



Automation in the Targeted Compliance Framework: when the law is changed but the system isn't

**An investigation into the cancellation
of income support payments under the
Targeted Compliance Framework**

August 2025

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Overview

Income support is an essential payment for many people looking for work, who need financial help to be able to pay for their everyday basic living necessities. People needing this support are economically vulnerable: they may often have other vulnerabilities as well that also need special consideration. They include survivors of domestic abuse, First Nations people living in remote areas, people from culturally and linguistically diverse backgrounds, people with disabilities and the homeless.

To receive income support, many job seekers are required to complete tasks such as agreeing to Job Plans, searching for jobs, and attending appointments and job interviews. These tasks are called “mutual obligations”. The Department of Employment and Workplace Relations (**DEWR**) and Services Australia manage job seekers’ requirements to complete these tasks under a framework called the Targeted Compliance Framework (**TCF**).

On 4 December 2024, the DEWR Secretary advised the Ombudsman that, contrary to legislative changes in 2022 that required consideration of a job seeker’s circumstances before deciding to cancel income support, decisions to cancel income support had occurred automatically – without consideration of the job seeker’s circumstances.¹

This affected 964² job seekers who had their income support cancelled in this period due to not meeting their mutual obligations.

DEWR explained that these issues led to the Secretary’s decision on 4 July 2024 to pause cancellation of income support under s 42AF(2) of the *Social Security (Administration) Act 1999* (**SSA Act**).

A further 45 job seekers received automated cancellations after the Secretary’s decision to pause cancellations, when they should not have.³

On 6 December 2024, the Australian Council of Social Services also raised concerns with our Office that income support payments may have been cancelled unlawfully or

¹ On 27 November 2024, DEWR officer-level staff briefed the Office about potentially unlawful income support cancellation decisions being made under s 42AF(2).

² [DEWR Secretary’s opening statement to Additional Senate Estimates, 26 February 2025](#)

³ The 45 job seekers who received automated cancellations were as a result of decisions made under s 42AM of the SSA Act. Section 42AM cancellation decisions were paused on 24 September 2024.



inappropriately. In late 2024 and early 2025, the media also reported several failures in the TCF computer system dating back to 2018 resulting in the incorrect suspension or cancellation of income support and the incorrect exposure of some job seekers to potential penalties.⁴

We commenced an investigation to understand why a change in legislation, which had been developed by DEWR, had not been implemented in its policies, processes and systems, and why it took DEWR a significant amount of time to discover this. We were also conscious of the conclusions from the Robodebt Royal Commission about the use of automated processes and the serious impact these processes can have on highly vulnerable people.

The automation used in the [Robodebt] Scheme at its outset, removing the human element, was a key factor in the harm it did. The Scheme serves as an example of what can go wrong when adequate care and skill are not employed in the design of a project; where frameworks for design are missing or not followed; where concerns are suppressed, and where the ramifications of the use of the technology are ignored.

[Royal Commission into the Robodebt Scheme – Full Report, p.488](#)

Given the complexity of the TCF and the significance and impact of computer systems not aligning to the intent of the legislation, we decided to prepare 2 separate own motion investigation reports.

This first report shines a light on whether DEWR and Services Australia (**the agencies**) cancelled job seekers' income support in a lawful manner by using automated processes⁵ and the safeguards they established to ensure future cancellation decisions are lawful, fair and reasonable.

⁴ See for example: [Exclusive: Ten dead after welfare glitch ignored by government](#) (The Saturday Paper 15 February 2025) [ACOSS demands immediate suspension of Targeted Compliance Framework and full, open legal investigation](#) (3 December 2024), [Government accused of illegal welfare payment cancellations](#) (the Mandarin 10 December 2024) [The big little Targeted Compliance Framework system glitch you never heard of | Economic Justice Australia](#) (Economic Justice Australia 19 July 2024).

⁵ For the purpose of this report, *automated processes* refer to computer based automated decision-making.



The second report will consider whether the decision-making processes that result in cancellation decisions are fair and reasonable, the role of employment services providers in the process and the appropriateness of the agencies' remediation strategy for those affected by unlawful decisions.

Appendix A of this report sets out the key event dates relevant to our investigation.

Our findings and recommendations

This first investigation found:



- Agencies' cancellation of income support under s42AF(2) was not lawful.
- Agencies did not ensure their respective processes and computer systems were complying with the amended legislation.
- DEWR had insufficient consultation processes during the legislative drafting process with relevant stakeholders including internally between policy and operational teams, and externally with Services Australia.
- Agencies' quality assurance activities did not identify the unlawful cancellations.
- There was significant delay between identifying the unlawful cancellations and pausing all cancellations.
- The DEWR Secretary has not complied with the statutory requirement to establish a Digital Protections Framework.

The Ombudsman has formed the opinion that:



1. under s 15(1)(a)(i) of the Act, the actions of DEWR and Services Australia outlined in this report were contrary to law.
2. under ss 15(2)(d) and (f) of the Act, DEWR and Services Australia should, as soon as practicable, consider the recommendations in this report and work towards implementing them.

On the basis of these findings, the Ombudsman makes the following recommendations:



Recommendation 1

The Secretary of DEWR not resume cancellations under s 42AF(2) of the SSA Act until satisfied that the identified errors have been rectified and that policies, processes and systems are in place that will ensure cancellations comply with the law.



Recommendation 2

The DEWR Secretary comply with s 159A of the *Social Security Legislation Amendment (Streamlined Participation Requirements and Other Measures) Act 2022* and determine a Digital Protections Framework.



Recommendation 3

DEWR and Services Australia develop a placemat on roles in legislation development that is provided to all staff at the start of a legislative drafting process. The placemat should include who is responsible for ensuring and consulting on relevant automated systems' compliance with administrative law principles.



Recommendation 4

All DEWR and Services Australia staff who make delegated decisions, and work on decision-making policy, be provided annual training on administrative law requirements for making valid decisions, including the exercise of discretion.





Recommendation 5

DEWR and Services Australia ensure they have systems in place that provide ongoing assurance that the administration of the TCF complies with the law and relevant policies. This should include risk management policies and procedures regarding automation in the TCF computer system.



Recommendation 6

DEWR and Services Australia prepare a plan for identifying and assessing the scale and impact of legal, policy and administrative errors in the TCF, and for their timely remediation. The plan must have strategies and actions to identify and manage potential errors with large scale and immediate impact. The plan could include options for large-scale remediation (not only case-by-case) that would simplify and expedite the process for both those impacted and for the agencies.



Recommendation 7

DEWR and Services Australia proactively and quickly rectify identified issues with automated decision-making that have the potential to have adverse impacts on people in vulnerable circumstances. This includes providing timely advice to our Office.

Lessons for all agencies

Our recommendations provide lessons for all agencies to ensure automated decision-making systems are aligned with law and policy and are subject to ongoing testing and assurance to ensure decisions are lawful, fair and reasonable.

When drafting legislation, policy departments should consult with service delivery agencies to ensure that when the legislation is implemented, computer systems will reflect the legislation.

Once legislation comes into effect, service delivery agencies should work closely with their relevant policy departments to ensure ongoing compliance of their systems and processes with the legislation.



Understanding the Targeted Compliance Framework

Income support is paid by the Commonwealth government to job seekers. Job Seeker Payment is a taxable payment ranging from \$715.10 per fortnight for a job seeker with a partner to \$836.50 per fortnight for a single job seeker with dependent children who is over 55 and been receiving the Payment for over 9 months, or with a partial capacity to work of less than 15 hours a week. It can be increased to \$1,011.50 per fortnight for a single job seeker in limited exceptional circumstances (such as being a foster carer or caring for a large family).⁶

By way of comparison, research by the UNSW and ACOSS suggests that the poverty line in Australia works out to \$978 a fortnight for a single adult and \$2,054 a fortnight for a couple with 2 children.⁷ The poverty line is the amount estimated to be needed to meet basic needs like food, shelter and clothing. A person receiving Job Seeker Payment is under the poverty line. If their Job Seeker Payment is cancelled, the impact on an individual can be catastrophic.

Unemployment in Australia is currently 4.1%, which is around 620,000 people.⁸ The Reserve Bank states that the natural rate of unemployment in Australia (also known as NAIRU – the Non-Accelerating Inflation Rate of Unemployment) is around 4.5%.⁹ NAIRU is the rate of unemployment that exists when the economy is at full employment and there is no cyclical unemployment. The NAIRU is the lowest unemployment rate that can be sustained without causing wages growth and inflation to rise.

It is therefore likely that there will continue to be a significant number of job seekers in Australia who are unable to find employment, no matter how hard they try.

⁶ [How much JobSeeker Payment you can get – JobSeeker Payment – Services Australia](#)

⁷ <https://povertyandinequality.acoss.org.au/poverty/>

⁸ <https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia/latest-release>

⁹ <https://www.rba.gov.au/information/foi/disclosure-log/pdf/242525.pdf>



The Targeted Compliance Framework (**TCF**) was designed to make job seekers complete specific activities to receive income support from the Commonwealth Government. Introduced in 2018 into the *Social Security (Administration) Act 1999* (**SSA Act**), the purpose of the TCF is to encourage job seekers to complete compulsory tasks such as agreeing to Job Plans, searching for a minimum number of jobs per week, attending appointments, acting appropriately during those appointments and being willing to look for and accept suitable work. In particular, the TCF is intended to target financial penalties at those who persistently do not meet mutual obligations without a valid reason. For the majority of job seekers, these compulsory tasks, called “mutual obligations”, are set by outsourced employment services providers. The mutual obligations must be met in return for income support. Those who do not meet mutual obligations and are considered not to have a valid reason may have their income support suspended, reduced or cancelled.

When a job seeker fails to meet a mutual obligation without a valid reason, they may receive a demerit point. Demerit points accumulate over time rather than resulting in an immediate penalty. If a job seeker accrues multiple demerits, they move through escalating compliance phases that can lead to their income support being suspended, reduced and finally cancelled after repeated non-compliance. Three phases or ‘zones’ (Green, Warning and Penalty Zones), are used as communication tools to show job seekers whether they are meeting their obligations. Through each zone a decision-maker checks the job seeker’s failure to meet mutual obligations to determine if there was a valid reason or reasonable excuse for not doing so. At some points the decision-maker is an outsourced employment services provider, and at other points the decision-maker is a public servant in Services Australia. Financial penalties (such as a 4 week cancellation of benefits) can also be imposed at any time, even if no demerits have been incurred, if a job seeker fails to accept an offer of suitable employment or loses a job as a direct or indirect result of their own behaviour.¹⁰

¹⁰ [New Employment Service Trial \(NEST\) – Targeted Compliance Framework: Work Refusal and Unemployment Failures – Department of Employment and Workplace Relations, Australian Government; Mutual obligation requirements – JobSeeker Payment – Services Australia](#)
[Demerits and penalties for not meeting mutual obligation or participation requirements – JobSeeker Payment – Services Australia](#)



Under the TCF, DEWR¹¹ is responsible for the participation and compliance policy that job seekers are required to comply with. Services Australia is delegated the responsibility for delivering income support for job seekers, including reducing and cancelling income support for non-compliance with mutual obligation requirements.

The TCF is underpinned by a predominately automated, large-scale IT system.

