summary)	Status
<p>20.5 Administrative Review Council</p> <p>Re-instate the Administrative Review Council or a body with similar membership and similar functions, with consideration given to a particular role in review of Commonwealth administrative decision-making processes.</p>	<p>Accept</p> <p>The Government is developing legislation to repeal the Administrative Appeals Tribunal Act 1975 (Cth) and to establish the Administrative Review Tribunal. The Administrative Review Council (ARC) will also be re-established under the new legislation as an expert body to monitor and advise on the operation and integrity of the Commonwealth administrative review system.</p> <p>The ARC will provide expertise to improve the quality of government decision-making through the development of guidance, as well as reports to provide early identification of systemic issues and opportunities for improvement across government.</p>	<p>Ongoing</p>

Recommendation	Government Response (summary)	Status
<p>21.1 Statutory duty to assist</p> <p>A statutory duty be imposed on departmental secretaries and agency chief executive officers to ensure that their department or agency use its best endeavours to assist the Ombudsman in any investigation concerning it, with a corresponding statutory duty on the part of Commonwealth public servants within a department or agency being investigated to use their best endeavours to assist the Ombudsman in the investigation.</p>	<p>Accept</p> <p>The Government agrees that a clearly stated statutory duty, imposed on departmental secretaries and agency chief executive officers, to ensure that their department or agency use its best endeavours to assist the Ombudsman would reinforce the responsibility on heads of agencies to ensure their agency engages in good faith and proactively assists the Commonwealth Ombudsman.</p> <p>The Government agrees that a corresponding statutory duty on Commonwealth public servants within a department or agency being investigated to use their best endeavours to assist the Commonwealth Ombudsman would ensure the responsibility to assist is clearly individually borne by each of those responsible.</p> <p>The Government also recognises the importance of the Inspector-General of Taxation and Taxation Ombudsman (IGTO) in providing assurance to the community that taxation laws are being administered with integrity. The Government supports also introducing equivalent statutory duties to investigations conducted by the IGTO.</p> <p>The Government will progress amendments to relevant legislation to introduce these statutory duties.</p>	<p>Ongoing*</p>

Recommendation	Government Response (summary)	Status
<p>21.2 Another power to obtain information</p> <p>The Ombudsman Act be amended to confer on the Ombudsman a power in equivalent terms to that in s 33(3) of the Auditor-General Act.</p>	<p>Accept</p> <p>The Government will introduce legislation to establish a statutory power equivalent to that of subsection 33(3) of the <i>Auditor-General Act 1997 (Cth)</i>. This would ensure the Ombudsman is not dependent upon agencies to undertake searches and provide documents and information, and will complement the Ombudsman’s existing powers to request and compel agencies to provide information.</p> <p>The Government will also seek to introduce an equivalent power for the Inspector-General of Taxation and Taxation Ombudsman.</p>	<p>Ongoing*</p>
<p>21.3 Oversight of the legal services division</p> <p>Departmental and agency responses to own motion investigations by the Ombudsman should be overseen by the legal services division of the relevant department or agency.</p>	<p>Accept in principle</p> <p>The Government will progress legislative amendments to require that departmental secretaries and agency chief executive officers ensure that their department or agency use its best endeavours to assist the Ombudsman. Consistent with this obligation, departmental secretaries and chief executive officers will ensure responses to Ombudsman investigations are not led or overseen by individuals or divisions directly involved in matters under investigation.</p>	<p>Implemented</p>

Recommendation	Government Response (summary)	Status
<p>21.4 Log of communications</p> <p>The Ombudsman maintain a log, recording communications with a department or agency for the purposes of an own motion investigation.</p>	<p>Accept</p> <p>The Commonwealth Ombudsman requires investigators to maintain a log of communications with agencies under investigation when conducting own motion investigations.</p>	<p>Implemented</p>
<p>21.5 Powers of referral</p> <p>The AAT is soon to be replaced by a new administrative review body. S 10A and s 11 of the Ombudsman Act should be amended so as to ensure the Ombudsman has the powers of referral and recommendation of referral in respect of that new administrative review body.</p>	<p>Accept</p> <p>The Government is developing legislation to repeal the <i>Administrative Appeals Tribunal Act 1975</i> (Cth) and to establish a new administrative review body. The Government will introduce consequential amendments to sections 10A and 11 of the Ombudsman Act 1976 (Cth) to retain the power for the Commonwealth Ombudsman to refer or recommend referral of matters to that new body.</p>	<p>Implemented</p>
<p>23.1 Structure of government departments</p> <p>The Australian Government should undertake an immediate and full review to examine whether the existing structure of the social services portfolio, and the status of Services Australia as an entity, are optimal.</p>	<p>Accept in principle</p> <p>The Government will be guided by the Royal Commission's findings when considering the most optimal arrangement of functions and responsibilities between the Department of Social Services and agencies in the social services portfolio, and the status of Services Australia.</p>	<p>Ongoing</p>
<p>23.2 Obligations of public servants</p> <p>The APSC should, as recommended by the Thodey Review, deliver whole-of-service induction on essential knowledge required for public servants.</p>	<p>Accept</p> <p>The APS Induction Pathway (which includes an induction training suite and mandatory modules) provides essential information and guidance to assist new and returning officers to work effectively in the APS.</p>	<p>Implemented</p>

