

From: [McDonald, Ashleigh](#)  
 To: s22 [redacted] s22 [redacted] s22 [redacted] s22 [redacted] s22 [redacted]; s22 [redacted]  
 Cc: [Elliston, Lisa](#); s22 [redacted] [Robodebt Government Response](#); [RobodebtGovernmentResponse](#)  
 Subject: Robodebt government response - materials to support release [SEC=PROTECTED, CAVEAT=SH:CABINET]  
 Date: Wednesday, 8 November 2023 5:23:36 PM  
 Attachments: [231030 TPs for PM and Ministers on Robodebt Government Response.docx](#)  
 s22 [redacted]  
[WofAG TPs - Robodebt Royal Commission and Government Respose - shortened.docx](#)  
 s22 [redacted]

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Dear all

**Logistics update and materials to support release of the government response to the Robodebt Royal Commission report**

Please find **attached**:

- **Talking points for Ministers** to support announcement of the release of the government response

s 22(1)(a)(ii) [redacted]

- **Whole of government talking points**

s 22(1)(a)(ii) [redacted]

s 22(1)(a)(ii) [redacted]

Please let me know if you would like any amendments made to these documents.

**Next steps:**

We propose that the taskforce contact stakeholders **tomorrow** (Thursday, 9 November) to invite them to a meeting to receive an update on the government response on Monday (13 November).

Also **tomorrow**, the PM&C Secretary and APS Commissioner will email secretaries and agency heads with advice that it is anticipated the response will be released next week, to enable supports to be in place for impacted individuals. SES talking points will also be provided, attached to this email. s47C, 47E(d) [redacted]

We are working toward **tabling** of the government response in both Houses at midday on Monday, 13 November. s47C, 47E(d) [redacted]

We will deliver the printed copies of the response to both PLOs tomorrow afternoon.

Following tabling on Monday, the response will be **published** on the PM&C website. The PM&C Secretary, AGD Secretary and APS Commissioner will **email the APS** – a copy of the draft email is **attached** s47C, 47E(d) [redacted]

PM&C will distribute a communications pack for agencies.

Also happy to discuss.

Ashleigh

**Ashleigh McDonald** | Taskforce Head | Response to the Robodebt Royal Commission Taskforce  
Department of the Prime Minister & Cabinet

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## Government Response to the Robodebt Royal Commission Report

### Ministerial Announcement – Talking Points

#### Overview

- The Government came to office with a commitment to conduct a Royal Commission into the Robodebt Scheme.
  - The Royal Commission was established in August 2022 and the Commission's Report was presented on 7 July 2023. The Report was publicly released on the same day.
- The Government again thanks Commissioner Catherine Holmes AC SC and the staff of the Royal Commission into the Robodebt Scheme for their substantial and important work, and those who gave evidence at the Royal Commission.
- And again we recognise the hundreds of thousands of Australians who were affected by the Robodebt Scheme (526,000 individuals impacted directly).
- As Commissioner Catherine Holmes AC SC described it,

*“Robodebt was a crude and cruel mechanism, neither fair nor legal, and it made many people feel like criminals. In essence, people were traumatised on the off-chance they might owe money. It was a costly failure of public administration, in both human and economic terms.”*
- The Australian Government has carefully considered the Royal Commission's report and recommendations.
- The Government has accepted (49) or accepted in principle (7) all 56 of the recommendations.
- Our response is clear – Ministers and the Government must act in the best interests of the Australian community.
- The Government's response commits to reforms to restore the public's trust and faith in government and its institutions. We will continue to support strong oversight, integrity and accountability, and we are ensuring that humans are put back at the centre of policy design, government services and service delivery.
- 49 of the Commissioner's recommendations are accepted.
- The remaining 7 recommendations are accepted in principle to enable consultation with stakeholders and ensure effective implementation.
- In all cases, the Government accepts the objective of the recommendation.
- It is critical we ensure such failure of public administration never happens again.

