



Australian Government
Department of Veterans' Affairs

ELECTRONIC RECORDS

NB: These documents have been obtained from an electronic record. An original hard-copy version of this record does not exist.

From: Jocumsen, Katrina
Sent: Tuesday, 14 November 2023 6:36 PM
To: s 47E
Cc: s 47E Conroy, Amanda
Subject: FW: FOR ACTION: Release of the Government Response to the Robodebt Royal Commission Report – arrangements for directly impacted individuals and broader support for staff [SEC=OFFICIAL:Sensitive]
Attachments: SES Talking points - Robodebt Royal Commission Government Response.docx
Importance: High

Sophie

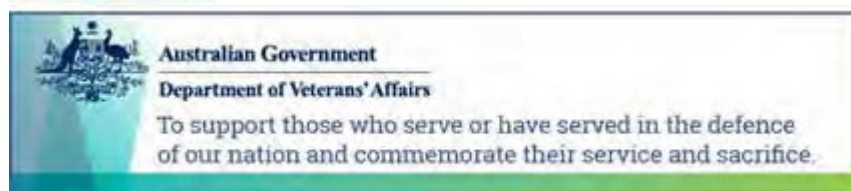
Apologies, this only came to me for clearance this afternoon. Given the Government's response to the Robodebt Report was released yesterday (i.e., Monday 13 November 2023), the draft emails should be cleared by Glen as A/g COO and progressed to the Secretary for publication, as soon as possible.

Note: Your original tasking email remains in the trail below to provide further context.

Katrina

Katrina Jocumsen MAHRI
Chief People Officer
Department of Veterans' Affairs
s 47F

www.dva.gov.au



The Department acknowledges the traditional owners of the land throughout Australia and their continuing connection to country, sea and community. We pay our respect to all Aboriginal and Torres Strait Islander peoples, their cultures and to their elders past, present and emerging.

draft cover email

Secretary

Action

That you:

- **note** the Robodebt Royal Commission Report was released Monday 13 November 2023.
- **note** on the day of release, Professor Glyn Davis AC, Secretary of the Department of the Prime Minister and Cabinet, and Dr Gordon de Brouwer, Commissioner Australian Public Service Commission wrote to all APS staff

to make them aware of the response, what it means for the APS, and to remind them where to go if they need support.

- **note** Secretary Davis and Commissioner de Brouwer have asked agencies to ensure staff are reminded of wellbeing services and where to turn for support.
- **Approve and send** the emails below to all-staff and the SES about the release of the Government's response.

Issue

- Secretary Davis and Commissioner de Brouwer wrote to Secretaries last week advising the Government was finalising its response to the Robodebt Royal Commission Report, which could possibly be released this week.
- The response was subsequently released Monday 13 November 2023.
- In acknowledgement that the release of the response may cause distress for some staff, Secretaries have been asked to ensure staff are reminded of wellbeing services within their agency.
- The APSC has also provided the attached SES Talking Points to assist them in discussions with their staff.

Next steps

- The draft emails below should be released as soon as possible.

Glen

ALL STAFF MESSAGE

On Monday 13 November 2023, the Government released its [response to the Robodebt Royal Commission Report](#).

The response addresses the 56 recommendations and the closing observations made by Commissioner Catherine Holmes AC SC. It reiterates the Government's commitment to restoring public trust, and embedding reforms that put people at the centre and strengthen integrity. The response is forward looking and heralds work that is being done to reform social security policy, government service delivery, and the APS.

The response will bring renewed attention to the failings of public administration that enabled the Robodebt scheme and the damage caused to so many Australians.

I appreciate this may cause distress for some of our current and former staff who may find the release of the response challenging and upsetting.

The wellbeing of employees is my priority. Supports are available for you through the departments Employee Assistance Program provider Telus Health (formerly known as Benestar) on 1800 360 364. Telus Health provides individual support to employees seeking counselling or managers seeking support and advice for management of an employee, 24 hours a day, 7 days a week.

I encourage you to access these supports if you believe they will be of benefit to you.

Alison

ALL SES MESSAGE (including attached TPs)

On Monday 13 November 2023, the Government released its [response to the Robodebt Royal Commission Report](#).

The response addresses the 56 recommendations and the closing observations made by Commissioner Catherine Holmes AC SC. It reiterates the Government's commitment to restoring public trust and embedding reforms that put people at the centre and strengthen integrity. The response is forward looking and heralds work that is being done to reform social security policy, government service delivery, and the APS.

The APSC has provided the attached talking points to support you and your team leaders in discussions with staff.

It is timely to remember that some staff may find the release of the response challenging and upsetting. Please ensure you refer staff to the department's Employee Assistance Program provider, Telus Health (formerly known as Benestar) on 1800 360 364. Telus Health provides individual support to employees seeking counselling or managers seeking support and advice for management of an employee, 24 hours a day, 7 days a week.

Alison

From: s 47E s 47E
Sent: Friday, 10 November 2023 9:41 AM
To: Conroy, Amanda s 47F ; s 47E s 47E
Cc: Jocusen, Katrina s 47F ; s 47E s 47E ; Blewitt, Teena s 47F
Subject: FOR ACTION: Release of the Government Response to the Robodebt Royal Commission Report – arrangements for directly impacted individuals and broader support for staff [SEC=OFFICIAL:Sensitive]

Hi Amanda

For action please.

Teena/Katrina have asked if you can please draft an email for the A/g Secretary or the Secretary (depending on the release date) to all staff using the basis of the email below.

Can you also draft a separate email to all SES with the attached TPs following the release of the report.

Noting this may be released next week can the team work on having these prepared by Monday/Tuesday next week.

The email action template is attached.

Thanks
Sophie

From: Frame, Alison s 47F
Sent: Thursday, 9 November 2023 4:08 PM
To: Kefford, Andrew s 47F >
Subject: Fwd: Release of the Government Response to the Robodebt Royal Commission Report – arrangements for directly impacted individuals and broader support for staff [SEC=OFFICIAL:Sensitive]

Sent from my iPad

Begin forwarded message:

From: "de Brouwer, Gordon" s 47F
Date: 9 November 2023 at 5:05:04 am GMT
Cc: "Davis, Glyn" s 47F
Subject: Release of the Government Response to the Robodebt Royal Commission Report – arrangements for directly impacted individuals and broader support for staff [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Colleagues

The Government is finalising its response to the Robodebt Royal Commission Report and it will possibly be released next week.