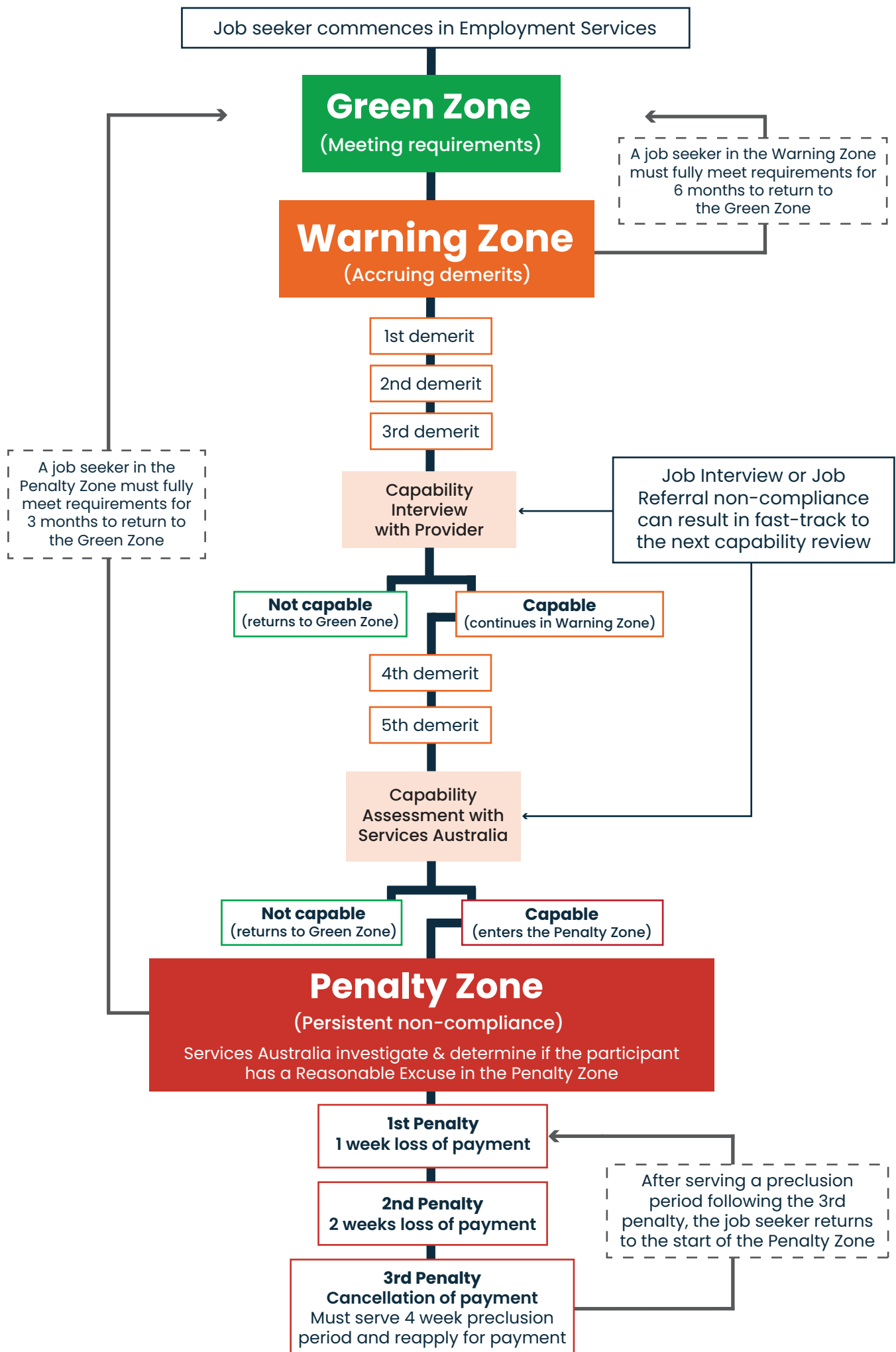
The flowchart on the following page demonstrates how the TCF is intended to operate. The flowchart does not reflect that parts of the TCF are currently paused following decisions made by the Secretary of DEWR.¹²

¹¹Note on 1 July 2022 the Department of Education, Skills and Employment (DESE) was split into the Department of Education and the new Department of Employment and Workplace Relations. For ease of reference this report refers to DEWR throughout, including when discussing actions that it would have taken when its functions were part of DESE. [Changes to the Department of Education, Skills and Employment - Department of Education, Australian Government](#)

¹² [Assuring the integrity of the Targeted Compliance Framework - Department of Employment and Workplace Relations, Australian Government](#)



Targeted Compliance Framework



The issue – a new discretion

In April 2022, the [Social Security Legislation Amendment \(Streamlined Participation Requirements and Other Measures\) Act 2022](#) (**SPROM Act**) amended the TCF.

One amendment changed the way decisions were made to reduce or cancel job seekers' income support for mutual obligation failures when they were in the Penalty Zone (**2022 amendment**).

Before the SPROM Act, if a Services Australia decision-maker was satisfied that a job seeker had committed persistent mutual obligation failures without a reasonable excuse, s 42AF(2) of the SSA Act **required** the decision-maker to reduce or cancel the job seeker's income support.



Pre-2022 amendment s 42AF(2) SSA Act relevantly provided:

Special rule – persistent mutual obligation failures and no reasonable excuse

(2) If:

(a) the Secretary is satisfied in accordance with an instrument made under subsection 42AR(1) that the person has persistently committed mutual obligation failures; and

(b) the person does not satisfy the Secretary that the person has a reasonable excuse for the relevant failure (see sections 42AI and 42AJ);

the Secretary **must**, in accordance with that instrument, determine:

...

(d) that the person's participation payment is cancelled (see section 42AP).

The 2022 amendment changed this by giving Services Australia decision-makers the **discretion** to reduce or cancel a job seeker's income support. This meant the decision-maker needed to undertake a further step in the decision-making process (in addition to determining whether the job seeker had a reasonable excuse for the mutual



obligation failure). Now, the decision-maker had to also turn their mind to whether the job seeker's circumstances were such that a reduction or cancellation was the appropriate response to the job seeker's failure to comply.



Post-2022 amendment s 42AF(2) SSA Act relevantly provides:

Special rule – persistent mutual obligation failures and no reasonable excuse

(2) If:

(a) the Secretary is satisfied in accordance with an instrument made under subsection 42AR(1) that the person has persistently committed mutual obligation failures; and

(b) the person does not satisfy the Secretary that the person has a reasonable excuse for the relevant failure (see sections 42AI and 42AJ);

the Secretary **may** determine:

...

(d) that the person's participation payment is cancelled (see section 42AP).

The Revised Explanatory Memorandum for the SPROM Act explained that the reason for this change was to give flexibility to decide whether to cancel a job seeker's payment in circumstances where the penalty 'will have no practical effect or is otherwise not the appropriate response to the person's failure'.¹³ For example, a job seeker might miss a morning appointment with their employment services provider, which was a failure to comply, but attend later on the same day.¹⁴ The amendments sought to assist the practice of the immediate reinstatement of a cancelled payment where a reasonable excuse was accepted by a Services Australia decision-maker shortly after the reduction or cancellation had occurred.

¹³ SPROM Bill Revised Explanatory Memorandum, p 99.

¹⁴ SPROM Bill Explanatory Memorandum, p91.



What we found

Our central finding is that DEWR and Services Australia failed to take adequate steps to ensure the TCF was implemented in accordance with the 2022 amendment. This resulted in unlawful decisions to cancel income support under s 42AF(2) from April 2022 until the DEWR Secretary paused these cancellations in July 2024. We also found that the agencies failed to take all of the steps required under those amendments to safeguard job seekers.

These failures are particularly concerning given that since the inception of the TCF, the agencies were aware of, and had been warned about, the risks inherent in automation of income support decisions under the TCF. These issues had consistently been raised by advocacy groups and other stakeholders, including the likely disproportionate impact of automated processes on the most vulnerable job seekers. These risks were again canvassed in submissions made by stakeholders to the parliamentary inquiry into the 2022 amendments.

The Parliament acknowledged some of these critical risks by including the Digital Protections Framework (**DPF**) in the SPROM Act. The SPROM Act required the DEWR Secretary to determine the DPF to ensure job seekers who used digital services were treated fairly, and to provide greater assurance to stakeholders that employment services were administered ethically.¹⁵ Despite this, over three years since the requirement was made by Parliament, the DEWR Secretary has still not determined the DPF.

Despite their awareness of the risks in automating income support decision-making, and the serious impacts these decisions can have on the most vulnerable job seekers, in our view the agencies failed to adequately interrogate and consult on the impact of the amendments and implement legislative safeguards. DEWR also took too long to act once they identified potential unlawful cancellation decisions.

¹⁵ SPROM Bill Revised Explanatory Memorandum, p 26.



Finding 1 – Cancelling income support was not lawful

Failure to exercise a discretion about whether income support should be cancelled under the TCF poses potentially significant, if not catastrophic, consequences for vulnerable job seekers.

We found the agencies' s 42AF(2) cancellations of income support payments for job seekers who failed to meet their mutual obligations without a reasonable excuse did not comply with the law. The decisions were not consistent with, and did not appropriately implement, the new discretion to cancel income support payments that Parliament had enacted in the 2022 SPROM Act.¹⁶

As illustrated in the flowchart on page 11, once a job seeker in the Penalty Zone commits a third mutual obligation failure, a Services Australia decision-maker will consider whether the job seeker has a reasonable excuse for that failure.

Prior to the 2022 amendment, the decision-maker only had to consider whether the job seeker had a reasonable excuse for the mutual obligation failure.

Where the decision-maker is satisfied the job seeker has a reasonable excuse for the mutual obligation failure, their decision is recorded on the computer system and the income support payment is not cancelled. However, if the decision-maker is not satisfied the job seeker has a reasonable excuse for a mutual obligation failure, they will record the failure on the computer system – which then automatically cancels the income support payment.

However, as discussed above, in April 2022, the SPROM Act introduced a discretion into s 42AF(2) of the SSA Act requiring decision-makers to exercise their **discretion to determine whether to cancel** a job seeker's income support payment even if they were not satisfied that the job seeker had a reasonable excuse for a mutual obligation failure. Despite this, after the 2022 amendment, the practice continued that if the decision-maker was not satisfied the job seeker had a reasonable excuse, income

¹⁶ Under s 6A of the SSA Act, DEWR's secretary may arrange for the use of computer programs to make decisions under the social security law. Decisions made using computer programs under s 6A are deemed to be decisions of DEWR's Secretary.



support payments were immediately cancelled by the automated system as soon as the decision-maker recorded the failure into the system. This meant that once a decision-maker determined they were not satisfied that a job seeker had a reasonable excuse for a mutual obligation failure and recorded that failure into the system, the system automatically cancelled the income support. Not only did the system cancel the payment without reflecting the need for a discretionary decision as to whether cancellation should occur, the decision-makers themselves did not embark upon that discretionary consideration.

As outlined in the Commonwealth Ombudsman's [Automated Decision-Making - Better Practice Guide](#), agencies should ensure systems do not constrain decision-makers in exercising any discretion they have been given under relevant legislation or lead to a failure to consider relevant matters which are expressly or impliedly required to be considered by the statute.

In our view, the TCF automated system both constrained decision-makers from exercising their discretion and led to the failure of decision-makers to decide whether to cancel income support payments once they decided a job seeker did not have a reasonable excuse for a mutual obligation failure.

We note DEWR is conducting a legal review to examine the way decisions are being made under the legislation it administers to ensure alignment with the law. DEWR is focussing on the 3 areas where a job seeker's income support may be particularly affected (suspensions, reductions and cancellations). A critical part of the review involves DEWR fully understanding what automation is occurring and the impact of this on people. We are pleased that a person-centric focus is an element of this review. We consider agencies should have the individual at the front of their mind whenever a step is being taken that may detrimentally affect a person's interests.

Also of importance, the independent Assurance Review has been undertaken by Deloitte to critically evaluate the computer system operating the TCF and to assess this against DEWR's policy and business rules.

The Deloitte Review was completed in June 2025 and found DEWR's computer system had become increasingly unstable, with volatility directly impacting compliance function operation and significantly increasing the propensity of the system to deliver unintended results, including flawed determinations and outcomes for job seekers. The Review determined that assurance could not be provided regarding the integrity,



effectiveness, or appropriateness of decisions produced by the TCF IT system in its current form. The Review found that the computer system's logic was not aligned to the TCF's policy and legislative intent, and that current practices risk generating unlawful outcomes. Also, high risks were assessed against system design, implementation and caseload approach and management.¹⁷ This included confirmed adverse impacts on job seekers arising from latent design flaws and unanticipated consequences of iterative system changes. The Review picks up many of the findings in our investigation and should serve as a confirmatory call to action for DEWR.



Recommendation 1

The Secretary of DEWR not resume cancellations under s 42AF(2) of the SSA Act until satisfied that the identified errors have been rectified and that policies, processes and systems are in place that will ensure cancellations comply with the law.

Finding 2 – The DEWR Secretary has not implemented the Digital Protections Framework

The 2022 amendments to the legislation also required the Secretary of DEWR to establish a DPF. This amendment was made to ensure job seekers who use the digital employment services introduced by the amendments were treated fairly, and to provide greater assurance to stakeholders that employment services are administered ethically.¹⁸

Digital employment services allow job seekers to agree to mutual obligation requirements, and report against them, using online tools. Almost a third of job seekers in the Workforce Australia caseload meet their mutual obligation requirements this way, instead of using employment service providers.¹⁹

¹⁷ [DEWR Secretary's opening statement to Additional Senate Estimates, 26 February 2025](#), [DEWR Secretary's statement – 21 March 2025 – Department of Employment and Workplace Relations, Australian Government](#).

¹⁸ SPROM Bill Explanatory Memorandum, p. 26.