**[Key announcements]**

- The Government response commits to important reforms to improve the way policy is designed and government decisions are made; enhance the way services are delivered; and support stakeholders and the community to input into government processes.
- This includes reforms to uplift integrity and transparency, improve decision-making and service delivery, build capability in the public service, and deliver stronger public institutions.
- Work is already underway. And some important reforms have already been delivered:
  - For the first time, Government Ministers are now bound by a **Code of Conduct** which requires them to act with due regard for integrity and legality, fairness, accountability, responsibility and the public interest.
  - The **National Anti-Corruption Commission (NACC)** is up and running, having commenced operations on 1 July 2023. The NACC has extensive powers to investigate Commonwealth public officials, Ministers, Ministerial staff, and any person that may adversely affect how a public official carries out their official duties honestly and impartially.
  - **Whistleblower protections** have also been strengthened.
- Our **APS Reform program** is ongoing. The Government is committed to ensuring the Australian Public Service can deliver better outcomes for the community. Over the next 18 months the Albanese Government will progress new reforms, focused on bolstering the integrity of the APS. For example:
  - the PM&C Secretary and APS Commissioner will be required to conduct merit-based appointments processes for Secretary roles;
  - a Secretaries' performance framework and process will be published; and
  - we will introduce legislative reforms to create new own motion powers for the APS Commissioner to initiate reviews and investigations into potential Code of Conduct breaches by current and former Agency Heads (including Secretaries) and APS employees.
- We will amend Cabinet processes to ensure clear and comprehensive advice is provided to the Cabinet, including on legal issues.

**[Closing observation: Freedom of Information]**

- The Government will not be amending section 34 of the FOI Act.
- As the Prime Minister stated previously, Cabinet, which is the key decision-making body of Government, must have the benefit of comprehensive, frank and fearless advice from Ministers and senior public servants.

- The existing exemption in section 34 of the FOI Act will be maintained to preserve the confidentiality of Cabinet documents and deliberations.
- The Government is committed to supporting oversight agencies to perform their critical role and hold government and the public service to account. The Government will bring forward legislative reforms to **enhance the powers of the Commonwealth Ombudsman** and impose new statutory obligations on officials responding to Commonwealth Ombudsman investigations.
- Work to abolish and replace the Administrative Appeals Tribunal with the new **Administrative Review body** is also underway. This landmark reform will establish a new system of administrative review that is user-focussed, efficient, accessible and fair.
  - The Government will also reinstate the **Administrative Review Council** to support ongoing improvements to administrative decision-making across government.
- The Government is also focused on ensuring the use of **automation** in administrative decision-making is clear, ethical and appropriate. While automation can provide important opportunities to boost productivity, it should be designed, developed, deployed, and used in a manner that is safe, human-centric, trustworthy and responsible. In response to the Commissioner's recommendations, the Government will develop a comprehensive and consistent legal framework to support automated decision-making, consistent with the principles recommended by the Royal Commission.

### **[re-humanising services]**

- In her Report, Commissioner Holmes AC SC observed that Australians receiving income support payments have been made to feel "*shame, oppression, isolation, and dehumanisation*". The Commissioner called for politicians to lead a change in attitudes toward people receiving income support.
- We must abandon phrases like "lifters and leaners".
- The social security system is a vital safety net, providing both income support and access to services for Australians who need it. Many Australians need this support at different times in their lives, for many different reasons. There is no shame in this.
- Since coming to Government, we have permanently increased the base rates of working-age and student payments and the maximum rates of Commonwealth Rent Assistance. We have also expanded eligibility for the higher rate of JobSeeker for older Australians and increased support for single parents by extending eligibility for Parenting Payment (Single).

- But most importantly, we are putting people back at the centre of policy and program design and service delivery. The Government will continue to invest in better services for the Australian community.
- The Government has announced **\$228 million in further additional funding** for Services Australia in 2023-24 to improve service delivery, including funding for more staff working in front-line roles.
- We are putting humans back into human services.
- Since October 2022, **more than \$1 billion in additional funding** is being provided to **Services Australia to improve the way services are provided** to the Australian community.
- We are also investing more in training and support for front-line workers and staff, and we will continue to partner with advocacy groups and the community to improve the way services are delivered.
- Importantly, we are working to improve payment accuracy, so that we prevent unnecessary debts being raised in the first place. The Government is also carefully examining social security debt arrangements. We have **stopped the use of external debt collectors**. And we will continue to make further changes to ensure that debt raising and recovery practices are timely, fair and conducted with empathy and respect.

#### **[funding announcement]**

- In addition to our investments to improve social services (over \$1 billion) and reform the Australian Public Service (\$72.9 million over three years from 2022-23), the Government is committing **\$22.1 million in new funding over** four years from 2023-24, and \$4.8 million per year ongoing from 2027-28, to support implementation of the commitments outlined in the Government Response.
- Work is underway to implement the Commissioner's recommendations.
- There will be, through this process, engagement with stakeholders and members of the community who have an interest in seeing this response implemented in an orderly, considered way.
- We will deliver on the commitments we have outlined in the Government Response.