The response addresses the 56 recommendations and the closing observations made by the Commissioner, Ms Catherine Holmes AC SC. It reiterates the Government's commitment to restoring public trust and embedding reforms that put people at the centre and strengthen integrity.

The response is forward looking and heralds work that is being done to reform social security policy, government service delivery and the APS.

The response will bring renewed attention to the failings of public administration that enabled the Robodebt scheme and the damage caused to so many Australians.

Support for affected staff

This may cause distress for current and former staff members within your agency who were directly affected by the scheme. This includes staff who bravely appeared before the Royal Commission to tell their stories, gave evidence or made written submissions.

The wellbeing of staff is a priority.

Please put arrangements in place to support staff in your agency who may be directly affected. This includes, as appropriate, notifying them that the Government is finalising its response to the report, that the response may be released next week, and that wellbeing supports are available to them.

Support for staff undergoing investigations

Prior to the release, APSC wellbeing officers will contact all individuals, including former employees, who were referred to the centralised code of conduct mechanism by the Royal Commission, to ensure they are aware the response will be released, and are well supported. It is recommended that if you have current employees who have been referred to the Code of Conduct mechanism, your wellbeing officers make contact following the release of the Government response.

Support for staff more broadly

On the day of release, we will write to all APS staff to make them aware of the response, what it means for the APS and remind them where to go if they need support.

It's timely to remember that many other staff will find the release of the response challenging and upsetting. Please ensure suitable wellbeing services are available and staff know where to turn for support in your agency.

A set of talking points is attached to support SES and team leaders to initiate discussions with staff. Please share these with your leadership teams following the release of the report.

If you need further information or support in your agency, please get in touch.

Regards

Professor Glyn Davis AC
Secretary
Department of the Prime Minister and Cabinet

Dr Gordon de Brouwer
Commissioner
Australian Public Service Commission

IMPORTANT: This message, and any attachments to it, contains information that is confidential and may also be the subject of legal professional or other privilege. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

SES TALKING POINTS

GOVERNMENT RESPONSE TO THE ROYAL COMMISSION INTO THE ROBODEBT SCHEME

Background

- The Royal Commission into the Robodebt Scheme was established on 18 August 2022. Ms Catherine Holmes AC SC was appointed as the Commissioner.
- Over the course of its inquiry, the Royal Commission published over 8,000 exhibits, and heard from over 100 witnesses across nine weeks of public hearings. It brought to light the harm caused to affected members of the Australian community.
- The Royal Commission delivered a report with its findings to the Governor-General on 7 July 2023.
- The final report is published on the Royal Commission's website.
- In response to the Royal Commission's recommendations, the Government formed a taskforce with the Department of the Prime Minister and Cabinet, Attorney General's Department and the Australian Public Service Commission.
- The Government Response has now been released.
- The talking points below are to support SES officers and other leaders in talking to staff about the Robodebt Royal Commission and the Government response.

Talking points

Release of the Government's Robodebt Royal Commission Response

- The Australian Government has carefully considered the Royal Commission into the Robodebt Scheme report and has released its response, available at www.pmc.gov.au.
- The Government accepts or accepts in-principle, all 56 recommendations made by the Royal Commission.
- The Royal Commission heard from over 100 witnesses across nine weeks of public hearings. It brought to light the harm caused to affected members of the Australian community.
- It exposed failures in the APS and it was a hard lesson for us, one we aren't shying away from.
- We know there were failures of leadership and judgement and that people felt they couldn't speak up, or weren't listened to.
- It's important to remember, at the same time many good people were trying to do the right thing.
- You matter, your work matters, and your integrity matters.
- The response will likely bring renewed attention to the Robodebt scheme and the harm it caused to many Australians.
- Many people in the community and APS staff were affected by the Robodebt Scheme and many bravely gave evidence to the Royal Commission.

The wellbeing of our staff

- You may be experiencing a range of emotions in response to the renewed attention on Robodebt.
- The wellbeing of our people is our top priority.
- APS staff can be proud of the work they do to support the community and serve the Government.
- The events surrounding the Robodebt Scheme affected many APS staff.
- Some may have had close involvement with the Royal Commission.
- Some may have been personally affected by the Robodebt Scheme.
- Some may feel a direct impact as a public servant because we take pride in delivering for the community and upholding the APS Values each day.
- Speak to your manager, a friend or family member if you are feeling upset or distressed.
- Ask for help if you need it. Support is available for you through agency wellbeing support services like the Employee Assistance Program.
- Other support is also available for staff who are experiencing distress.
 - [Beyond Blue Support Service](#) – Provides immediate, short-term counselling, advice and referral services. Phone 1300 224 636, [webchat](#), or search their [forum](#) for free.
 - [Lifeline Crisis Support](#) – This is a confidential service providing you with support for when you feel overwhelmed, for when you have difficulty coping, or are thinking about suicide. Phone 13 11 14 or chat to a [crisis supporter online](#).
 - [13YARN](#) – Provides crisis support for First Nations people. Phone 13 92 76 or view their services online at www.13yarn.org.au.
- I encourage you to read the Response and discuss it in your teams.
- It's important we are all part of leading the change we want to see and building a stronger APS.

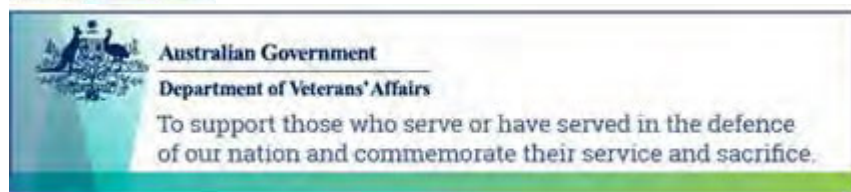
Where to next

- Confidential processes are underway to ensure that public servants are appropriately held to account if they have not met their obligations as professional public servants.
- Work is also underway to implement the report's recommendations.
- Achieving real change will mean a commitment from all of us about how we go about our work.
- There will be a focus on integrity and accountability, and how we can bring empathy and understanding to the way we engage with people and communities.
- There will also be changes to process and a bigger focus on proper decision-making and record keeping, and enhanced statutory powers for oversight bodies.
- This complements other reform work underway, like the APS Reform program and other reforms that focus on building a strong public service that puts people at the centre.
- Across the APS, there is a strong push to elevate the importance of integrity in everything the APS does – both at the systemic and individual levels.
- There will be many opportunities ahead to boost capability and integrity through the recommendations and the APS Reform program.
- Through the response the Government has committed to ensuring that the APS works in partnership with the community to improve the lives of Australians and deliver better services.