¹⁹ At 31 May 2025, 699,105 job seekers were in the Workforce Australia caseload. Of these 29% (202,950) were on the Workforce Australia Online caseload and 71% (466,265) were in the Workforce Australia Services caseload. See [Workforce Australia Caseload Data Time Series – October 2022 to May 2025 – Department of Employment and Workplace Relations, Australian Government](#)



The Employment Secretary must, by legislative instrument, determine a digital protections framework for employment services programs established by the Commonwealth (s 159A(7) of the SPROM Act).¹⁹

The DPF was one of the legislated checks and balances for employment services and was a measure to promote the right to social security and through that the right to an adequate standard of living.²⁰

‘... responding to stakeholder concerns, the government has agreed to make amendments to require a digital protections framework be contained in a legislative instrument, providing greater assurance that employment services are indeed administered ethically’. – The Hon Stuart Robert MP, Minister for Employment, Workforce, Skills, Small and Family Business.²⁰

The DPF was required to deal with:

- natural justice
- human rights
- transparency and freedom from bias
- privacy and
- accessibility.

A DPF has not been established to date.

DEWR provided information showing that it had drafted and consulted on a DPF instrument throughout 2022 and 2023. However, it stated that following the Robodebt Royal Commission, the DEWR Secretary deferred making the DPF to ensure consistency with the Attorney-General’s Department’s work on a whole of government approach to automated decision-making. In November 2023 the Select Committee for Workforce Australia Employment Services recommended the DPF be developed, noting that unless

²⁰ SPROM Bill Revised Explanatory Memorandum, p17 – Statement of Compatibility with Human Rights.



appropriately managed, automation of employment services can have a significant negative impact on vulnerable people.²¹

It has now been over 3 years since Parliament imposed the requirement on the DEWR Secretary to establish the DPF. The instrument was still in draft when the Robodebt Royal Commission delivered its report on 7 July 2023, more than a year after Parliament had enacted the requirement for the Secretary to establish the DPF.

While understanding the DEWR Secretary's desire not to determine a DPF that might subsequently turn out to be inconsistent with the whole of government work on automated decision-making, which was a response to a recommendation of the Royal Commission, if the DPF did prove to be inconsistent it could have then been revisited and re-made.

It would have been significantly preferable to have a DPF in place, rather than not have anything in place for an extended period, given that the DPF was intended to provide protections for people receiving income support – and throughout this period job seekers were subject to strict mutual obligation requirements under the TCF's digital compliance process.

We do not consider a delay of over 3 years, coupled with an indefinite commitment to future action, is reasonable. It does not satisfy the legislative requirement in the SPROM Act that the Secretary establish the DPF.

In our view, if Parliament imposes an obligation on an agency head without specifying a timeframe (as was the case here), the agency head should aim for implementation as soon as reasonably practicable.



Recommendation 2

The DEWR Secretary comply with s 159A of the *Social Security Legislation Amendment (Streamlined Participation Requirements and Other Measures) Act 2022* and determine a Digital Protections Framework.

²¹ [Rebuilding Employment Services](#), Final report on Workforce Australia Services, House of Representatives, Select Committee on Workforce Australia Employment Services, November 2023, paragraph 10.97 and Recommendation 36.



Finding 3 – Insufficient consideration and consultation during the legislative drafting process.

In response to our questions about what changes were made to reflect the 2022 amendment, DEWR and Services Australia consistently told us that no changes were made to its policies, procedures, processes or the automated system that had been supporting cancellation decisions since the introduction of the TCF in 2018. We did note that apart from the Social Security (Administration) (Non-Compliance) Determination 2018 (No.1), the agencies did not change any other processes or policies to reflect the new discretion to cancel income support.

'... the intent of the amendments was to better reflect existing practice and procedures. Accordingly, there were no changes to practice or processes envisaged or made...'

DEWR, February 2025²¹

In our view, the belief that the intention underpinning the amendments made by Parliament was that no changes would be made to practices or processes, an intention which was also reflected in the Revised Explanatory Memorandum for the SPROM Bill,²² meant that there was no consideration of the actual amendment made when Parliament enacted the Bill introduced by the government – which in fact introduced a broad discretion into the legislation.

Where legislation is changed, it is essential agencies pay attention to the ramifications of the change for their processes and systems. This is a lesson applicable to all APS agencies.

DEWR advised us of its general principles of consultation during the legislative change process, including with internal and external stakeholders affected by the legislation. Regarding internal consultation, DEWR explained in high level terms that its proposed legislation is compared to the policy proposal, and necessary process changes are

²² SPROM Bill Revised Explanatory Memorandum, pp 45–46.



progressed with regard to the legislation. DEWR's Audit and Risk Committee is notified biannually of new legislation and policy changes that impact DEWR's activities.

DEWR did not provide us with evidence of its internal or external consultation processes or procedures, or demonstrate how these ensure legislation is implemented in a lawful way. As a result, we could not be satisfied on the information provided that DEWR has meaningful and comprehensive processes for internal or external consultation on legislative change.

DEWR's internal consideration and consultation

In instructing its legal team in drafting the amendments, DEWR's policy team appeared to make assumptions regarding what its legal team knew about the computer system's automated decision-making process. DEWR told us:

'... when the amendments were drafted policy [team] thought legal [team] understood how processes, which included automation, operated at that time and the practical implications of language in the Explanatory Memorandum that process changes were not intended ...'

Although the legal team drafted the amendments in accordance with the terms of the policy authority and the policy team's instructions, it was also the instructing policy team's responsibility to ensure the legal team had all the information required to provide comprehensive and proper advice on the impact of the new discretion, including on automated systems in place. The fact the policy team instead assumed the legal team's knowledge of the process is particularly concerning given at this time policy teams would have, or at very least *should* have, been aware of the issues and risks of the automated system. The complexity of the automated system alone should have alerted instructing policy team about the need to carefully consider adjustments, and to ensure that all who were advising on these changes were well briefed on the interrelated systems. The failure to do so is compounded by the fact an initial error in the computer system had already been identified by DEWR's IT team in April 2020. This error extended the duration job seekers spent in the Penalty Zone and applied to an estimated 1,165 job seekers.²³

²³ [DEWR Secretary's opening statement to Additional Senate Estimates, 26 February 2025.](#)



We are also concerned with the lack of consideration DEWR's legal team gave to how the broad new discretion to cancel income support would align with DEWR's current decision-making processes.

Automation of decisions is an evolving area, and there is not yet clear and definitive guidance from the courts about whether it is necessary for all discretions to be exercised personally by a decision-maker. In view of this uncertainty, and to ensure computer systems uphold administrative law principles, agencies should avoid automating discretions until they have sought independent external legal advice.

[Commonwealth Ombudsman, Automated Decision-Making – Better Practice Guide, p.16](#)

DEWR told us that it gave no legal consideration about how the 2022 amendment would impact automated cancellation decisions, and provided the following explanation:

'... legal [team] thought policy [team] understood the implications of the amendments as drafted and the amendments reflected the policy intention. The s 42AF amendments were therefore never designed to support automation of decisions'.²³

We are concerned by this statement, as it demonstrates that DEWR's policy and legal teams had conflicting understandings of how the cancellation decision processes operated. DEWR's policy team appeared to understand the automation in the system, whereas the legal team was clear the amendments would *not* support automation.

Further, it is the legal team's responsibility to advise on the implications of amendments on agency processes, including turning its mind to impacts that may extend *beyond* the policy intention as stated.

The new discretion to cancel income support in the 2022 amendment, which was drafted on DEWR's instructions, introduced by the government and enacted by Parliament, was broad. Its terms did not explicitly provide for how it should be exercised, or what considerations should, or should not, be considered in exercising it.

Indeed, the Revised Explanatory Memorandum appears to give the discretion an expansive reach explaining:

...the Secretary will be given the flexibility to decide not to suspend or cancel a person's participation payment in circumstances where the sanction will have no practical effect or is otherwise not the appropriate response to the person's failure (emphasis added).²⁴

The inclusion of a new and apparently very broad discretion alone should have alerted the legal team that the discretion had the *potential* to have implications beyond simply supporting current decision-making processes, and to ask questions about whether and how the current process aligned with this.

Had the legal team turned its mind more fully to how the new discretion might apply to the current decision-making processes, this could have encouraged further questions to, and discussion with, the relevant policy and operational areas about how cancellation decisions are made in practice, including any automated aspects.

In our view, DEWR's officers' intentions that processes would not be changed as a result of the new discretion, and their assumptions about their respective policy and legal colleagues' understanding of the current decision-making processes, hampered their proper and thorough consideration about whether and how automated decision-making should change to reflect the broad new discretion introduced by the 2022 amendment.

In its response to us DEWR demonstrated an awareness of the problem resulting in a change to its processes, stating:

'The department's social security policy and legal areas have been closely working together on operational issues and sought to improve policy engagement with legal risks particularly in the area of automation'.²⁵

²⁴ SPROM Bill Explanatory Memorandum, p 92

²⁵ DEWR Response on 3 March 2025.



The capacity for agencies to execute their responsibilities is dependent on robust and agile accountability arrangements. When working together, the roles and responsibilities of legal and policy teams must be robust enough to remove assumptions and scrutinise actions and processes where needed. The DEWR policy team made assumptions about the legal team's understanding of the automated processes affected by the 2022 amendment, and as such did not fully brief the legal team on this. We also found that DEWR's legal team did not consider potential impacts broader than those presented by the policy team.

The need to thoroughly consider all automated aspects and ask questions where there were information gaps was magnified because decisions made by the TCF computer system impacts many people in our community who, being unemployed, are likely to be already living below the poverty line and wholly dependent on income support to feed and house themselves.



Recommendation 3

DEWR and Services Australia develop a placemat on roles in legislation development that is provided to all staff at the start of a legislative drafting process. The placemat should include who is responsible for ensuring and consulting on related automated systems' compliance with administrative law principles.



Recommendation 4

All DEWR and Services Australia staff who make delegated decisions, and work on decision-making policy, be provided annual training on administrative law requirements for making valid decisions, including the exercise of discretion.

Consultation with Services Australia

DEWR's intention that the new discretion would not change existing processes also hampered the effectiveness of its consultation on the 2022 amendment with Services Australia. When examining the consultation process between DEWR and Services Australia, we sighted evidence of DEWR consulting with Services Australia in the month



leading to the Bill being introduced on 27 May 2021. These were very tight timeframes considering the Bill was large, with many measures beyond this particular measure, and had far ranging implications for the TCF and the implementation of the Workforce Australia program.

Costing requests and consultation drafts of the SPROM Bill provided by DEWR to Services Australia included high level summaries of the Bill, with statements that the changes involved providing more flexibility in the TCF. In an email from DEWR to Services Australia attaching a draft of the SPROM Bill, DEWR referred to the change from “must” to “may” as providing more flexibility in the compliance legislation, and that DEWR did not want to change how policies or processes operate at this stage.²⁶

Services Australia responded asking for more detail about the removal of 'must' in the legislation to confirm the change's impact, and stated that it was 'critically important' to get together with DEWR to discuss this and the other components it had questions about in its email.

Services Australia was not able to provide our Office with evidence that recorded its consideration and conclusions of how the change in the discretion would impact its processes, including how the new discretion would intersect with the automated cancellation process. The only evidence we sighted was an email from DEWR to Services Australia discussing a meeting held on 27 April 2021, four days after Services Australia's email above to discuss the draft Bill. In that email DEWR reiterates that:

'as discussed', the intention of the bill is to better legislatively support existing policies and processes, not to change them. As mentioned the EM will clarify that policy/process changes are not expected to eventuate from the bill, and we will be leaving the process outlined in the guide to social security the same. From our discussions, I understand that no SA [Services Australia] impacts have been identified. However, if impacts are later identified... then we could re-assess as needed.'

²⁶ Email stated 'Previous compliance legislation typically referred to circumstances where a person 'may' be penalised or suspended. It is proposed to introduce more flexibility into compliance legislation, including by specifying that compliance action 'may' be taken rather than 'must'.



The material we reviewed showed Services Australia raised no further concerns following this email. In its response to our investigation questions, Services Australia stated:

'it was the understanding of both agencies that the intention of the change was to support existing processes, not to change them'.

Given the questions of Services Australia in late April 2021, it appears it must have come to this view between 27 April 2021 and the Bill's introduction on 27 May 2021.

This lack of evidence raises questions regarding how thoroughly Services Australia was considering the issue, particularly given it was aware of the inherent complexity of the TCF and its supporting computer systems, legislation, policies and procedures.

In our view Services Australia should have acted with greater scrutiny during the consultation process. It appears that Services Australia accepted the narrative from DEWR that no changes would be needed to its processes.

When considering new legislation, agencies should seek to identify all potential impacts on people and ensure their understanding of the effects of legislation is derived from all appropriate sources, including, where necessary, raising the need to obtain independent professional advice. It is important to ensure the rationale and outcomes for decision-making processes are stepped out. This is no less important in cases where the agency does not hold policy responsibility for the legislation but maintains a key delivery role (as was the situation with Services Australia). Agencies should fully document this process for transparency and to enable scrutiny.