#### **Concluding remarks**

- While important, implementing the Royal Commission's recommendations will not – in and of itself – be enough to prevent another Robodebt Scheme. As Commissioner Holmes AC SC notes in the Preface to the Report, "*whether a public service can be*

*developed with sufficient robustness to ensure that something of the like of the Robodebt scheme could not occur again will depend on the will of the government of the day”.*

- The Australian Government and Ministers must act in the best interests of the Australian community.
- The Government’s Response to the Royal Commission’s report sets out our clear reform agenda and our ongoing commitment to rebuild integrity and trust in government, and leave no-one behind.
- The Australian Government is putting in place changes that will deliver enduring benefits for all Australians for years to come.

*See whole of government talking points for detailed points and possible questions and answers.*

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For Taskforce reference:

PM Remarks 7 July 2023 Press conference

**ANTHONY ALBANESE, PRIME MINISTER:** This morning the government received the final report of the Royal Commission into the Robodebt Scheme. The government has publicly released this report as soon as it was tabled this morning and will now carefully consider the recommendations that are presented in the final report. First, I do want to thank the Royal Commissioner, Catherine Holmes AC SC, and those who assisted her in undertaking this absolutely critical inquiry. I would like to thank the many hard working Australian public servants who spent countless hours, days, day and night, assisting the Commission to conduct its inquiry. I particularly want to acknowledge the many thousands of individuals who were harmed by the Robodebt Scheme and thank those who bravely shared their stories with the Commission. You ensured the voices of those affected and their families were heard. We have arrived at the truth because of the courage of some of the most vulnerable Australians. People who have shown bravery in the face of injustice, hardship and sometimes terrible grief. The courage stands in stark contrast to those who sought to shift the blame, bury the truth and carry on justifying this shocking harm. The Robodebt Scheme was a gross betrayal and a human tragedy. It pursued debt recovery against Australians who in many cases had no debt to pay. It was wrong, it was illegal, it should never have happened and it should never happen again. Under the former Liberal Government, this scheme unlawfully raised \$1.76 billion in alleged debts against some 526,000 Australians. This tragedy caused stress, anxiety, financial destitution and sadly, had a very real human toll. For more than four years, Liberal Ministers dismissed or ignored the significant concerns that were raised over and over again, including in the Parliament, but also by victims, by public servants, by community organisations and of course, legal experts. The Royal Commission has found that the Liberal Party's Robodebt Scheme was to quote, "a crude and cruel mechanism, neither fair nor legal and it made many people feel like criminals. In essence, people were traumatised on the off chance they might owe money. It was a costly failure of public administration in both human and economic terms." There are a range of other quotes that stood out to me when I went through the report in the short time that we



have had it this morning. The impact of victims said this on page 342, "The scheme was launched in circumstances where little to no regard was had to the individuals and vulnerable cohorts that it would affect. The ill effects of the scheme were varied, extensive, devastating and continuing." It went on to say, to speak about some of the tragedies including in a section which is titled 'Deaths Resulting from the Scheme' which begins at page 337. "The Commission heard evidence from the mothers of two young men caught up in the scheme. They gave evidence on their son's behalf because their boys had died by suicide, their stories are told more in detail below. The Commission is also aware of another tragic death which appears to have resulted from a discrepancy letter issued under the scheme in 2017". The report goes on to say, "what is certain is that the scheme was responsible for heartbreak and harm to family members of those who took their own lives because of the despair the scheme caused them. It extends from those recipients who felt that their only option was to take their own life, to their family members who must live without them". An extraordinary finding from this Royal Commission. The Royal Commission also goes through very clearly the responsibility and where it lays. On page 177 it says, "A particularly mean-spirited aspect of the government's defence of the scheme in 2017 was the employment of the media in a form of counter attack against criticism which included singling out recipients who complained." On page 658 it says this, "As to whether the Australian Government sought to prevent scrutiny of the Robodebt Scheme, there is no doubt that there was a constant misrepresentation that the scheme involved no change in the way income was assessed or debts were calculated." When I read that I recalled the multiple times where we asked questions in the Parliament and then Prime Minister Morrison responded by saying that there were no changes that occurred that this somehow went back to the period prior to the change of government that occurred in 2013. It makes it very clear that that isn't the case. It goes through the role of Ministers and some key findings. It says on page 106 regarding Scott Morrison and his time as Minister for Social Services, to quote the report, "He failed to meet his ministerial responsibility to ensure that Cabinet was properly informed about what the proposal actually entailed, and to ensure that it was lawful." With regard to then Minister Tudge, on page 184 it says this, "Mr Tudge's use of information about social security recipients in the media to distract from and discourage commentary about the scheme's problems represented an abuse of that power" on page 179.