From: s 47E
Sent: Friday, 20 October 2023 10:57 AM
To: s 47E; s 47E ; s 47E s 47E
Cc: s 47E
Subject: FW: Implications of the Robodebt Royal Commission for Department of Veterans' Affairs + List of Recommendations [SEC=OFFICIAL]
Attachments: List of Recommendations.docx; TABLE of Recommendation1 (002).docx; MS23-000315.docx

Please see attached in relation to Robodebt ED.

Kristie s 47F
Executive Assistant to Teena Blewitt | COO & Deputy Secretary, Client Benefits
Department of Veterans' Affairs
s 47F
s 47F
www.dva.gov.au



From: s 47F Madeleine On Behalf Of s 47E
Sent: Friday, 20 October 2023 10:30 AM
To: s 47E ; s 47E s 47E
Cc: s 47E ; s 47E
Subject: Implications of the Robodebt Royal Commission for Department of Veterans' Affairs + List of Recommendations [SEC=OFFICIAL]

As per Fortress emails – the Robodebt recommendations have implications that may require comment across several divisions.

Sharing the attached for easier reference, noting that this brief has been distributed to all DepSecs previously.

Thank you

Madeleine s 47F | Executive Officer
Legal & Audit Division
Department of Veterans' Affairs
s 47F

www.dva.gov.au





Australian Government

Department of Veterans' Affairs

To support those who serve or have served in the defence
of our nation and commemorate their service and sacrifice.



MINISTERIAL SUBMISSION

Minister for Veterans' Affairs

Through: Secretary

CC: Chief Operating Officer & Deputy

Secretary Clients Benefits / Deputy Secretary Veteran,

Family & Stakeholder Experience / Deputy Secretary Policy Programs / Deputy President, First Assistant

Secretaries: Pullen, Cole, Jocumsen, Casson, Harrigan, Pettitt, Brown, Nowland, Hancock, Cameron,

Luscombe & Firman.

Received in MO

25 August 2023

Implications of the Robodebt Royal Commission for Department of Veterans' Affairs

Critical Date: 8 September 2023

Reason: Briefing requested by your Office.

Recommendation – That you:	
1) note the preliminary assessment of implications and lessons for Department of Veterans' Affairs from the report of the Robodebt Royal Commission	Noted / Please discuss
<div>The Hon Matt Keogh MP Minister for Veterans' Affairs</div> <div>/ /23</div>	Comments (for MO use only)

Key points

1. The Robodebt Royal Commission delivered its report on 7 July 2023 (**Robodebt Report**).
2. Most of its 57 recommendations are directed to the agencies responsible for the programs which comprised the 'Robodebt scheme'. Several recommendations have broader, thematic relevance to all Australian Public Service agencies, especially service delivery agencies whose clients include vulnerable people.
3. The Department of the Prime Minister and Cabinet (PM&C), the Attorney-General's Department (AGD) and the Australian Public Service Commission (APSC) are leading a joint agency taskforce to develop a Government response. This includes identifying recommendations with service-wide implications. Department of Veterans' Affairs (DVA) will engage with the joint agency taskforce as required to support the development and implementation of a government response to the Robodebt Report.
4. In addition, DVA is undertaking an individual assessment of implications and learnings from relevant recommendations. This briefing provides our preliminary assessment of these matters.

Two key themes in the Robodebt Royal Commission recommendations

5. On our preliminary reading, there are two overarching themes in the recommendations which have implications and learnings for DVA, namely:
 - a number of specific safeguards and assurance mechanisms with respect to the legality and propriety of policies and programs, particularly those which support vulnerable clients

- measures directed to building and sustaining an organisational culture which has a consistent client-centric focus, across all parts of the agency and all levels of staff.

Theme 1: Recommendations on safeguards and assurance mechanisms

- Overall, DVA's legislation, systems, processes and practices already contain several of the safeguards and assurances that the Robodebt Royal Commission found were lacking in relation to the programs and other matters examined in that inquiry. In particular:
 - clear lines of portfolio responsibility and accountability in relation to service delivery and policy;
 - safeguards to the use of automated decision-making;
 - proportionate and fair debt recovery policy and practices;
 - effective client and stakeholder engagement arrangements;
 - processes for identifying and managing client vulnerability in compliance activities;
 - processes for legal assurance in relation to policy proposals.
- Our initial review identified that some recommendations provide DVA with an opportunity to consider improvements aspects of our operating procedures, including as part of our engagement with a Government response to recommendations with service-wide implications. Namely:
 - reviewing our record-keeping standards and procedures to ensure that important decisions and discussions, including with Ministers and their Offices, are documented routinely, including through the Parliamentary Document Management System.
 - considering whether there may be any learnings for DVA from the Robodebt Royal Commission's recommended review of the operational governance arrangements for joint data matching programs between the Australian Taxation Office (ATO) and Services Australia.

Lines of portfolio responsibility and accountability

- The Robodebt Royal Commission found that a 'chasm between the Department of Social Services and Department of Human Services (DHS) and a lack of clearly identified responsibilities' was a 'contributing factor to the establishment and continuation of the Robodebt scheme'.¹
- In contrast to the organisational structure of the social services portfolio, DVA has dual responsibility for policy and service delivery with respect to veterans' affairs. There are clear lines of responsibility to the Minister for Veterans' Affairs.

Automated decision-making

- The Robodebt Royal Commission found that 'the automation used in the Robodebt Scheme at its outset, removing the human element, was a key factor in the harm it did'. It was critical of a lack of an overarching legislative framework for all automated decision-making under Commonwealth law. It recommended that the Government develop a proposal for a 'consistent legal framework in which automation in government services can operate'.²

¹ Robodebt Report, p. 639 and Recommendation 23.1 (review of structure of social services portfolio).

² Robodebt Report, p. 488 and Recommendation 17.1 (legal framework for automated decisions).