We consider that the speed at which consultation was occurring, coupled with DEWR's belief that the new discretion would not change processes, hampered the ability of both agencies to critique potential impacts initially queried by Services Australia. We acknowledge that the introduction of new legislation in tight timeframes can make it difficult for agencies to thoroughly consider impacts of the change. We are aware that timing is not always in the agency's control and that they need to be appropriately responsive to government scheduling. These amendments were only a small part of a much bigger Bill with many components, being prepared at speed. When things are being done at speed, it is critical to both be clear about what the impact is and also to be alive to and care about any independent feedback (as came from Services Australia in this case) that there may be an issue. This is particularly when amending a complex system where IT errors had already been identified. This is a valuable check in the process, and one that was missed in this case.



External consultation

DEWR told us it consulted externally about the 2022 amendment with a range of agencies including the Attorney-General's Department, and with stakeholders outlined in the Revised Explanatory Memorandum of the SPROM Bill.²⁷ DEWR also discussed its engagement of a specialised drafting team in the Office of Parliamentary Counsel.

DEWR stated that no errors with drafting or unintended consequences were identified prior to passage of the Bill.

DEWR did not provide evidence of this consultation, so we cannot confirm whether other agencies did alert, or could have alerted, DEWR to the risks of not amending current automated cancellation processes in light of the new and broad discretion to cancel payments. In the usual legislative change process, relevant agencies such as the Attorney-General's Department are given an opportunity to review the Bill and its supporting material, to consider how the purpose of the Bill would affect the policy or programs for which they are responsible. As such, unless expressly advised of it by DEWR as part of this process, agencies would not have had any meaningful visibility of the automated system. This would have understandably limited their ability to provide appropriate advice and feedback.

Finding 4 – Quality assurance activities did not identify the error

It is vital that agencies using an automated system for administrative decision-making have robust processes for testing the system, both during its development and following its implementation. Testing of the system should commence from first principle (i.e. from the first level of legislative rules), occur each time a modification to the system is made, and provide an ongoing monitoring cycle of the appropriateness of the decision-making carried out throughout the life of the system.

[Commonwealth Ombudsman, Automated Decision-Making Better Practice Guide, page 38](#)

²⁷ SPROM Bill Revised Explanatory Memorandum, pp 14 to 15.



DEWR's assurance processes

The DPF requires the DEWR Secretary to take reasonable steps to ensure that the design of technological processes is subject to quality assurance and that decisions that are made with the involvement of a technological process must be reasonably transparent to persons affected by them.

DEWR told us that the draft DPF was to legislate existing protections and that processes were already in place within the department to assure these elements. As such, it stated that many digital protections included in the DPF already existed.

In reviewing DEWR's assurance processes, our view is that the safeguards required by the DPF could have been better developed and incorporated into DEWR's processes, to reduce the risk of DEWR making the initial error in s42AF(2) cancellation decisions, and continuing that error.

In response to our investigation questions DEWR outlined a range of activities it uses to quality assure decisions to cancel income support.

At a glance: DEWR assurance activities

- **Reviews:** Reviews of demerit events; compliance history of job seekers with four demerits points; job seekers found capable in a capability assessment or newly entering the Penalty Zone. Reviews include reviews of provider scheduling, recording and servicing. This includes a 2024 review of guidance for delegated decision-makers by an external legal services provider.
- Communication, outreach and education of providers.
- **Training material and guidelines** to support decision-makers understand what they must consider in making decisions and decision implications.
- **Functional IT system tests** before system releases, to test that system processes, coding and workflows align with business rules and do not result in unintended system behaviour.

The review, communication, training and education activities above appear to be mainly focussed on ensuring the content of decisions are appropriate and lawful, rather than whether the computer systems involved in decision-making comply with and are consistent with the legislative framework. The report by an external legal services provider on guidance for delegates was finalised after the cancellation issue had been identified.



Further, from the information DEWR provided, we could not be assured that its functional IT system tests check the compliance and consistency of the TCF computer system with the relevant laws. In its planning documents for the DPF,²⁸ DEWR stated that its Program areas work with IT teams in designing and assuring that IT processes work the way they are intended, but we did not receive further information on how this is done.

We are pleased that DEWR has taken steps to conduct reviews to assure the integrity of the administration of the TCF and to ensure decisions taken through the TCF are lawful and robust.²⁹ These reviews, as outlined in Finding 1 above, include an independent assurance review to examine the IT system operating the TCF against policy and business rules to seek to ensure the system is operating as intended; and a legal review to examine whether decisions are being properly made and whether decision-making processes are aligned with the law.

Services Australia's assurance processes

Services Australia also provided evidence of various assurance processes relevant to how it makes decisions to cancel income support.

At a glance: Services Australia assurance activities

- Accountable Authority Instructions.
- Risk Management Framework and Agency Control Library.
- Adverse Customer Event Response (ACER) Team.
- Quality Management Application quality checking system.
- Access, security and prerequisite training for system users.

The *Accountable Authority Instructions* and *Risk Management Framework* are high level agency-wide documents, which do not outline or deliver ongoing testing or assurance specific to how TCF computer systems comply and are consistent with relevant TCF legislation and policy.

²⁸ DEWR Att 58 – DPF Assurance Table, Rows 1 and 2

²⁹ [Assuring the integrity of the Targeted Compliance Framework – Department of Employment and Workplace Relations, Australian Government](#)



Services Australia advised us that the ACER team was established in October 2021 to provide a framework for investigating incidents where a customer has had a significant adverse outcome. This could include considering systemic issues, working with relevant business areas to provide insights and identifying business improvement opportunities. Services Australia also provided evidence of its Quality Management Application checking system, which includes checking whether the agency's decisions are supported by legislation, policy and operational messages.

While the ACER team and quality checking system appear to be good initiatives, they would have been unlikely to have identified the inconsistency of automated cancellations. This was because, like DEWR, Services Australia was operating under the assumption that the automation of cancellation decisions was consistent with legislation and policy. As such, the automated cancellations would have been unlikely to have met the criteria required to be identified by the ACER framework such as evidence of poor agency administration. Similarly, the automated cancellation decisions would have been unlikely to have been identified by the Quality Management Application checking system, which is used to identify decisions that are not supported by legislation.

Section 16 of the Services Schedule between Services Australia and DEWR also sets out the assurance activities Services Australia must have in place to satisfy DEWR of its audit and program accountability requirements. These are simply for Services Australia to provide 'case studies' on an 'as required' basis to DEWR on its application of financial penalties and capability assessments. For similar reasons we doubt this would have assisted either agency to identify the erroneous automated cancellation decisions.

We are pleased with Services Australia's advice that since this issue was discovered, it conducted reviews in 2024 and has taken steps to establish structures to ensure that its use of automation, including legacy automations, are fair, people-centred, legal, ethical, effective and in line with whole-of-government policies. We are also pleased with its advice that it will continue to take steps to strengthen and uplift its automation and governance surrounding automation initiatives, including incorporating the Australian Public Service-wide Experience Design Principles, conducting ongoing reviews of existing and legacy automations, and changes to assurance nomenclature.



We also note Services Australia recently released its Automation and Artificial Intelligence Strategy 2025–27.³⁰ The Strategy relevantly provides that principles of administrative law and compliance with legislative requirements must be considered in the design of automated processes, and that Services Australia’s governance and assurance mechanisms have checkpoints embedded throughout the relevant phases of its initiative pathway, to seek to ensure it effectively manages risk and compliance. Although risk assessments are already an existing requirement for Commonwealth agencies, incorporating greater detail about risk assessments for automated decision-making in a new framework may also help clarify the relevance of risk assessment to automated decision-making processes.³¹



Recommendation 5

DEWR and Services Australia ensure they have systems in place that provide ongoing assurance that the administration of the TCF complied with the law and relevant policies. This should include risk management policies and procedures regarding automation in the TCF computer system.

Finding 5 – Significant delay between identifying the error and pausing the cancellations.

The error in automating cancellation decisions of income support went undetected from April 2022 until September 2023, when it was raised by external legal advisors in the context of providing advice to DEWR on a separate issue.

From then it took almost 10 months for DEWR to decide to pause decisions to cancel income support in July 2024. During this time, DEWR engaged in a series of consultations with advisors which included meetings, discussions and consideration of draft advice. However, we are concerned at the apparent lack of urgency in obtaining a final concluded position about a significant issue that had been occurring since April 2022.

³⁰ [Automation and Artificial Intelligence Strategy 2025–27](#)

³¹ See AGD paper [Reform of automated decision-making legislation – Consultation paper](#).



It took DEWR almost 6 weeks to formally seek initial advice, it was not until March 2024 DEWR received a draft advice and the advice was not eventually finalised until September 2024.

We acknowledge there were events that added to the time taken for DEWR to progress its consideration and make a decision. However, almost 10 months to get to this point is not acceptable given the effect it had on job seekers in highly vulnerable circumstances. Over this 10-month period, many weeks and in one case several months elapsed before the matter was substantively progressed.

It is unclear whether DEWR should have acted to pause cancellations in September 2023 when it first became aware there was risk that it was not exercising a lawful discretion to cancel a job seeker's income support. However, we consider that once this risk assumed a high level of certainty following the provision to DEWR of draft advice in March 2024, DEWR was then armed with enough knowledge to act without delay and well before July 2024. Instead, against the interests of those affected, DEWR chose to continue the status quo. It appears DEWR chose to pass the risk of the consequences for cancellation decisions to job seekers rather than assuming the risk for itself.

The Office has made recommendations and comments across a range of recent reports and submissions regarding the importance of timely action to identify and address systemic errors.³² We are concerned to see a continuation of the same sort of issues where agencies are not acting quickly enough to identify and rectify these errors. As outlined in our submission to the Parliamentary Inquiry into the use and governance of artificial intelligence by public sector entities, quick action is particularly important where errors are identified in automated systems, given the potential for these systems to apply errors with large-scale and immediate effect.

Further, we caution all agencies who identify a potential systemic error in their administration to ensure they are proactive in alerting this Office. We ask agencies to act with haste and quickly tell us what has happened. The Office has a responsibility to manage complaints from individuals who may be affected by errors in automated decision-making, and timely advice regarding potential large scale adverse impacts

³² [Commonwealth-Ombudsman-submission-inquiry-into-the-use-and-governance-of-artificial-intelligence-systems-by-public-sector-entities.pdf](#) and [Accountability-in-Action-identifying,-owning-and-fixing-errors.pdf](#).



allows the Office to deliver high quality service to complainants, while ensuring information is clear and consistent for those affected. It also allows the Office to identify early on any issues of concern which may ultimately lead to findings and recommendations for improvement that help people and the agency. Delay in advising our Office is not acceptable and may aggravate and compound the problem for people affected. In the present case, we consider DEWR should have raised the matter with our Office around the time the decision was made to pause income cancellation decisions, that is July 2024, not December 2024.



Recommendation 6

DEWR and Services Australia prepare a plan for identifying and assessing the scale and impact of legal, policy and administrative errors in the TCF, and for their timely remediation. The plan must have strategies and actions to identify and manage potential errors with large scale and immediate impact. The plan could include options for large-scale remediation (not only case-by-case) that would simplify and expedite the process for both those impacted and for the agencies.



Recommendation 7

DEWR and Services Australia proactively and quickly rectify identified issues with automated decision-making that have the potential to have adverse impacts on people in vulnerable circumstances. This includes providing timely advice to our Office.

TIMELINE OF KEY EVENTS

2018

1 July

The TCF is introduced.

2020

April

DEWR IT area identifies **first IT error** in TCF computer system, affecting payments dating back to the commencement of the TCF in July 2018. This error incorrectly extended the period of time a job seeker remained in the penalty zone. This first and second error below impacted 1,165 job seekers.

2021

27 May

SPROM Bill introduced to Parliament.

June

DEWR identifies **second IT error** that incorrectly extended the period of time a job seeker remained in the penalty zone, following policy changes made in December 2020. The first and second errors impacted 1,165 job seekers.

2022

8 April

SPROM Act commences.

2023

7 July

The Royal Commission into the Robodebt Scheme publishes its report making 57 recommendations including around vulnerable people and automated decision-making.

DEWR program assurance activities uncover inappropriate penalties being applied due to the **first and second IT errors**.

July

10 August/
6 September

DEWR release fix to the **first and second IT errors**.

DEWR became aware of potential unlawful **income support cancellation decisions** being made under s 42AF(2) of the SSA Act.

September

2024

February

DEWR identify a **third IT error** as part of regular assurance activities. The error was a result of the fixes for the earlier errors. The error affects 73 job seekers and applies 99 penalties incorrectly by not exiting job seekers from the penalty zone after a demerit was removed.

April

DEWR release fix to **third IT error**.