On page 184 it goes through, "He knew that at least two people had died by suicide and that their family members had identified the impact of the scheme as a factor in their deaths, but nonetheless failed to undertake a comprehensive review of the scheme, including its fundamental features." On page 158, it goes through then Minister Porter, and it says, "He could not rationally have been satisfied of the legality of the scheme. Mr Porter should have at least directed his department to produce to him any legal advice it possessed in respect of the legislative basis of the scheme." It goes on to talk about Stuart Robert and his time as Minister in defending the Robodebt Scheme. It says, Mr Robert, then to quote the report on page 302, "Went well beyond supporting government policy. He was making statements of fact as to the accuracy of debts, citing statistics which he knew could not be right." Think about that – 'which he knew could not be right'. "Nothing compels Ministers to knowingly make falsely statements or statements which they have good reason to suspect are untrue in the course of publicly supporting any decision or program." It then goes through a critique of Mr Morrison's evidence and says this at page 102, "The Commission rejects as untrue Mr Morrison's evidence that he was told that income averaging as contemplated in the executive minute was an established practice and a foundational way in which DHS worked." An extraordinary comment about a former Prime Minister. It then on page 302, about Stuart Robert says this, "Mr Robert was not expounding any legal position and he was going well beyond supporting government policy. He was making statements of fact as to the accuracy of debts, citing statistics which he knew could not be right." On page 315 it says, "The Commission rejects Mr Robert's claim to have acted to end the Robodebt Scheme quite as promptly as he professes. Ms Leon was in fact the first to take steps for that purpose." It goes through in great detail the impact on victims. And on page 342, it goes through very clearly about the ill effects of the Scheme were varied, extensive, devastating and continuing. The Commission goes through in enormous detail as well the human impact of the scheme, but it also goes through the economic cost. On page 401 it says this, "The Commonwealth incurred estimated total costs of \$971.391 million in implementing, administering, suspending and winding back the scheme, including incidental costs. The net cost of the scheme is approximately \$565.195 million, which represents a net impact of its estimated totals of \$971.391 million, offset by the estimated savings of \$406.196 million." It goes on to say on page 402, "The wider costs of the scheme on the broader economy and on

society also represent the cost of the scheme, though real their measurement is more subjective and has not been attempted in this chapter. The Royal Commission also has, as you will see, a sealed section that has been provided to the appropriate bodies. It says this, just to clarify, "I have provided to you an additional chapter of the report which has not been included in the bound report and is sealed. It recommends the referrals of individuals for civil action or criminal prosecution. I recommend that this additional chapter remain sealed and not be tabled with the rest of the report so as not to prejudice the conduct of any future civil action or criminal prosecution". Making that clear as well, to pre-empt perhaps some of the questions that people might ask. That's been provided to appropriate people, not to myself or the Minister. I'd ask Minister Shorten to make comments, we'll then be happy to take questions. But I do want to thank the Minister for presiding over, and being determined as Shadow Minister first to have the Robodebt Royal Commission. This is precisely why you should have a Royal Commission, for purposes to get to the facts, to expose flaws in the way that government operates, so as to ensure that it does never happen again.

**BILL SHORTEN, MINISTER FOR GOVERNMENT SERVICES AND THE NATIONAL DISABILITY INSURANCE SCHEME:** Thank you, Prime Minister. Commissioner Holmes has given us a report, a Royal Commission report into the Robodebt scandal, which I think in summary shows that the previous government and senior public servants gaslighted the nation and its citizens for four and a half years. They betrayed the trust of the nation and its citizens for four and a half years with an unlawful scheme which the Federal Court has called the worst chapter of public administration. It fundamentally says that it's broken the sacred trust that when citizens give some of their power to the government, that the government will make sure that it helps, not hurts citizens. And this is a report which shows how the previous government and senior public servants hurt, not helped citizens. I would like just to address briefly some remarks to the victims of the scheme. When the Prime Minister and I and other Ministerial colleagues last August announced the Royal Commission and the implementation of our election promise, we promised that we would hope that this Royal Commission will deliver some overdue justice to our fellow Australians who were so poorly treated by the then Government. So today my thoughts are with the victims, the 433,000 vulnerable Australians who were identified in the Federal Court, and tens of thousands of others as the Prime Minister's