11. DVA operates under a different legislative framework to the social services portfolio. Under DVA's portfolio legislation, computer-based decisions are permitted only in respect of decisions to accept certain claims.³ There are no provisions authorising the automation of adverse decisions or the calculation of overpayment amounts. The raising and recovery of debts is conducted manually by DVA staff, and there is no averaging or estimation of amounts. DVA has not identified a need to automate any additional types of decisions beyond the acceptance of claims.
12. DVA is further considering the Royal Commission's recommendation that 'departmental websites should contain information advising that automated decision-making is used and explaining in plain language how the process works' and that 'business rules and algorithms should be made available, to enable independent expert scrutiny'.⁴

Debt recovery

13. The Robodebt Royal Commission was critical of debt collection practices under the Robodebt scheme, including the use of third party debt collectors, who were required to engage in 'insensitive and ill-considered practices' such as requiring recipients to be given a warning of applicable penalties if they failed to pay a debt. It recommended that Services Australia develop a 'comprehensive debt recovery policy', which included specific requirements for recovery action to be proportionate and fair in the recipient's individual circumstances, including taking into account whether they may be under any vulnerabilities.⁵ The Robodebt Royal Commission further recommended the amendment of social security legislation to re-instate a previously repealed recovery period of six years, so that older debts could not be recovered via legal proceedings.⁶
14. DVA has an existing overpayment management policy of the kind contemplated by the Robodebt Royal Commission, which sets out principles to guide decision-making about recovery, write-off and waiver. It includes direction about dealing with vulnerable clients, in line with DVA's *Protocol for Dealing with Clients at Risk*.⁷ In addition, DVA's portfolio legislation (the *Veterans' Entitlements Act 1986* (VEA)) and overpayment policy (in relation to the *Military Rehabilitation and Compensation Act 2004* (MRCA) and *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (DRCA)) include the six-year limitation period supported by the Robodebt Royal Commission.⁸

Client and stakeholder engagement

15. The Robodebt Royal Commission found that 'it is likely the Robodebt Scheme would not have run in the same way, for the length of time that it did, or at all, if there had been proper stakeholder consultation and transparency in its design and implementation'. It criticised a lack of consultation with relevant stakeholders, including advocacy groups, as 'one of many instances in which a possible safeguard against the catastrophic results of the scheme was rendered ineffective'.⁹

³ *Veterans' Entitlements Act 1986*, section 4B; *Military Rehabilitation and Compensation Act 2004*, section 4A; *Safety, Rehabilitation and Compensation (Defence-Related Claims) Act 1988*, section 3A.

⁴ Robodebt Report, recommendation 17.1.

⁵ Robodebt Report, p. 499 and Recommendation 18.1 (comprehensive debt recovery policy for SvA).

⁶ Recommendation 18.2 (re-instatement of six year recovery period in social security legislation).

⁷ *Compensation and Support Policy Library*, 12.6 – Overpayments (VEA); and *Military Compensation Policy Manual*, 11.3 – MRCA and DRCA Overpayment Policy.

⁸ VEA, subsection 206(2); *Compensation and Support Policy Library*, 12.6 – Overpayments. [12.6.1]; and *Military Compensation Policy Manual*, 11.3 - MRCA and DRCA Overpayment Policy, [11.3.2.2].

⁹ Robodebt Report, p. 373.

It recommended that the Government routinely consult peak advocacy bodies on proposed changes to the social security system, and establish an ongoing 'customer experience reference group' to 'provide streamlined insight to government regarding the experiences of people accessing income support'.¹⁰

16. DVA has a high level engagement with our stakeholders, particularly through the National Consultation Framework which facilitates regular communication between the veteran and ex-service community, the Commissions and DVA. DVA also supports the Government to conduct specific consultation processes as required, including the current legislation reform pathway.
17. DVA is currently building on these initiatives by developing an overarching *Veteran and Stakeholder Engagement Strategy*, as well as a *Lived Experience Framework* to better integrate lived experience into service design and delivery, policy development and evaluation.

Identifying and managing client vulnerability in compliance activities

18. The Robodebt Royal Commission found deficiencies in the way that vulnerabilities were identified and managed as part of compliance activities in the Robodebt scheme. It was critical of an inconsistent approach to identifying client vulnerability, which relied on 'vulnerability indicators' that had been applied to clients' files for some but not all payment types (generally activity-tested payments). It was also critical of the automated expiry of vulnerability flags without prior client engagement, and the level of support provided to people with vulnerability flags.¹¹
19. It recommended that Services Australia develop specific policies and processes for the identification of vulnerabilities in relation to a person's capacity to engage with compliance activities. It further recommended that all compliance programs should document the categories of vulnerable persons potentially affected, and how they will be dealt with. Stakeholders, including peak advocacy bodies, should be consulted on these matters during the program design stage.¹²
20. DVA operates under a different and more holistic model to identify and manage vulnerable clients. It has an overarching *Protocol for Dealing with Clients at Risk*, which applies to all of an individual's interactions with DVA, including compliance and overpayment management. Specific risk assessment tools are also used for particular activities, such as claims processing, which uses the *Claims Prioritisation Assessment Tool* to screen claims to identify whether a claimant may have any risk factors or vulnerabilities that require the processing of their claim to be prioritised.

Legal assurance in relation to policy proposals

21. The Robodebt Royal Commission found that there were inadequate safeguards in the Cabinet process to support scrutiny of the legality of a new policy proposal (NPP). It recommended changes to NPP template documentation, which require the responsible agency to expressly identify whether legislative change is needed to implement the proposal, and to provide copies of any legal advice obtained about the proposal.¹³

¹⁰ Robodebt Report, recommendations 12.1-12.3.

¹¹ Robodebt Report, Chapter 11, especially pp. 353-355.

¹² Robodebt Report, recommendations 11.1-11.4.

¹³ Robodebt Report, pp. 430-431 and Recommendations 15.1-15.4 (requirements for NPPs to include specific advice on whether legislative change is needed for the measure to be lawfully implemented, and to attach copies of legal advices).

22. DVA has a similar assurance mechanism for all matters which are provided to the Repatriation Commission and Military Rehabilitation and Compensation Commission for decision under DVA's portfolio legislation. It is a requirement that a submission can only be presented to the Commissions if the Chief Counsel has undertaken a legal review, and has certified that they are satisfied of the legality of the proposal. Chief Counsel's consultation comments on draft submissions are also provided to the Commissions, and Chief Counsel regularly attends meetings.

Record keeping

23. The Robodebt Royal Commission found that 'the evidence before the Commission was riddled with instances in which no record could be found to explain why significant action was taken or not taken'.¹⁴ It found that 'transparent and considered decision-making requires appropriate records to be kept' and recommended that the APSC should develop service-wide standards and training.¹⁵
24. In addition to implementing any new service-wide standards, DVA will also consider measures to support consistent good practice in internal record-keeping. This includes providing guidance or 'refreshers' to staff about making written records of oral discussions in which decisions are made, including conversations with the Minister or Assistant Minister's offices.