May

Fourth IT error identified through Compliance Team/IT analysis of IT business rules and system functionality. Existed since the TCF's inception in July 2018 whereby the job seeker entered the Penalty Zone before completion of the Capability Assessment. This impacted 88 job seekers.

DEWR release fix to **fourth IT error**.

26 June

DEWR pauses **income support cancellation decisions** under s 42AF(2).
No public announcement is made.

4 July

Late September

DEWR identifies a **fifth IT error**. Incorrect cancellation of income support 28 days after a person was notified of a failure, rather after they were notified of the requirement to reconnect, effectively reducing the time a job seeker could reconnect by 2 days. At November 2024 DEWR was investigating the scope of the impact.

DEWR pause cancellations of people's social security payment where a person has not complied with a 'reconnection requirement' within 4 weeks after being notified of that requirement under s 42AM.

24 September

DEWR briefs our Office about potentially unlawful **income support cancellation decisions** being made under s 42AF(2).

27 November

28 November

DEWR publish TCF public data for July to Sep 2024 stating "In July 2024, it appeared ... payment cancellations may have been applied incorrectly. The Department immediately stopped the cancellation of these payments. Payment cancellations remain halted while further inquiries are underway" (see [TCF Public Data – July to September 2024 - Department of Employment and Workplace Relations, Australian Government](#)).

2025

4 February

Ombudsman publicly announces his investigation into DEWR's and Services Australia's **decisions to cancel income support** under the TCF.

26 February

DEWR Secretary makes opening statement to Senate Estimates Committee about operation of the TCF and action being taken. This statement referred to 964 people potentially impacted by unlawful **income support cancellation decisions** made under s 42AF(2).

5 March

DEWR pauses cancellations of people's social security payment and imposition of preclusion periods due to an 'unemployment failure' (ss 42AH(1) and (2)).

6 March

DEWR pauses reductions of people's social security payment due to persistent mutual obligation failures (s 42AF(2)(c)).

21 March

DEWR public statement about decisions to pause income support payment reductions and other cancellations pending ongoing legal and IT reviews ([DEWR Secretary's statement - 21 March 2025](#)).

Glossary

Term	Definition
Capability Assessment	Where a job seeker in the Warning Zone receives 5 demerits, Services Australia will interview the job seeker to check the appropriateness of their requirements and whether there are factors affecting their compliance. If found capable of meeting requirements, the job seeker will enter the Penalty Zone.
Capability Interview	Where a job seeker in the Warning Zone receives 3 demerits, the employment services provider will interview the job seeker to check the appropriateness of their requirements and whether there are factors affecting their compliance.
Demerit	If a job seeker in the Green Zone commits a mutual obligation failure without a valid reason they receive a demerit and enter the Warning Zone. Receipt of further demerits can mean the job seeker progresses through the Warning Zone and ultimately to the Penalty Zone.
DEWR	Department of Employment and Workplace Relations (DEWR). Broadly speaking, DEWR is responsible for the participation and compliance policy that job seekers are required to abide by. On 1 July 2022 the Department of Education, Skills and Employment (DESE) was split into the Department of Education and the Department of Employment and Workplace Relations (DEWR). For ease of reference this report refers to DEWR throughout, including when discussing actions that it would have taken when its functions were part of DESE.

Term	Definition
Employment services provider	Employment services providers are contracted by Workforce Australia to support and advise job seekers in helping them find and keep a job. The focus is on job seekers who are considered to be at a greater risk of long-term unemployment.
Explanatory Memorandum	Document that accompanies a Bill in Parliament (before the Bill is passed into law). It explains the contents of the Bill, its purpose and intended effect.
Job seeker	An eligible person between the ages of 22 and Age Pension age who is looking for and has the capacity to work. A job seeker receives an income support payment.
Job seeker payment	A job seeker payment is one of the 4 income support payments that is subject to cancellation for persistent mutual obligation failure.
Income support payment	Categories of income support payments that are subject to cancellation for persistent mutual obligation failure include: <ul style="list-style-type: none"> • job seeker payment • youth allowance • parenting payment • special benefit.
Mutual obligations	Specified activities that job seekers must do in order to receive income support. These activities include attending meetings set by an employment services provider, looking for jobs and generally engaging in activities aimed at helping job seekers find paid work.

Term	Definition
Cancellation under s 42AF(2)(d)	A decision made under s 42AF(2) of the <i>Social Security (Administration) Act 1999</i> to cancel a person's income support payment and apply a 4-week loss of support.
Reasonable excuse	Services Australia will assess whether the job seeker in the Penalty Zone has a reasonable excuse for non-compliance with a mutual obligation requirement. The same non-exhaustive list of factors considered for assessing a Valid Reason are also considered when assessing a Reasonable Excuse.
Service Australia	Services Australia is delegated the responsibility for delivering, reducing and cancelling income support for job seekers.
<i>Social Security (Administration) Act 1999</i>	Sets out the rules for administering social security payments and benefits. Referred to as the SSA Act in this report.
SPROM Act and SPROM Bill	The <i>Social Security Legislation Amendment (Streamlined Participation Requirements and Other Measures) Act 2022</i> . The Bill refers to the SPROM Act before it was passed by Parliament.
Suspension, reduction and cancellation of an income support payment	<p>A job seeker's income support may be affected 3 ways.</p> <p>Suspension of support which may be temporary with full resumption of support.</p> <p>Reduction of support where 1 or 2 weeks' support is forfeited.</p> <p>Cancellation of support where 4 weeks' support is forfeited.</p>

Term	Definition
Targeted Compliance Framework or TCF	Administrative framework divided into 3 zones (Green, Warning and Penalty) where a job seeker in the Penalty Zone risks suspension, reduction or cancellation of income support for mutual obligation failures.
Valid Reason	A job seeker's employment services provider will assess whether a job seeker in the Warning Zone has a valid reason for non-compliance with a mutual obligation requirement. A non-exhaustive list of factors is considered when assessing a valid reason including whether the job seeker was ill, subject to domestic violence, had safe/secure housing, suffered illness or a medical or mental impairment.
Vulnerability Indicators	<p>Vulnerability indicators can be any one of the following:</p> <ul style="list-style-type: none"> • financial hardship • financial exploitation • failure to undertake reasonable self-care • homelessness or risk of homelessness. <p>These indicators are further defined in the Australian Government Social Security Guide found here.</p>
Workforce Australia	Workforce Australia is the Australian Government's employment service. It includes Workforce Australia Online and a network of employment services providers to help job seekers find paid employment.

Our ref: 2508949

4 August 2025

Ms Natalie James

Secretary

Department of Employment and Workplace Relations

By email to:

Cc:

Dear Secretary *Natalie*

Final Investigation report into the own motion investigation into the Targeted Compliance Framework (Report No. 1)

Thank you for the Department of Employment and Workplace Relations' (DEWR's) response on 21 July 2025 to my draft investigation report regarding DEWR's and Services Australia's administration of the cancellation of participation payments under s 42AF(2) of the *Social Security (Administration) Act 1999* (the SSA Act).

I have carefully considered your response which includes the chronology of DEWR's dealings with [REDACTED] regarding advice leading to the pause of cancellations under s 42AF (the chronology). While the chronology provides further clarity into the instances of correspondence between DEWR [REDACTED]

[REDACTED] it does not change my thinking with respect to my findings or recommendations in the report. I also note that it could have been provided to my Office earlier. For future own motion investigations, I encourage your department to provide the investigation team with all information the department believes relevant during information gathering stage.

Please note that your letter of 21 July 2025 will be annexed to the report. For [REDACTED]
[REDACTED] I have provided a copy of the chronology to [REDACTED]
[REDACTED]

I have also considered the apparent errors of fact identified by DEWR. Where I have considered it appropriate, I have made minor clarifications to the report.

After considering the agencies' responses, I am satisfied the criteria under sections 15(1) and (2) of the *Ombudsman Act 1976* (Cth) (the Act) have been established. Accordingly, I make the final report *Automation in the Targeted Compliance Framework: when the law is changed but the system isn't* (**my report**). A copy of my report is **Attachment A**.

I am pleased DEWR has accepted my recommendations and is committed to effecting important changes that will make administration of the Targeted Compliance Framework fairer for job seekers, many of whom have significant vulnerabilities. My Office will monitor and assess the implementation of my recommendations.

I thank you and your staff for your cooperation during the investigation and your engagement with my Office. I look forward to your agency's ongoing assistance as my Office continues its investigation into whether the decision-making processes that result in cancellation decisions are fair and reasonable, the role of Employment Service Providers and the appropriateness of remediation for those affected by unlawful cancellation decisions.

I have also provided a copy of my report to the Minister and Assistant Minister for Employment and Workplace Relations, the Minister for Government Services, the Attorney-General, the CEO of Services Australia and the Secretary of the Attorney-General's Department.

As foreshadowed in my letter of 30 June 2025, I have decided to publish a copy of my report with DEWR's formal response attached to it. I have redacted personal information, where applicable. Publication will be on 6 August 2025.

Please note that until my report is published, it remains **under embargo** and must not be shared without my Office's express permission.

If you would like to speak with me directly, I am available on [REDACTED] Alternatively,
if your staff would like to discuss my report, they may contact [REDACTED]
[REDACTED]

Yours sincerely



Iain Anderson
Commonwealth Ombudsman

Attachment A – UNDER EMBARGO Final Report No.1– *Automation in the Targeted Compliance Framework: when the law is changed but the system isn't.*

Attachment B – UNDER EMBARGO Media release



Secretary
Natalie James

Mr Iain Anderson
Commonwealth Ombudsman
GPO Box 442
Canberra ACT 2601

Dear Mr Anderson

Thank you for your letter dated 30 June 2025 and the opportunity to respond to your draft first report (Report No. 1) on the Targeted Compliance Framework (TCF) and the cancellation of social security participation payments under section 42AF(2)(d) of the *Social Security (Administration) Act 1999* (Administration Act).

I thank you for your insights and the recommendations contained in your report. I have accepted all of its recommendations. The department's formal response is attached (Attachment A).

The department will promptly act on the recommendations and work with other partner agencies on improving the integrity, operation and transparency of the employment services systems.

Over the past year, in response to the serious concerns our reviews have raised about the operation of the TCF, the department has established the TCF Integrity Assurance Program. This body has formal senior governance, project management and dedicated resources to oversee a program of work to provide assurance that decision making under the TCF is operating in accordance with the legislative framework. As part of this work, I have commissioned a legal review and an independent IT assurance review to seek advice on whether decision making under the TCF is in alignment with the legislative framework and the IT system is operating as intended.

Your report shares common themes with advice emerging in these reviews. It is clear that the implementation of the TCF, both when introduced in 2018, and with subsequent changes made in 2022, did not sufficiently translate the legislative framework and policies into proper decision making and a robust IT system. It is also apparent that our governance and assurance processes are immature, fragmented across legal, policy and operations and do not adequately support the complexity of the system which we integrated into our system.

We are actively working to improve our governance processes, ensuring legal, policy and operational considerations are integrated into our system.

We are maturing our end-to-end assurance processes so that we can identify and rapidly resolve any system issues which have a direct impact on people's social security payment or experience of the employment services system. Critically, we are prioritising our consideration of what needs to change to ensure appropriate transparency and discretion is applied to decisions that impact an individual's social security payments and welfare.

In your report, you have noted the time taken to pause cancellations under section 42AF and especially the time that elapsed between when a question was first raised and my decision to pause these decisions on 4 July 2024.

I have reviewed your draft report carefully and reflected closely on the departmental posture in responding to these critically important matters. I acknowledge the impact of the time that passed to resolve the question on vulnerable people who were relying on their income support. I regret that more people were affected as a result. I can assure you the resolution of the legal question was taken seriously, treated urgently, and was escalated to the most senior levels across the public service.

In working with Services Australia and our legal advisers, it became evident that the convoluted design of the system of decision making involving multiple decision points, decision makers and IT systems, added to the task of tracing the interactions between legal, policy and operational settings. This made the legal advising process more complex than I had hoped.

I have re-examined the state of the legal advice provided to the department prior to my decision and reflected again on my obligation as the responsible Secretary to administer this part of the social security law. I do not consider I had advice that was based on all relevant facts and circumstances to act until July 2024, at which time I acted on the strong preliminary views of my legal advisers. I acknowledge the collaborative, active and diligent work of all the parties involved in getting the clarity and the confidence I needed to take the decision to pause cancellations under section 42AF(2).

To provide you with greater visibility of the detailed interactions before the decision to pause cancellations under section 42AF, a chronology of events is provided at Attachment B. Some of the information contained in Attachment B was not caught by your investigation and may be new to you. We are happy to work with your investigators and provide you with further information on any of these points if it would assist.