referred to. They were literally shaken down by their own government. By a government who didn't have the power to raise debt notices against them, and in fact, they did break the law. They had the onus of proof reversed, they were treated as guilty until proven innocent. And for those who had the temerity to complain they were subject to vile political tactics. So, today is about these victims. Today is about the frontline staff of Services Australia who were forced to implement unconscionable propositions. It is about Colleen Taylor who, I'm pleased to note Commissioner Holmes has said that her evidence as a frontline worker in the system, and her evidence of speaking up to the then Secretary of Human Services, as the Commissioner says, restored some faith. Thank you Colleen, and all the others who we don't know about who spoke up and to their union reps as well. It is also about the welfare advocates who raised the uncomfortable truths long before this Royal Commission. I acknowledge, amongst others, the evidence of Genevieve Bolton, Katherine Boyle and Catherine Eagle, but there were many. Thank you for speaking up for those who didn't have a voice. But today is also about people who suffered more harm than most. I've gotten to know Jennifer Miller and Kath Madgwick over the journey of fighting Robodebt. They gave evidence about how their sons, after they received Robodebt, their sons took their own lives. These people, Kath and Jennifer, they were told by the then government that it had nothing to do with Robodebt. They've spoken up. Today is not the true outcome they would like, but the universe can't grant us going back in time and making sure that Rhys and Jarrad didn't take their own lives. But it is vindication. So, on a stressful day, a traumatic day, a triggering day to those brave women and to many others, we acknowledge you. The Royal Commission has highlighted a broken system under the previous government. And Commissioner Holmes certainly doesn't mince her words in terms of what she says. She's described Robodebt as an 'ill conceived, embryonic idea rushed to Cabinet'. She's attacked the misconceived notion that unreviewed discrepancies between the ATO and DHS income data represented mountains of gold, but she did note its neat alignment with the then political rhetoric. She has described almost, it's almost akin to a children's nursery rhyme the evidence given by senior leaders of the previous government. She identifies where Minister Morrison essentially blamed the Department of Social Services. The Department of Social Services senior leadership essentially blamed the Department of Human Services. The Department of Human Services blamed other people in the

Department of Human Services. Countless Coalition Ministers couldn't remember a thing and showed no curiosity at all about the scheme. She describes it as a child's nursery rhyme, but of course, a lot more significant. She identifies this scheme that it illustrates a myriad of ways that things can go wrong through, and I quote Commissioner Holmes's words about our predecessors, "The things that can go wrong through venality, incompetence and cowardice". It shouldn't have taken a Royal Commission to stop this scheme. It shouldn't have taken the legal action by Victorian Legal Aid and then a class action. It shouldn't have taken four and a half years of a fire hose of complaint. It shouldn't have taken the Government, as the Prime Minister has said, misrepresenting the scheme quite deliberately. This is a lesson for this public service of Australia, one which I hope resonates for the next generation. We'll take our time to consider the recommendations, but we won't take too much time. But clearly, this is unfortunately an example where the ends do not justify the means. And unfortunately, many Australians were subjected to unconscionable conduct by their own government.

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## TALKING POINTS

<b>Subject</b>	<a href="#">Royal Commission into the Robodebt Scheme and the Government's response</a>
<b>Date</b>	8 November 2023
<b>Version</b>	V1
<b>Type</b>	Whole of Government
<b>Email</b>	<a href="mailto:media@pmc.gov.au">media@pmc.gov.au</a>

### SHORT FORM MEDIA RESPONSES

- The Australian Government has released its response to the report of the Royal Commission into the Robodebt Scheme.
- Commissioner Catherine Holmes AC SC found that the Robodebt Scheme failed the public interest, and was a crude and cruel mechanism that was neither fair nor legal.
- The Government has **accepted** or **accepted in principle** all 56 of the recommendations made by the Royal Commission.
- The Government will continue to push forward with reforms to ensure a failure like the Robodebt scheme can never happen again.
- The Government's Response to the Royal Commission's report reinforces a clear reform agenda – an agenda that was put to the Australian people at the last election, and is founded in commitments to rebuild integrity and trust in government, and leave no-one behind.
- The Australian Government is putting in place changes that will deliver enduring benefits for all Australians for years to come.
- The Government Response is available on the Department of the Prime Minister and Cabinet website.