Data matching

25. The Robodebt Royal Commission examined the data-matching process between Services Australia and the ATO, which underpinned the Robodebt scheme. It found that there were deficiencies in the governance, controls and risk management measures to ensure compliance with its governing frameworks. It recommended that the ATO and Services Australia should undertake 'immediate steps to review and strengthen their operational governance practices'. This included reviews of existing governance framework documents and protocols to ensure that they are legally compliant with applicable privacy and secrecy laws, and conducting reviews of procedures and practices to ensure that all steps and operations relating to data-matching programs are documented.¹⁶
26. While these findings and recommendations were specific to the data-matching arrangements underpinning the Robodebt scheme, they also provide an opportunity for DVA to consider whether there may be any learnings from the recommended review by Services Australian and the ATO which could inform our data-matching arrangements. No specific compliance issues have been identified in DVA's arrangements.

Theme 2: Recommendations and findings on organisational culture

27. In addition to recommending the adoption of the specific safeguards and assurance mechanisms outlined above, the Robodebt Royal Commission made findings and recommendations which highlighted the importance of a client-centric organisational culture.

¹⁴ Robodebt Report, pp. 644-645. This included key meetings between senior officials, decisions not to seek legal advice, and decisions not to finalise draft legal advice or a consultant's report reviewing aspects of the scheme.

¹⁵ Robodebt Report, p. 645 and recommendation 23.8

¹⁶ Robodebt Report, recommendation 16.2.

28. It recommended that social security policies and processes should be designed with 'a primary emphasis on the recipients they are meant to serve'.¹⁷ It also made recommendations which highlighted two overarching measures as being particularly important in driving a client-centric organisational culture. They are meaningful engagement between senior leadership and front-line staff, and a culture of responsiveness to client or stakeholder feedback.
29. In July 2023 DVA transitioned to a new organisational alignment. The functional alignment is designed to not only make it easier for clients and stakeholders to navigate the veteran support system, but it also reflects the commitment to keep veterans and families at the centre of DVA's programs and culture.

Close engagement between senior leadership and front-line staff

30. The Robodebt Royal Commission found that there was a disconnect between front-line service delivery staff and the senior leadership responsible for the design and administration of the Robodebt scheme. It made two recommendations to improve engagement:
- Senior Executive Service (SES) staff spending time with frontline staff to better understand the practicalities of their role and their interactions with clients¹⁸
 - the adoption of processes for consultation with frontline staff when new programs are being designed and implemented, and providing meaningful, ongoing opportunities for frontline staff to provide feedback on the operation of programs.¹⁹
31. DVA has historically run ad-hoc programs of SES spending time with frontline staff in varying business areas. Such programs are being formalised through an ongoing program to be reflected in SES performance agreements.

A culture of responsiveness to client or stakeholder feedback

32. The Robodebt Royal Commission expressed criticism that an unlawful and harmful program operated for a prolonged period of time, despite a large volume of criticism from stakeholders, which raised concern about its impacts and legality. The Robodebt Royal Commission made findings which were critical of a lack of urgency and sense of responsibility on the part of officials, at various levels, to engage meaningfully with stakeholder concerns, and to take prompt action to address them at critical points in the operation of the scheme.²⁰

¹⁷ Recommendation 10.1

¹⁸ Recommendation 23.6.

¹⁹ Recommendations 13.1 (consultation with frontline staff) and 13.2 (feedback opportunities).

²⁰ Robodebt Report, Chapter 9 ('missed opportunities') at p.167: *'The Scheme received early and ongoing criticism – in the media, from advocacy organisations, within academia and from DHS employees and whistle-blowers ... DHS was well aware of these criticisms. Each example of criticism, as well as its cumulative impact, presented DHS with further opportunities to investigate the concerns raised and react to them, particularly insofar as accuracy and illegality were raised. Those opportunities were not taken up by DHS'*. See also, Chapter 12 ('stakeholder groups') at p. 373: *'It is likely the Scheme would not have run in the same way, for the length of time that it did, or at all, if there had been proper stakeholder consultation and transparency in its design and implementation' and 'the lack of consultation with relevant advocacy groups, before and during the Scheme, exemplifies one of many instances in which a possible safeguard against the catastrophic results of the scheme was rendered ineffective'*.

33. These criticisms were specific to the Robodebt scheme. However, they highlight the importance of a shared organisational culture. A client-centric culture can promote a sense of individual and collective responsibility and urgency by all staff, in meaningfully considering and promptly addressing concerns about services delivered to clients.
34. DVA operates within its' *Protocol for Dealing with Clients at Risk* to assist in the identification and assistance for vulnerable clients. In addition, a series of tools and triage processes are in place across a number of programs including the *Claims Prioritisation Assessment Tool* to screen claims to identify whether a claimant may have any risk factors or vulnerabilities that require the processing of their claim to be prioritised and triaging procedures for prior health approval and requests for rehabilitation aids and appliances.

Sensitivity

35. Yes, noting that the Government's response to the Robodebt Report is under consideration, including through the work of the PM&C, AGD and APSC Joint Taskforce.

Media

36. No

Stakeholders

37. No

Appointments

38. No

Legal Implications

39. No.

Financial Implications

40. No.

Background

41. Nil.

Related correspondence / briefs

42. No.

Consultation

43. Executive Management Board.

Summary of attachments

Attachment A List of recommendations, Robodebt Royal Commission Report, July 2023

Clearance

Cleared by:	Thy Huynh, Senior Executive Lawyer, Royal Commission Task force	s 47F
Contact:	Thy Huynh, Senior Executive Lawyer, Royal Commission Task force	s 47F
Division:	Chief Counsel, Chief Audit Executive & Chief Risk Officer Division	

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List of Recommendations

The following is a list of 57 recommendations of this Commission. Recommendations have been grouped and numbered according to the chapter in which they appear.