The fragmentation and lack of transparency in the administration of these decisions, as currently operationalised, is relevant to your first recommendation.

Addressing it will be a central part of my becoming satisfied that the policies, processes and systems that operationalise section 42AF(2) decisions taken in the future are lawful. The TCF Integrity Assurance process outlined above will address this in making recommendations to me about the future of the system. I will not take any decision to resume cancellations unless and until it can be clearly demonstrated that the process to support the decision making complies with the law.

Since my decision to pause payment cancellations under 42AF(2)(d) of the Administration Act, I have taken further action to pause decision making to reduce and cancel a person's social security payments. In taking these decisions, I have considered both my responsibilities under the *Public Governance, Performance and Accountability Act 2013* and *Public Service Act 1999*.

Front of mind for me and embedded in the principles governing the department's TCF Integrity Assurance Program, is that people subject to these frameworks are often our most vulnerable, including those who are homeless, First Nations people and those with disability. These decisions will remain paused until I can be assured decision making is robust and occurring in accordance with the legislative framework.

As requested, I have also provided a table addressing errors of fact at Attachment C.

I note that a number of your recommendations are the joint responsibility of my department and Services Australia, and I confirm we will work in partnership with Services Australia to ensure a holistic, system-wide view and operational response to your recommendations.

In your letter of 3 June 2025, you outline your intention to prepare 2 reports reflecting your findings and recommendations regarding this investigation. My department will continue to work proactively with your Office to provide all the necessary materials and documents to support your subsequent report. I look forward to receiving it in due course.

If your office would like further information about this response, please contact [REDACTED] or my office.

Yours sincerely

[REDACTED]

Natalie James
21 July 2025

Encl.

Ombudsman's investigation into Targeted Compliance Framework (TCF) and the cancellation of social security participation payments under section 42AF(2)(d) of the *Social Security (Administration) Act 1999* (the Administration Act).

Thank you for your report. The Department of Employment and Workplace Relations (DEWR) welcomes your insights and accepts all of your recommendations.

DEWR is actively working to address the issues identified with the Targeted Compliance Framework (TCF). A legal review continues to examine whether decisions are being taken in accordance with the legislative framework. This review is expected to be finished in the coming months. DEWR is also working through advice from an independent assurance review, which has examined the IT system operating the framework against policy and business rules.

DEWR notes that the recommendations in your report share common themes with advice emerging from the independent assurance review and legal review. There is a clear consistency of views that the implementation of the TCF both when introduced in 2018, and with subsequent changes made in 2022, did not sufficiently translate the legislative framework and policies into decision making and the IT system. DEWR also acknowledges that governance and assurance processes for the TCF are fragmented across legal, policy and operations and do not adequately support the complexity of the system which DEWR administers.

In response to the issues that arose over the course of 2023-24, DEWR has established a TCF Integrity Assurance Program, with formal senior governance and project management to provide strategic oversight and assurance that decision making under the TCF is operating in accordance with the legislative framework. The TCF Integrity Assurance Program includes dedicated resourcing and project streams to drive individual projects, while ensuring an integrated approach to the legal, policy and operational projects, and to advising the Secretary with respect to decision making and appropriately responding to learnings and insights gained from reviews.

DEWR remains committed to identifying and resolving any system issues which have a direct impact on people's social security payment or experience of the employment services system. Embedded in the principles governing this program is that the people who are subject to these frameworks are our most vulnerable. This work is being taken forward in partnership with Services Australia to ensure a holistic, system-wide view and operational response. DEWR has established a TCF Stakeholder Reference Group that brings together key stakeholders to share insights on the current functioning of the TCF and mutual obligation requirements and consult on assurance activities occurring around the TCF, ensuring stakeholder views are considered.

Background

The Secretary has made statements outlining her concerns about the administration of the TCF that applies to people who are required to meet mutual obligation requirements, and fail to do so.

These statements are available on DEWR's website: [Assuring the integrity of the Targeted Compliance Framework - Department of Employment and Workplace Relations, Australian Government](#). These statements detail the Secretary's decisions to pause some parts of the framework while reviews are undertaken and the basis for taking these decisions.

Decisions paused

To date, the Secretary has made decisions to:

- pause payment cancellation decisions due to persistent mutual obligation failures (in effect from 4 July 2024). The relevant provision in the *Social Security (Administration) Act 1999* (the Administration Act) is section 42AF(2)(d).
- pause cancellations of people's social security participation payments for not meeting a 'reconnection requirement' within 4 weeks (in effect from 24 September 2024). The relevant provision in the Administration Act is section 42AM.
- pause cancellations of people's social security participation payments and to impose non-payment periods due to unemployment failures (in effect from 5 March 2025). The relevant provision in the Administration Act is section 42AH.
- pause reductions of people's social security participation payments due to persistent mutual obligation failures (in effect from 6 March 2025). The relevant provision in the Administration Act is section 42AF(2)(c).

Remediation

DEWR is reviewing each decision which cancelled a person's social security payment under 42AF(2)(d) of the Administration Act. DEWR is working with Services Australia to contact impacted people and compensation payments are in the process of being made. Information concerning this review process is available on DEWR's website: [Decision to pause payment cancellation decisions due to persistent mutual obligation failures - Department of Employment and Workplace Relations, Australian Government.](#)

Recommendation	Entity response to recommendations	Action entity proposes to take and expected timeframes for implementation of recommendations
	Please indicate your response to each recommendation. If you do not accept a recommendation, please provide reasons.	Please provide the details of any action you propose to take to implement the recommendation and expected timeframes for implementation, including justification for the timeframes.
Recommendation 1: The Secretary of DEWR not resume cancellations under section 42AF(2) of the SSA Act until satisfied that the identified errors have been rectified and that policies, processes and systems are in place that will ensure cancellations comply with the law.	<input checked="" type="checkbox"/> Accepted <input type="checkbox"/> Not accepted If not accepted, please provide reasons:	Proposed action: The Secretary has implemented this recommendation. Payment cancellations under section 42AF(2) will not resume unless and until the Secretary is confident it can be clearly demonstrated that decision-making is occurring as it should be, and discretion is appropriately exercised. As noted above, DEWR is actively working to restore the integrity of the administration of the TCF. Expected timeframes: Ongoing Justification for timeframes: Decision-making will remain paused until the Secretary has confidence that decision-making to reduce or cancel a person's social security participation payment under section 42AF(2) can be made lawfully and in accordance with policy.
Recommendation 2:	<input checked="" type="checkbox"/> Accepted <input type="checkbox"/> Not accepted	Proposed action:

Recommendation	Entity response to recommendations	Action entity proposes to take and expected timeframes for implementation of recommendations
	Please indicate your response to each recommendation. If you do not accept a recommendation, please provide reasons.	Please provide the details of any action you propose to take to implement the recommendation and expected timeframes for implementation, including justification for the timeframes.
<p>The DEWR Secretary comply with section 159A of the <i>Social Security Legislation Amendment (Streamlined Participation Requirements and Other Measures) Act 2022</i> and determine a Digital Protections Framework.</p>	<p>If not accepted, please provide reasons:</p>	<p>DEWR will initiate new consultation with appropriate stakeholders on the development of an effective Digital Protections Framework. This work will form key part of DEWR's work to improve the transparency of the TCF and an important safeguard for digital services.</p> <p>DEWR will incorporate insights received from reviews and user feedback through our new complaints service to ensure transparency, fairness and accessibility of our services to all participants.</p> <p>Expected timeframes: Consultation will commence as soon as possible after the reviews are complete.</p> <p>Justification for timeframes: Work will commence as soon as possible, informed by insights and recommendations from reviews. In the meantime, decisions to pause cancellations remain in place.</p>
<p>Recommendation 3: DEWR and Services Australia develop a placemat on roles in legislation</p>	<p><input checked="" type="checkbox"/> Accepted <input type="checkbox"/> Not accepted</p>	<p>Proposed action: DEWR and Services Australia will work together to develop a protocol which outlines the roles and</p>

Recommendation	Entity response to recommendations	Action entity proposes to take and expected timeframes for implementation of recommendations
	Please indicate your response to each recommendation. If you do not accept a recommendation, please provide reasons.	Please provide the details of any action you propose to take to implement the recommendation and expected timeframes for implementation, including justification for the timeframes.
development that is provided to all staff at the start of a legislative drafting process. The placemat should include who is responsible for ensuring and consulting on relevant automated systems' compliance with administrative law principles.	If not accepted, please provide reasons:	<p>responsibilities of each entity in the legislative drafting process and relevant consultation. The protocol will support early engagement between the entities regarding program design and implementation matters. The protocol will include clear guidance on the impact of automation and responsibility for consultation on any automated systems and their compliance with administrative law principles.</p> <p>Expected timeframes: December 2025</p> <p>Justification for timeframes: This task will be prioritised to inform the development of any future legislation.</p>
Recommendation 4: All DEWR and Services Australia staff who make delegated decisions, and work on decision-making policy, be provided annual training on administrative law requirements for making valid decisions, including the exercise of discretion.	<input checked="" type="checkbox"/> Accepted <input type="checkbox"/> Not accepted If not accepted, please provide reasons:	<p>Proposed action: DEWR has implemented mandatory training for all staff on exercising discretion, delegations and good decision-making under legislation that must be completed every 12 months.</p> <p>DEWR has developed a legislation and delegation guide that sets out key obligations and requirements imposed</p>

Recommendation	Entity response to recommendations	Action entity proposes to take and expected timeframes for implementation of recommendations
	Please indicate your response to each recommendation. If you do not accept a recommendation, please provide reasons.	Please provide the details of any action you propose to take to implement the recommendation and expected timeframes for implementation, including justification for the timeframes.
		<p>across all legislation which DEWR administers.</p> <p>To supplement this guide, DEWR will review and refine the broader suite of guidance materials and developing operational process maps to ensure decision-makers as well as policy and operations staff are equipped with the capability and information to perform their duties.</p> <p>DEWR is also rolling out additional and comprehensive training for staff on administrative law requirements and good decision making, delivered by external legal advisors.</p> <p>Expected timeframes: This work has commenced and is ongoing.</p> <p>Justification for timeframes: This action has been prioritised and is underway.</p>
Recommendation 5: DEWR and Services Australia ensure they have systems in place that provide ongoing assurance that the administration of the TCF complies with	<input checked="" type="checkbox"/> Accepted <input type="checkbox"/> Not accepted If not accepted, please provide reasons:	Proposed action: DEWR is improving assurance processes to identify and rapidly resolve any system issues which have a direct impact on people's social security payment or experience of the employment services system.

Recommendation	Entity response to recommendations	Action entity proposes to take and expected timeframes for implementation of recommendations
	Please indicate your response to each recommendation. If you do not accept a recommendation, please provide reasons.	Please provide the details of any action you propose to take to implement the recommendation and expected timeframes for implementation, including justification for the timeframes.
the law and relevant policies. This should include risk management policies and procedures regarding automation in the TCF computer system.		<p>The independent assurance review has identified a range of recommendations which provide advice on improving assurance and governance processes, including modern regulatory and risk processes regarding automation.</p> <p>DEWR will work with Services Australia to ensure end-to-end IT assurance processes are implemented and effective.</p> <p>Expected timeframes: This will be progressively rolled out from 6 months with the intention the process is finalised within 2 years.</p> <p>Justification for timeframes: This work is underway. DEWR will continue working through the findings and recommendations of reviews, incorporating the insights received into a whole of system approach and working with Services Australia to restore the integrity of the administration of the TCF and the operating platform.</p>
Recommendation 6:	<input checked="" type="checkbox"/> Accepted	Proposed action:

Recommendation	Entity response to recommendations	Action entity proposes to take and expected timeframes for implementation of recommendations
	Please indicate your response to each recommendation. If you do not accept a recommendation, please provide reasons.	Please provide the details of any action you propose to take to implement the recommendation and expected timeframes for implementation, including justification for the timeframes.
<p>DEWR and Services Australia prepare a plan for identifying and assessing the scale and impact of legal, policy and administrative errors in the TCF, and for their timely remediation. The plan must have strategies and actions to identify and manage potential errors with large scale and immediate impact. The plan could include options for large-scale remediation (not only case-by-case) that would simplify and expedite the process for both those impacted and for the agencies.</p>	<p><input type="checkbox"/> Not accepted If not accepted, please provide reasons:</p>	<p>DEWR is working proactively and with urgency with Services Australia to identify and assess the scale and impact of issues under the TCF. Projects to support this include documenting processes to identify, assess and remediate system issues in the TCF, as well as the development of a remediation framework to ensure a consistent approach is taken to compensate impacted people. These projects are overseen by the TCF Integrity Assurance Program governance.</p> <p>DEWR will work with Services Australia to leverage and strengthen existing governance to ensure governance includes clear joint accountability.</p> <p>Expected timeframes: DEWR has commenced remediation of impacted individuals under section 42AF (2)(d) and will progressively work through the remaining decisions over the next 6-12 months.</p> <p>Justification for timeframes: Actions to identify and assess issues in the TCF are advanced, and remediation is in progress.</p>