Recommendation	Government Response (summary)	Status
<p>23.3 Fresh focus on “customer service”</p> <p>Services Australia and DSS should introduce mechanisms to ensure that all new programs and schemes are developed with a customer centric focus, and that specific testing is done to ensure that recipients are at the forefront of each new initiative.</p>	<p>Accept</p> <p>Services Australia will continue to embed the customer voice in the earliest stages of decision-making, and draw on customer feedback to improve service delivery.</p>	<p>Implemented</p>
<p>23.4 Administrative Review Council</p> <p>The reinstated Administrative Review Council (or similar body) should provide training and develop resources to inform APS members about the Commonwealth administrative law system.</p>	<p>Accept</p> <p>The Government agrees that access to training and resources on the Commonwealth administrative law system would support proper and lawful administrative decision-making across the public service. The Government will consider the most effective means through which to deliver this training and guidance.</p>	<p>Ongoing</p>

Recommendation	Government Response (summary)	Status
<p>23.5 “Knowledge College”</p> <p>The Commonwealth should explore the feasibility of establishing an internal college within Services Australia to provide training and development to staff linked to the skills and knowledge required to undertake their duties.</p>	<p>Accept</p> <p>In 2022, Services Australia formed the Services Australia Learning Academy. The Learning Academy is a networked model of learning faculties and specialist enterprise learning teams, working in partnership to drive connected, professional and consistent learning practice across the agency. This represents a substantial investment in providing all staff with the support, skills and information needed to deliver critical services to the Australian public and to respond to emerging demands on Services Australia. The focus on building capability is reflective of the agency’s approach to supporting staff to deliver world-class customer service, through all methods of customer engagement. This includes providing staff access to training that supports service delivery to customers that may be vulnerable or require additional assistance.</p> <p>Services Australia will continue to review and assess the need for additional or supplementary training programs that focus on elements of service delivery, where more formal training or a qualification may be of benefit.</p>	<p>Implemented</p>

Recommendation	Government Response (summary)	Status
<p>23.6 Front-line Service</p> <p>SES staff at Services Australia should spend some time in a front-line service delivery role and with other community partnerships.</p>	<p>Accept</p> <p>The Government supports Senior Executive Service officials spending time in a front-line service delivery setting or with other community partnerships, to gain exposure and insights to the delivery of government services.</p>	<p>Implemented</p>

23.7	Agency heads being held to account	Accept	Implemented
	<p>The Public Service Act should be amended to make it clear that the Australian Public Service Commissioner can inquire into the conduct of former Agency Heads. Also, the Public Service Act should be amended to allow for a disciplinary declaration to be made against former APS employees and former Agency Heads.</p>	<p>The Government will require the performance process and framework for secretaries and agency heads to be published.</p> <p>The Government will introduce legislative amendments to the Public Service Act 1999 (Cth) to provide the Australian Public Service (APS) Commissioner with a new power to commence own motion reviews and investigations into Code of Conduct matters. The APS Commissioner will no longer have to wait for a referral before commencing an inquiry.</p> <p>The Government will also progress amendments to extend the APS Commissioner’s powers to former secretaries, agency heads and APS employees. These amendments will also provide for disciplinary declarations to be made against past secretaries, agency heads and APS employees. This will ensure that inquiries into the conduct of former public servants can be commenced and undertaken, and sanctions applied, following the end of their tenure.</p> <p>The Government is committed to robust and transparent arrangements for the employment of department secretaries and agency heads. The Government will require the APS Commissioner and the Secretary of the Department of the Prime Minister and Cabinet to have regard to the outcome of a merit-based appointments process when providing a report to the Prime Minister on a secretary appointment.</p>	

Recommendation	Government Response (summary)	Status
<p>23.8 Documenting decisions and discussions</p> <p>The Australian Public Service Commission should develop standards for documenting important decisions and discussions, and the delivery of training on those standards.</p>	<p>Accept</p> <p>The Australian Public Service Commission will implement a coordinated, APS-wide communications strategy (in consultation with the Office of the Australian Information Commissioner and National Archives of Australia (NAA)) that highlights the connection between integrity and recordkeeping, in line with the latest NAA guidance; articulates support from senior leadership for best practice in recordkeeping; and promotes existing training and resources to enhance capability and culture around recordkeeping, including for ministers' offices.</p> <p>The Australian Public Service Commission, through the APS Academy, is also developing in partnership with the NAA an online Record Keeping Module as part of its induction program. This will include a range of case studies and scenarios to equip public servants to understand their obligations for documenting important decisions and discussions.</p>	<p>Ongoing</p>