Effects of Robodebt on individuals

Recommendation 10.1: Design policies and processes with emphasis on the people they are meant to serve

Services Australia design its policies and processes with a primary emphasis on the recipients it is meant to serve. That should entail:

- avoiding language and conduct which reinforces feelings of stigma and shame associated with the receipt of government support when it is needed
- facilitating easy and efficient engagement with options of online, in person and telephone communication which is sensitive to the particular circumstances of the customer cohort, including itinerant lifestyles, lack of access to technology, lack of digital literacy and the particular difficulties rural and remote living
- explaining processes in clear terms and plain language in communication to customers, and acting with sensitivity to financial and other forms of stress experienced by the customer cohort and taking all practicable steps to avoid the possibility that interactions with the government might exacerbate those stresses or introduce new ones.

The concept of vulnerability

Recommendation 11.1: Clear documentation of exclusion criteria

Services Australia should ensure that for any cohort of recipients that is intended to be excluded from a compliance process or activity, there is clear documentation of the exclusion criteria, and, unless there is a technical reason it cannot be, the mechanism by which that is to occur should be reflected in the relevant technical specification documents.

Recommendation 11.2: Identification of circumstances affecting the capacity to engage with compliance activity

Services Australia should ensure that its processes and policies in relation to the identification of potential vulnerabilities extend to the identification of circumstances affecting a recipient's capacity to engage with any form of compliance activity. To this end, circumstances likely to affect a recipient's capacity to engage with compliance activities should be recorded on their file regardless of whether they are in receipt of a payment that gives rise to mutual obligations.

Recommendation 11.3: Engagement prior to removing a vulnerability indicator from a file

Services Australia should ensure that its processes and policies in relation to the identification of potential vulnerabilities require staff to engage with a recipient prior to the removal of an indicator on their file. For this purpose, Services Australia should remove any feature that would allow for the automatic expiry of a vulnerability indicator (or equivalent flagging tool). An indicator should only be removed where a recipient, or evidence provided to the Agency in relation to the recipient, confirms that they are no longer suffering from the vulnerability to which the indicator relates.

Recommendation 11.4: Consideration of vulnerabilities affected by each compliance program, including consultation with advocacy bodies

Services Australia should incorporate a process in the design of compliance programs to consider and document the categories of vulnerable recipients who may be affected by the program, and how those recipients will be dealt with. Services Australia should consult stakeholders (including peak advocacy bodies) as part of this process to ensure that adequate provision is made to accommodate vulnerable recipients who may encounter particular difficulties engaging with the program.

The roles of advocacy groups and legal services

Recommendation 12.1: Easier engagement with Centrelink

Options for easier engagement with Centrelink by advocacy groups – for example, through the creation of a national advocates line – should be considered.

Recommendation 12.2: Customer experience reference group

The government should consider establishing a customer experience reference group, which would provide streamlined insight to government regarding the experiences of people accessing income support.

Recommendation 12.3: Consultation

Peak advocacy bodies should be consulted prior to the implementation of projects involving the modification of the social security system.

Recommendation 12.4: Regard for funding for legal aid commissions and community legal centres

When it next conducts a review of the National Legal Assistance Partnership, the Commonwealth should have regard, in considering funding for legal aid commissions and community legal centres, to the importance of the public interest role played by those services as exemplified in their work during the Scheme.

Experiences of Human Services employees

Recommendation 13.1: Consultation process

Services Australia should put in place processes for genuine and receptive consultation with frontline staff when new programs are being designed and implemented.

Recommendation 13.2: Feedback processes

Better feedback processes should be put in place so that frontline staff can communicate their feedback in an open and consultative environment. Management should have constructive processes in place to review and respond to staff feedback.

Recommendation 13.3: “Face-to-face” support

More “face-to-face” customer service support options should be available for vulnerable recipients needing support.

Recommendation 13.4: Increased number of social workers

Increased social worker support (for both recipients and staff), and better referral processes to enable this support, should be implemented.

Failures in the Budget process

Recommendation 15.1: Legislative change better defined in New Policy Proposals

The Budget Process Operational Rules should include a requirement that all New Policy Proposals contain a statement as to whether the proposal requires legislative change in order to be lawfully implemented, as distinct from legislative change to authorise expenditure.

Recommendation 15.2: Include legal advices with New Policy Proposals

The Budget Process Operational Rules should include a requirement that any legal advice (either internal or external) relating to whether the proposal requires legislative change in order to be implemented be included with the New Policy Proposal in any versions of the Portfolio Budget Submission circulated to other agencies or Cabinet ministers.

Recommendation 15.3: Australian Government Solicitor statement in the NPP

The Budget Process Operational Rules should include a requirement that where legal advice has been given in relation to whether the proposal requires legislative change in order to be implemented, the New Policy Proposal includes a statement as to whether the Australian Government Solicitor has reviewed and agreed with the advice.

Recommendation 15.4: Standard, specific language on legal risks in the NPP

The standard language used in the NPP Checklist should be sufficiently specific to make it obvious on the face of the document what advice is being provided, in respect of what legal risks and by whom it is being provided.

Recommendation 15.5: Documented assumptions for compliance Budget measures

That in developing compliance Budget measures, Services Australia and DSS document the basis for the assumptions and inputs used, including the sources of the data relied on.

Recommendation 15.6: Documentation on the basis for assumptions provided to Finance

That in seeking agreement from Finance for costings of compliance Budget measures, Services Australia and DSS provide Finance with documentation setting out the basis for the assumptions and inputs used, including related data sources, to allow Finance to properly investigate and test those assumptions and inputs.

Data-matching and exchanges

Recommendation 16.1: Legal advice on end-to-end data exchanges

The Commonwealth should seek legal advice on the end-to-end data exchange processes which are currently operating between Services Australia and the ATO to ensure they are lawful.

Recommendation 16.2: Review and strengthen governance of data-matching programs

The ATO and DHS should take immediate steps to review and strengthen their operational governance practices as applied to jointly conducted data-matching programs. This should include:

- reviews to ensure that all steps and operations relating to existing or proposed data-matching programs are properly documented
- a review of all existing framework documents for existing or proposed data-matching programs
- a review of the operations of the ATO/DHS Consultative Forum and the ATO/DHS Data Management Forum
- a review of the existing Head Agreement/s, Memoranda of Understanding and Services Schedule
- a joint review of any existing or proposed data-matching program protocols to ensure they are legally compliant in respect of their provision for the data exchanges contemplated for the relevant data-matching program.

Automated decision making

Recommendation 17.1: Reform of legislation and implementation of regulation

The Commonwealth should consider legislative reform to introduce a consistent legal framework in which automation in government services can operate.