Recommendation	Entity response to recommendations	Action entity proposes to take and expected timeframes for implementation of recommendations
	Please indicate your response to each recommendation. If you do not accept a recommendation, please provide reasons.	Please provide the details of any action you propose to take to implement the recommendation and expected timeframes for implementation, including justification for the timeframes.
<p>Recommendation 7: DEWR and Services Australia proactively and quickly rectify identified issues with automated decision-making that have the potential to have adverse impacts on people in vulnerable circumstances. This includes providing timely advice to our Office.</p>	<p><input checked="" type="checkbox"/> Accepted <input type="checkbox"/> Not accepted If not accepted, please provide reasons:</p>	<p>Proposed action: Review of automated decision-making forms part of the priority work underway to assure the integrity and lawfulness of the administration of the TCF and other mutual obligation decision making processes. This project is part of the TCF Integrity Assurance Program. DEWR is working with the support of Services Australia to quickly rectify and address any emerging issues.</p> <p>DEWR will provide timely advice to the Ombudsman when issues are identified.</p> <p>Expected timeframes: DEWR is working with urgency to rectify identified issues, with the support of Services Australia where needed.</p> <p>Justification for timeframes: Providing advice on these decision-making processes requires detailed consideration of legal issues as well as policies, processes and the relevant IT systems.</p>

CHRONOLOGY

DEWR's dealings with [REDACTED] and Services Australia regarding advice leading to the pause of cancellations under section 42AF

1. Identification of potential issue, engagement with Services Australia and request for advice from [REDACTED]

Date	Event
11 September 2023	During a meeting concerning a different but related matter, the [REDACTED] note that Services Australia's (SA) computer system might be imposing penalties inconsistently with the requirements of section 42AF(2). Investigations by DEWR and SA into the way the system is operationalised and the factual basis of the potential inconsistency commence.
18 September 2023	DEWR sends draft advice request to SA for comment. Notes that DEWR wished to obtain advice as soon as possible.
27 September 2023	DEWR follows up with SA about the draft advice request. Notes that DEWR wishes to obtain advice as soon as possible.
28 September 2023	Phone call between DEWR and SA about the advice request. A meeting with [REDACTED] to take place after 9 October 2023 due to staff leave. DEWR reiterates action must be quick so as to identify or remedy any error.
5 October 2023	DEWR emails and calls SA about the advice request and next steps. SA indicates it wants to meet with [REDACTED]
10 - 11 October 2023	Emails between DEWR and SA about the advice request and meeting with [REDACTED]
19 October 2023	Meeting between DEWR, SA and [REDACTED]
20 October 2023	Phone call between DEWR and SA regarding content of final advice request.
20 October 2023	DEWR sends advice request to [REDACTED] posing a number of questions in relation to the process for imposing penalties under section 42AF(2), and requests the advice be provided by 3 November 2023.

2. Progression of advice with [REDACTED]

Date	Event
23 October 2023	[REDACTED] requests more time in which to provide the advice. DEWR calls [REDACTED] to discuss issues. [REDACTED] indicates they anticipate providing advice by 10 November and will advise DEWR if it looks like it will take longer than that.

Date	Event
6 – 9 November 2023	DEWR and █████ discuss the timeframe for the draft advice by phone and email. █████ anticipate providing the draft advice by 15 November 2023.
13 November 2023 – 15 November 2023	Phone calls between █████ and DEWR regarding the advice.
14 November – 17 November 2023	DEWR phones SA requesting information regarding the operation of Services Australia’s computer system. SA responds on 16 November 2023. DEWR provides this information to █████ on 17 November 2023.
23 November 2023	Phone call between DEWR and █████ regarding the advice.
5 December 2023	Phone call between DEWR and █████. █████ advise they are working to provide the advice by 18/19 December 2023. █████ also requests further information on the operation of the system and processes for payment cancellation.
6 December 2023	DEWR consults with SA on █████ request for further information.
12 December 2023	DEWR follows up with SA and asks SA to provide a response by the end of the week.
14 December 2023	SA provides further information and DEWR provides it to █████
17 January 2024	DEWR emails █████ requesting an update on the draft advice.
18 January 2024	█████ advises by email that they plan to provide the advice in the next two weeks.
30 January 2024	DEWR emails █████ to request an update on the advice.
31 January 2024	DEWR emails █████ and indicates that it would like to meet about the draft advice.
1 February 2024	█████ emails DEWR with a progress update on the draft advice, and confirms settled advice will be reviewed by senior █████ lawyer as requested by DEWR.
6 February 2024	DEWR emails █████ providing further information.
9 February 2024	DEWR emails █████ to arrange a meeting to discuss the advice, noting that some days are not suitable due to senate estimates.
14 February 2024	█████ emails DEWR with an update on the draft advice. █████ notes that the advice will be delayed. █████ proposes to have a meeting with DEWR the following week.
15 February 2024	Phone call between █████ and DEWR. █████ provide brief oral outline of likely advice.
15 – 21 February 2024	Emails and phone call between DEWR and █████ about the draft advice and arranging a meeting time.
15 February 2024	SA emails DEWR requesting an update on the █████ advice. DEWR responds on the same day that the advice is not expected until the end of the following week.

Date	Event
22 February 2024	DEWR meets with [REDACTED] to discuss the draft advice on section 42AF(2).
26 - 27 February 2024	DEWR and [REDACTED] email about the draft advice. DEWR asks if the week of 11 March would be a reasonable estimated time of arrival for the advice. [REDACTED] notes that it is aiming to provide the draft advice in the week commencing 11 March 2024.
7 March 2024	[REDACTED] emails DEWR advising that the draft advice has been provided to [REDACTED] for review. [REDACTED] notes that they have asked the [REDACTED] to look at the advice in the next two weeks, but it may take longer than that.
13 March 2024	SA writes to DEWR following up on the [REDACTED] advice.
18 March 2024	DEWR emails [REDACTED] requesting an update on the advice. [REDACTED] confirms that they will provide the advice this week.
22 March 2024	[REDACTED] emails DEWR confirming the [REDACTED] has looked at the advice and that this has resulted in some changes needing to be made to the advice. [REDACTED] confirms they will get the advice to DEWR the next week.
25 March 2024	[REDACTED] provides the draft advice to DEWR, addressing validity of decisions made under section 42AF(2) (March 2024 draft advice).

3. Consideration of first draft advice

Date	Event
26 March 2024	DEWR provides the March 2024 draft advice to [REDACTED]
8 April 2024	DEWR follows up SA for its response to the March 2024 draft advice. SA requests a meeting with DEWR and [REDACTED] to discuss next steps.
9 April 2024	DEWR meets with [REDACTED]
9 – 10 April 2024	DEWR sends some comments on the March 2024 draft advice to [REDACTED] responds.
17 April 2024	DEWR and SA email regarding meeting to discuss the March 2024 draft advice.
18 April 2024	DEWR meets with [REDACTED] regarding the March 2024 draft advice.
24 April 2024	DEWR provides further information to [REDACTED]
30 April – 1 May 2024	DEWR and SA email regarding meeting to discuss the March 2024 draft advice.
7 May 2024	DEWR provides further material to [REDACTED]

Date	Event
8 May 2024	DEWR requests [REDACTED] provide further written advice in response to the additional material provided, with that advice to be provided within two weeks, which [REDACTED] confirms.
19 - 20 May 2024	[REDACTED] emails DEWR advising that it has been working on the further draft advice and requesting further information. DEWR provides this further information.
21 May 2024	[REDACTED] provides further advice in response to additional information and comments from DEWR.
22 May 2024	DEWR forwards [REDACTED] further advice to SA.
23 - 24 May 2024	DEWR and [REDACTED] email about consolidating the March 2024 draft advice with subsequent [REDACTED] comments. [REDACTED] advises that the consolidated advice will be settled by [REDACTED]. DEWR advises it will probably seek [REDACTED] advice about section 42AF(1).
27 - 28 May 2024	[REDACTED] and DEWR discuss matter. [REDACTED] advises DEWR that further information provided by DEWR subsequent to March 2024 suggests it is necessary to reconsider March 2024 draft advice. DEWR instructs [REDACTED] to reconsider March 2024 draft advice, and for reconsidered advice to be expanded to also cover decisions made under section 42AF(1). [REDACTED] advises that March 2024 draft advice should be treated as provisional and subject to confirmation or change following further review by [REDACTED]
29 May 2024	DEWR provides further information in response to request from [REDACTED]
4 – 6 June 2024	[REDACTED] requests additional information, discusses the timeframe for providing the updated advice and requests a meeting with DEWR to ensure [REDACTED] has a full understanding of the relevant issues and context so as to ensure the advice is as complete and accurate as possible.
11, 13 June 2024	DEWR provides further information in response to requests from [REDACTED]
14 June 2024	[REDACTED] provides working summary of facts, and list of issues to discuss with DEWR.
17 June 2024	[REDACTED] meets with DEWR to discuss the draft advice. [REDACTED] also requests further information.
17 - 20 June 2024	DEWR provides the further information to [REDACTED] reviews this material, requests additional information.
20 June 2024	[REDACTED] proposes that a meeting with the Secretary for 24 June be rescheduled to 28 June (or later), to allow time to resolve the outstanding issues regarding decision-making processes underpinning section 42AF(1) and section 42AF(2).
25 June 2024	[REDACTED] requests meeting with DEWR.
27 June 2024	DEWR and [REDACTED] meet to discuss factual issues. [REDACTED] requests further information which DEWR provides.

Date	Event
28 June 2024	█████ advises DEWR of what they will likely advise the Secretary on 1 July, and discusses possible legislative amendments.

4. Withdrawal of █████ first draft advice, pause on decisions, receipt of further draft advice and its finalisation

Date	Event
1 July 2024	<p>█████ provides indicative view of validity of decision-making under section 42AF(1) and section 42AF(2) in conference with DEWR (including the Secretary) and identifies outstanding issues still to be resolved.</p> <p>█████ advised that earlier advice would be withdrawn.</p> <p>█████ flags that it will provide a short, written memo of the indicative verbal advice given in the meeting, and that longer draft advice will be provided by █████ when possible. After conference █████ and DEWR discuss further issue regarding cancellation decisions under section 42AF(2)(d).</p>
3 July 2024	█████ provides a written memorandum to DEWR which formally withdraws the March 2024 draft advice and presents indicative views on section 42AF(1) and section 42AF(2) issues, including █████ likely conclusions.
4 July 2024	DEWR pauses payment cancellation decisions under section 42AF(2).
5 July 2024	█████ requests meeting to obtain further information.
8 July 2024	DEWR and █████ meet to discuss further information.
10-15 July 2024	DEWR and █████ discuss matters to be covered by forthcoming advice.
24 July 2024	█████ seeks further information regarding section 42AF(1) decisions, which DEWR provides.
29 July 2024	█████ provides draft advice.
20 September 2024	DEWR instructs █████ to finalise the draft advice without substantive change.
23 September 2024	█████ provides its final advice.

Ombudsman Investigation Draft Report 1 on the Targeted Compliance Framework (TCF) and the cancellation of social security participation payments under section 42AF(2)(d) of the *Social Security (Administration) Act 1999* — Errors of Fact

Page	Draft report content	Department of Employment and Workplace Relations comments	Supporting evidence
3	On 4 December 2024, the DEWR Secretary advised the Ombudsman that, contrary to legislative changes in 2022 that required consideration of a job seeker's circumstances before deciding to cancel income support, decisions to cancel income support had occurred automatically – without consideration of the job seeker's circumstances.	The Secretary formally advised the Ombudsman on 4 December 2024. We note that officer-level discussions regarding the 42AF cancellations matter, the Penalty Zone IT issues and the external assurance review process commenced with your office on 27 November 2024.	Email of 27 th November 2024
3	A further 45 job seekers received automated cancellations after the Secretary's decision to pause cancellations, when they should not have.	The 45 job seekers who received automated cancellations during the period of 1 October 2024 to 31 December 2024 were as a result of decisions made under section 42AM. Nevertheless, these cancellations should not have been made. This provision was the subject of separate consideration and decision making to section 42AF(2).	TCF Public data October to December 2024—(Table 19) TCF Public Data – October to December 2024 - Department of Employment and Workplace Relations, Australian Government
8	Introduced in 2018 by the <i>Social Security (Administration) Act 1999</i> (SSA Act), the purpose of the TCF is to encourage job seekers to complete compulsory tasks such as agreeing to Job Plans, searching for a minimum number of jobs per week, attending appointments, acting appropriately during those appointments and being willing to look for and accept suitable work.	The relevant provisions were introduced in 2018 by the <i>Social Services Legislation Amendment (Welfare Reform) Act 2018</i> , which amended the <i>Social Security (Administration) Act 1999</i> .	<i>Social Services Legislation Amendment (Welfare Reform) Act 2018</i> , sch 15
13 18	The Digital Protections Framework will self-repeal on 31 December 2025. We consider this lack of action is compounded by the fact that the DPF will self-repeal on 31 December 2025.	The legislation does not include provisions concerning the self-repeal of a Digital Protections Framework. There is no requirement for a mechanism of self-repeal.	
28	The [REDACTED] report on guidance for delegates was prepared after the cancellation error had been identified.	The draft [REDACTED] advice was dated July 2024 and draft [REDACTED] Report dated April 2024.	Evidence of the timeline for the provision the draft [REDACTED] Report was provided on 9 April 2025. This was contained in the department's response to follow up questions from the Ombudsman.