Where automated decision-making is implemented:

- there should be a clear path for those affected by decisions to seek review
- departmental websites should contain information advising that automated decision-making is used and explaining in plain language how the process works
- business rules and algorithms should be made available, to enable independent expert scrutiny.

Recommendation 17.2: Establishment of a body to monitor and audit automated decision-making

The Commonwealth should consider establishing a body, or expanding an existing body, with the power to monitor and audit automate decision-making processes with regard to their technical aspects and their impact in respect of fairness, the avoiding of bias, and client usability.

Debt recovery and debt collectors

Recommendation 18.1: Comprehensive debt recovery policy for Services Australia

Services Australia should develop a comprehensive debt recovery management policy which among other things should incorporate the Guideline for Collectors and Creditors' issued by the Australian Competition and Consumer Commission (ACCC) and the Australian Securities and Investments Commission (ASIC). Examples of such documents already exist at both federal and state levels. Any such policy should also prescribe how Services Australia undertakes to engage with debtors, including that staff must:

- ensure any debt recovery action is always ethical, proportionate, consistent and transparent
- treat all recipients fairly and with dignity, taking each person's circumstances into account before commencing recovery action
- subject to any express legal authority to do so, refrain from commencing or continuing recovery action while a debt is being reviewed or disputed, and
- in accordance with legal authority, consider and respond appropriately and proportionately to cases of hardship.

Services Australia should ensure that recipients are given ample and appropriate opportunities to challenge, review and seek guidance on any proposed debts before they are referred for debt recovery.

Recommendation 18.2: Reinstate the limitation of six years on debt recovery

The Commonwealth should repeal s 1234B of the Social Security Act and reinstate the effective limitation period of six years for the bringing of proceedings to recover debts under Part 5.2 of the Act formerly contained in s 1232 and s 1236 of that Act, before repeal of the relevant sub-sections by the *Budget Savings (Omnibus) Act (No 55) 2016* (Cth). There is no reason that current and former social security recipients should be on any different footing from other debtors.

Lawyers and legal services

Recommendation 19.1: Selection of chief counsel

The selection panel for the appointment of chief counsel of Services Australia or DSS (chief counsel being the head of the entity's legal practice) should include as a member of the panel, the Australian Government Solicitor.

Recommendation 19.2: Training for lawyers – Services Australia

Services Australia should provide regular training to its in-house lawyers on the core duties and responsibilities set out in the Legal Practice Standards, including:

- an emphasis on the duty to avoid any compromise to their integrity and professional independence and the challenges that may be presented to a government lawyer in fulfilling that obligation.
- appropriate statutory and case authority references in advice writing.

Recommendation 19.3: Legal practice standards – Social Services

DSS should develop Legal Practice Standards which set out the core duties and responsibilities of all legal officers working at DSS.

Recommendation 19.4: Training for lawyers – Social Services

DSS should provide regular training on the core duties and responsibilities to be set out in the Legal Practice Standards which should include:

an emphasis on the duty to avoid any compromise to their integrity and professional independence and the challenges that may be presented to a government lawyer in fulfilling that obligation appropriate statutory and case authority references in advice writing

Recommendation 19.5: Draft advice – Social Services

DSS should issue a further direction providing that, if the administering agency decides that a draft advice need not be provided in final form, that decision and the reasons for it must be documented. One of those steps – finalisation, or a documented decision against finalisation – should have been taken within three months of the receipt of the draft advice.

Recommendation 19.6: Draft advice – Services Australia

Services Australia should issue a direction that legal advice is to be left in draft form only to the extent that the administrative step of finalising it has not yet been undertaken by lawyers or there are remaining questions to be answered in relation to the issues under consideration and that, if the administering agency decides that a draft advice need not be provided in final form, that decision and the reasons for it must be documented. One of those steps – finalisation, or a documented decision against finalisation – should have been taken within three months of the receipt of the draft advice.

Recommendation 19.7: The Directions 1

The Legal Services Directions 2017 should be reviewed and simplified.

Recommendation 19.8: Office of Legal Services Coordination to assist agencies with significant issues reporting

The OLSC should provide more extensive information and feedback to assist agencies with the significant legal issues process.

Recommendation 19.9: Recording of reporting obligations

The OLSC should ensure a documentary record is made of substantive inquiries made with and responses given by agencies concerning their obligations to report significant issues pursuant to para 3.1 of the Directions.

Recommendation 19.10: The Directions 2

The OLSC should issue guidance material on the obligations to consult on and disclose advice in clause 10 of the Legal Services Directions 2017.

Recommendation 19.11: Resourcing the Office of Legal Services Coordination

The OLSC should be properly resourced to deliver these functions.

Recommendation 19.12: Chief counsel

The Australian Government Legal Service's General Counsel Charter be amended to place a positive obligation on chief counsel to ensure that the Legal Services Directions 2017 (Cth) are complied with and to document interactions with OLSC about inquiries made, and responses given, concerning reporting obligations under those Directions.

Recommendation 19.13: Review of the Bilateral Management Agreement

The revised Bilateral Management Agreement should set out the requirement to consult on and disclose legal advices between the two agencies where any intersection of work is identified.

Administrative Appeals Tribunal

Recommendation 20.1: AAT cases with significant legal and policy issues

Services Australia should put in place a system for identifying AAT1 cases which raise significant legal and policy issues and ensuring that they are brought to the attention of senior DSS and Services Australia officers.

Recommendation 20.2: Training for DHS legal officers

Services Australia legal officers whose duties involve the preparation of advices in relation to AAT1 decisions should receive training which emphasises the requirements of the Standing Operational Statements in relation to appeal recommendations and referral to DSS; Services Australia's obligations as a model litigant; and the obligation to pay due regard to AAT decisions and directions.

Recommendation 20.3: Identifying significant AAT decisions

DSS should establish, or if it is established, maintain, a system for identifying all significant AAT decisions and bringing them to the attention of its secretary.

Recommendation 20.4: Publication of first instance AAT decisions

The federal administrative review body which replaces the AAT should devise a system for publication on a readily accessible platform of first instance social security decisions which involve significant conclusions of law or have implications for social security policy.

Recommendation 20.5: Administrative Review Council

Re-instate the Administrative Review Council or a body with similar membership and similar functions, with consideration given to a particular role in review of Commonwealth administrative decision-making processes.

The Commonwealth Ombudsman

Recommendation 21.1: Statutory duty to assist

A statutory duty be imposed on departmental secretaries and agency chief executive officers to ensure that their department or agency use its best endeavours to assist the Ombudsman in any investigation concerning it, with a corresponding statutory duty on the part of Commonwealth public servants within a department or agency being investigated to use their best endeavours to assist the Ombudsman in the investigation.

Recommendation 21.2: Another power to obtain information

The Ombudsman Act be amended to confer on the Ombudsman a power in equivalent terms to that in s 33(3) of the Auditor-General Act.

Recommendation 21.3: Oversight of the legal services division

Departmental and agency responses to own motion investigations by the Ombudsman should be overseen by the legal services division of the relevant department or agency.

Recommendation 21.4: Log of communications

The Ombudsman maintain a log, recording communications with a department or agency for the purposes of an own motion investigation.

Recommendation 21.5: Powers of referral

The AAT is soon to be replaced by a new administrative review body. S 10A and s 11 of the Ombudsman Act should be amended so as to ensure the Ombudsman has the powers of referral and recommendation of referral in respect of that new administrative review body.

Improving the Australian Public Service

Recommendation 23.1: Structure of government departments

The Australian Government should undertake an immediate and full review to examine whether the existing structure of the social services portfolio, and the status of Services Australia as an entity, are optimal.

Recommendation 23.2: Obligations of public servants

The APSC should, as recommended by the Thodey Review, deliver whole-of-service induction on essential knowledge required for public servants.

Recommendation 23.3: Fresh focus on “customer service”

Services Australia and DSS should introduce mechanisms to ensure that all new programs and schemes are developed with a customer centric focus, and that specific testing is done to ensure that recipients are at the forefront of each new initiative.

Recommendation 23.4: Administrative Review Council

The reinstated Administrative Review Council (or similar body) should provide training and develop resources to inform APS members about the Commonwealth administrative law system. (see Automated Decision-Making and the Administrative Appeals Tribunal chapters)

Recommendation 23.5: “Knowledge College”

The Commonwealth should explore the feasibility of establishing an internal college within Services Australia to provide training and development to staff linked to the skills and knowledge required to undertake their duties.

Recommendation 23.6: Front-line Service

SES staff at Services Australia should spend some time in a front-line service delivery role and with other community partnerships.

Recommendation 23.7: Agency heads being held to account

The Public Service Act should be amended to make it clear that the Australian Public Service Commissioner can inquire into the conduct of former Agency Heads. Also, the Public Service Act should be amended to allow for a disciplinary declaration to be made against former APS employees and former Agency Heads.

Recommendation 23.8: Documenting decisions and discussions

The Australian Public Service Commission should develop standards for documenting important decisions and discussions, and the delivery of training on those standards.

Closing observations

Section 34 of the Cth FOI Act should be repealed

The Commonwealth Cabinet Handbook should be amended so that the description of a document as a Cabinet document is no longer itself justification for maintaining the confidentiality of the document. The amendment should make clear that confidentiality should only be maintained over any Cabinet documents or parts of Cabinet documents where it is reasonably justified for an identifiable public interest reason.

From: Jocumsen, Katrina
Sent: Tuesday, 1 August 2023 8:42 PM
To: s 47F Allison
Cc: SECRETARY.DVA; s 47E
Subject: FOR INFORMATION: Robodebt Code of Conduct Taskforce
[SEC=OFFICIAL:Sensitive]

Secretary

Action

- That you **note**, no current or former departmental employees have been identified for possible further action by the centralised Code of Conduct Taskforce established to respond to the **Robodebt Royal Commission** Report.

Issue

- In response to an out-of-session paper shared with Secretaries Board members on 18 July 2023, you nominated me as the point-of-contact for the centralised Code of Conduct Taskforce (the Taskforce) in consideration of former and current departmental employees about whom the Robodebt Royal Commission made adverse commentary in its public report, but have not been referred to the Taskforce.
- The Taskforce provided a list of names to assist you to form your own views about whether any further action was warranted. (e.g. code of conduct, other disciplinary, or performance management), and to identify employees who may benefit from a well-being check following the release of the Report.
- In reviewing the list against the department's current HR SAP system (May 2018 to date) and the archived HR system (1998 to May 2018), I can confirm none of the people named are current employees, nor have they been employed by DVA previously.

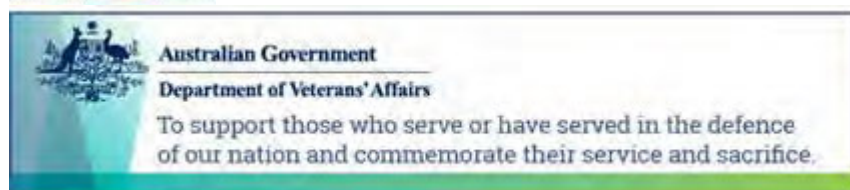
Next Steps

- There is no further action required.

Katrina

Katrina Jocumsen MAHRI
Chief People Officer
Department of Veterans' Affairs
s 47F

www.dva.gov.au



The Department acknowledges the traditional owners of the land throughout Australia and their continuing connection to country, sea and community. We pay our respect to all Aboriginal and Torres Strait Islander peoples, their cultures and to their elders past, present and emerging.



Australian Government
Department of Veterans' Affairs

ELECTRONIC RECORDS

NB: These documents have been obtained from an electronic record. An original hard-copy version of this record does not exist.



Minutes

s 22 - out of scope

Item 2: Strategic Discussion

The Board discussed: key outcomes from Secretaries Board including the report of the Royal Commission into the Robodebt Scheme, implications for the department and messaging to staff; s 22 - out of scope

s 22 - out of scope



s 22 - out of scope



Australian Government

Department of Veterans' Affairs

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s 22 - out of scope

From: SECRETARY.DVA
Sent: Monday, 20 November 2023 11:41 AM
To: DVA All Staff
Subject: Secretary's Weekly Message - Monday, 20 November 2023 [SEC=OFFICIAL]

Please click [here](#) to view the screen reader version.



Alison Frame
Secretary



Australian Government
Department of Veterans' Affairs

Dear Colleagues,

s 22 - out of scope

Recently the Government released its [response to the Royal Commission into the Robodebt Scheme](#). The response addresses the 56 recommendations and the closing observations made by Commissioner Catherine Holmes AC SC. It reiterates the Government's commitment to restoring public trust, and embedding reforms that put people at the centre and strengthen integrity.

s 22 - out of scope

Regards

Alison

s 22 - out of scope