Australian Government

Services Australia

Your Ref: A2485836
Our Ref: EC25-002001

Chief Executive Officer
David Hazlehurst

Mr Iain Anderson
Commonwealth Ombudsman
GPO Box 442
CANBERRA ACT 2601


Dear Mr Anderson

Draft investigation report in relation to the own-motion investigation into the Targeted Compliance Framework (Report No. 1)

Thank you for your letter of 30 June 2025 providing your draft Investigation Report (No.1), *Automation in the Targeted Compliance Framework: when the law is changed but the system isn't*.

Services Australia (the Agency) welcomes your investigation into this significant issue, and I acknowledge all findings and recommendations in the report. The Agency accepts recommendations 3, 4, 5, 6 and 7, noting recommendations 1 and 2 are addressed to the Department of Employment and Workplace Relations (DEWR). We will work to implement the Agency's response to the recommendations in consultation with DEWR.

The Agency has not identified any errors of fact in your draft report. Our response to your recommendations, including proposed actions and relevant timeframes, are set out in Attachment A to this letter.

The Agency is committed to strengthening and uplifting our procedures to ensure cancellation decisions made under Targeted Compliance Framework (TCF) are lawful, fair and reasonable, and Agency systems support job seekers to manage their mutual obligation requirements, including consideration of individual job seeker circumstances within the TCF. I have also discussed the report with my Deputies and its relevance to the key areas of work they are leading across the Agency to mitigate legislative, ICT and programme risk.

The Agency is currently working with DEWR to document the approach and processes to identify, assess key risks and remediate issues in the TCF. These actions are well-advanced, and the Agency will provide updates to your office on our progress, as we continue implementing the recommendations in your Report.

OFFICIAL

Noting your findings and recommendation about the legislative amendment processes associated with this issue, I agree that clearer roles are required for entities involved in legislative drafting processes. The Agency will work with DEWR to develop a protocol for engagement on legislative drafting process for incorporation into the Bilateral Engagement between our agencies.

The Agency will also develop training for staff involved in decision-making, on exercising discretion, including training on decision making which relates to applying penalties under the TCF. Timing for some aspects of this training will be linked to the recommencement of the application of penalty decisions in the TCF.

In addition, the Agency is actively engaging with the Attorney-General's Department's Legislative Reform Taskforce, which is implementing Recommendation 17.1 of the Robodebt Royal Commission, to establish a consistent legal framework in which automation in government services can operate.

As agreed, following the Agency's briefing to your Office during the Bi-annual Liaison Meeting on 6 May 2025, we will continue to engage with your Office about the work arising from our Legal Compliance and Remediation Program, which was commenced to provide enterprise-level oversight of policy and legislative misalignment issues.

Finally, the Agency is also working to adopting a principles and risk-based approach to reviewing automation initiatives, and is considering automation impacts in programs, including in the TCF. This expertise provides support for agency risk assurance and mitigation activities.

The Agency's contact for this matter is [REDACTED]
[REDACTED]

Yours sincerely
[REDACTED]

David Hazlehurst

18 July 2025

OFFICIAL

Attachment A – Draft Investigation Report: *Automation in the Targeted Compliance Framework: when the law is changed but the system isn't – An investigation into the cancellation of income support payments under the Targeted Compliance Framework*

Date received: 30 June 2025

Date due to Ombudsman's Office: 21 July 2025

Services Australia (the Agency) is committed to strengthening and uplifting our procedures to ensure cancellation decisions made under Targeted Compliance Framework (TCF) are lawful, fair and reasonable, and Agency systems support job seekers to manage their mutual obligation requirements, including consideration of individual job seeker circumstances within the TCF.

We are committed to working with the Department of Employment and Workplace Relations (DEWR) and the Ombudsman's Office to ensure that current assurance processes within the TCF are reviewed in line with the 7 recommendations made in your report to protect vulnerable people from incorrect or unlawful payment cancellations. The decisions made by the Secretary of DEWR to pause payment cancellations and payment reductions in respect to the TCF will stay in place until the Secretary of DEWR and the Agency are assured that decisions occur in alignment with the legislative framework and policies.

The Agency accepts recommendations 3, 4, 5, 6 and 7 (noting recommendations 1 and 2 are being addressed by the Department of Employment and Workplace Relations (DEWR) in a separate response). We will work to implement the Agency's recommendations in consultation with DEWR as we continue to identify, assess and remediate issues in the TCF. These actions are well advanced, and remediation for affected job seekers is in progress.

In response to the recommendations in the Report, the Agency will:

- Work with DEWR to develop a protocol to clarify roles in the legislative drafting processes. The Protocol will be incorporated into the Bilateral Management Arrangement between our entities and specifically consider the impact of automation on legislative drafting processes, where relevant, including consultation points within the agreed processes.
- Develop tailored training for relevant staff who make delegated decisions and work on decision making policy, including decision making which relates to applying penalties under the TCF.

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- Apply a principles and risk-based approach to reviewing automation (and AI) and maintaining a register of automated initiatives deployed within the Agency. The automation teams will provide support regarding reviewing automation in the TCF computer system component and will work with program areas to support their assurance and mitigation activities.
- Actively contribute to the Attorney-General's Department (AGD's) Legislative Reform Taskforce, which was established to implement Recommendation 17.1 of the Robodebt Royal Commission (which called for a consistent legal framework in which automation in government services can operate).
- Continue to update the Ombudsman's Office on progress in implementing each of the recommendations.

Recommendation	Entity response to recommendations/suggestions	Action entity proposes to take and expected timeframes for implementation of recommendations/suggestions
Recommendation 1: The Secretary of DEWR not resume cancellations under s 42AF(2) of the SSA Act until satisfied that the identified errors have been rectified and that policies, processes and systems are in place that will ensure cancellations comply with the law.	<input type="checkbox"/> Accepted <input type="checkbox"/> Not accepted If not accepted, please provide reasons:	Proposed action: N/A Expected timeframes: N/A Justification for timeframes: N/A Recommendation 1 is addressed to DEWR.
Recommendation 2: The DEWR Secretary comply with s 159A of the Social Security Legislation	<input type="checkbox"/> Accepted <input type="checkbox"/> Not accepted If not accepted, please provide reasons:	Proposed action: N/A Expected timeframes: N/A

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Amendment (Streamlined Participation Requirements and Other Measures) Act 2022 and determine a Digital Protections Framework.		Justification for timeframes: N/A Recommendation 2 is addressed to DEWR.
Recommendation 3: DEWR and Services Australia develop a placemat on roles in legislation development that is provided to all staff at the start of a legislative drafting process. The placemat should include who is responsible for ensuring and consulting on relevant automated systems' compliance with administrative law principles.	<input checked="" type="checkbox"/> Accepted <input type="checkbox"/> Not accepted If not accepted, please provide reasons:	Proposed action: DEWR and the Agency will work together to develop a protocol which outlines the roles of each entity in the legislative drafting process. The protocol will support early engagement between the entities regarding program design and implementation matters. The protocol will form part of the formal Bilateral Management Arrangement between the entities. The protocol will require consideration of the impact of automation on legislative drafting processes where relevant and will include relevant consultation points within the agreed processes.

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		<p>Expected timeframes: December 2025</p> <p>Justification for timeframes: This task will be prioritised to inform future legislation development.</p>
<p>Recommendation 4:</p> <p>All DEWR and Services Australia staff who make delegated decisions, and work on decision-making policy, be provided annual training on administrative law requirements for making valid decisions, including the exercise of discretion.</p>	<p><input checked="" type="checkbox"/> Accepted</p> <p><input type="checkbox"/> Not accepted</p> <p>If not accepted, please provide reasons:</p>	<p>Proposed action:</p> <p>The Agency accepts the recommendation and is committed to supporting its officers to make accurate and lawful decisions.</p> <p>The Agency will provide tailored training to its staff on exercising discretion, including decision making which relates to applying penalties under the TCF.</p> <p>TCF-specific training material will be revised prior to recommencing compliance activity involving penalty decisions.</p> <p>In addition, the Agency will develop a training package to form part of mandatory training for relevant staff who make delegated decisions and work on decision making policy.</p>

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		<p>This training package will cover administrative law requirements for making valid decisions, including the exercise of discretion.</p> <p>Expected timeframes: February 2026</p> <p>Justification for timeframes:</p> <p>The Agency will need to determine if a new standalone, learning product is required, or if existing learning products may be enhanced.</p> <p>The new learning product will be co-designed over the next four months with Legal Services Division and areas of the agency that it is directly relevant to, and then piloted to ensure that it meets the expected capability and awareness uplift.</p>
<p>Recommendation 5:</p>	<p><input checked="" type="checkbox"/> Accepted</p> <p><input type="checkbox"/> Not accepted</p> <p>If not accepted, please provide reasons:</p>	<p>Proposed action:</p> <p>The Agency will work with DEWR to review current inter-agency assurance processes</p>

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<p>DEWR and Services Australia ensure they have systems in place that provide ongoing assurance that the administration of the TCF complies with the law and relevant policies. This should include risk management policies and procedures regarding automation in the TCF computer system.</p>		<p>and consider how these can be strengthened to specifically address key risks in the administration of the TCF, including automation.</p> <p>Expected timeframes: December 2025 for reviewing current assurance processes in the TCF and ensuring they are appropriate.</p> <p>Justification for timeframes: This work is already underway and is important to ongoing operation of the TCF.</p>
<p>Recommendation 6:</p> <p>DEWR and Services Australia prepare a plan for identifying and assessing the scale and impact of legal, policy and administrative errors in the TCF, and for their timely remediation. The plan must have strategies and actions to identify and manage potential errors with large scale and immediate impact. The plan could include options for large-scale remediation (not only case-by-case) that</p>	<p><input checked="" type="checkbox"/> Accepted</p> <p><input type="checkbox"/> Not accepted</p> <p>If not accepted, please provide reasons:</p>	<p>Proposed action: The Agency is committed to continuing to work with DEWR to document processes to identify, assess and remediate issues in the TCF. The Agency is also working closely with DEWR on remediation activities.</p> <p>The design of remediation solutions for impacted payments, records or services (depending on legal and policy advice) may include, but is not limited to:</p> <ul style="list-style-type: none"> ○ outbound contact with impacted customers, via phone, letter, SMS etc, ○ own motion review decisions,

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<p>would simplify and expedite the process for both those impacted and for the agencies.</p>		<ul style="list-style-type: none"> ○ debt waiver, write-off or other non-recovery considerations, ○ payment of arrears, ○ CDDA/Act of Grace action, ○ informing individuals about legal liability or compensation options, and/or ○ informing individuals about their review rights. <p>The Agency has a dedicated operational workforce to deliver the remediation of impacted customer records, payments and services where this action is required.</p> <p>Expected timeframes: December 2025.</p> <p>Justification for timeframes: Actions to identify and assess issues in the TCF are advanced, and remediation is in progress.</p>
<p>Recommendation 7:</p> <p>DEWR and Services Australia proactively and quickly rectify identified issues with automated decision-making that have</p>	<p><input checked="" type="checkbox"/> Accepted</p> <p><input type="checkbox"/> Not accepted</p> <p>If not accepted, please provide reasons:</p>	<p>Proposed action:</p> <p>The Agency will support DEWR to implement necessary changes to the TCF including replacing automation with human decision-making where required.</p>

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the potential to have adverse impacts on people in vulnerable circumstances. This includes providing timely advice to our Office.		<p>Expected timeframe: The Agency will work closely with DEWR and respond quickly to policy changes made in relation to automated decision-making.</p> <p>Justification for timeframe: This work will be led by the DEWR with Agency support.</p> <p>In line with the Agency's Assurance Framework, any new automations are required to undergo a full assurance process that covers key areas such as privacy, legal and ethical consideration.</p>

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