### HIGH LEVEL TALKING POINTS – POST RELEASE OF RESPONSE

- On 13 November 2023, the Australian Government released its response to the report of the Royal Commission into the Robodebt Scheme.
- Establishing the Royal Commission was a promise the Government took to the last election.
  - The Government moved quickly to establish the Royal Commission, and it commenced work on 18 August 2022.

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- The Royal Commission's report was delivered to the Government on 7 July 2023 and publicly released on the same day.
- The results were shocking.
  - The Royal Commission found that the Robodebt Scheme failed the public interest. As Commissioner Holmes AC SC described it, *"Robodebt was a crude and cruel mechanism, neither fair nor legal, and it made many people feel like criminals. In essence, people were traumatised on the off-chance they might owe money. It was a costly failure of public administration, in both human and economic terms."*
  - And unfortunately, the Robodebt Scheme was not an innocent mistake. The Royal Commission found that *"[t]he beginning of 2017 was the point at which Robodebt's unfairness, probable illegality and cruelty became apparent"*, but it was not until mid-2020 that the Robodebt Scheme finally came to an end.
- The Australian Government has carefully considered the Royal Commission's report and recommendations.
- The Government **accepts (49) or accepts in principle (7) all 56 recommendations** made by the Royal Commission.
  - The commitments outlined in the Government response have been carefully designed.
  - For some recommendations, the commitments outlined in the Government Response go further than the Commissioner recommended.
  - For others, where a recommendation has been accepted in principle, the implementation activities outlined in the Response have been adjusted to ensure lasting effectiveness.
- The public is entitled to trust that the government and the public service will act with integrity, in accordance with the highest standards of ethical leadership and good government.
- Many of the Royal Commission's findings align with the priorities and reforms the Australian Government took to the Australian people at the last election – rebuilding trust in government, investing in a capable public sector, delivering strong institutions and ensuring people are at the centre of service delivery.

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- The Government has already embarked on a series of reforms to achieve these outcomes, and is continuing with further reforms to ensure a failure like Robodebt can never occur again. This work includes:
  - establishing the National Anti-Corruption Commission (NACC), which commenced on 1 July 2023
  - the Australian Public Service Reform Agenda, which has now progressed to Phase 2 and is putting strong foundations in place for a world-class and future fit Australian Public Service that delivers better outcomes for the community (recommendations 10.1, 12.2, 13.3 and 23.7)
  - establishing and enforcing a robust Ministerial Code of Conduct which requires Ministers to act with due regard for integrity and legality, fairness, accountability, responsibility and the public interest
  - strengthening Australia's whistleblowing framework. The first stage of reform commenced on 1 July 2023, and more work is underway to ensure strong, effective and accessible public sector whistleblower protections.
- Further in line with the Government's integrity agenda, work is underway to abolish the Administrative Appeals Tribunal and establish the Administrative Review Tribunal in its place – a landmark reform that will deliver a new system of administrative review that is user focused, efficient, accessible and fair, will jointly implement recommendations from the Royal Commission (recommendations 20.4 and 21.5).
- In its response to the Royal Commission report, the Government has further committed to:
  - amend Cabinet procedures to support proper decision-making, including to ensure appropriate and clear advice is provided on legal issues and any assumptions underpinning new policy proposals (recommendations 15.1, 15.2, 15.3, 15.4, 15.5 and 15.6);
  - bring forward legislative reforms to enhance the powers of the Commonwealth Ombudsman and impose statutory obligations on officials responding to Commonwealth Ombudsman investigations (recommendations 21.1, 21.2);
  - re-establish the Administrative Review Council to support further improvements to administrative decision-making by government (recommendation 20.5); and

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- adhere to the Digital Service Standard, and explore opportunities to improve oversight arrangements and the underpinning legal framework so the use of automation in government decision-making is clear, ethical and transparent, and consistent with the principles recommended by the Royal Commission (recommendations 17.1 and 17.2).
- Importantly, the Response also reflects the Government's steadfast commitment to maintaining a strong social security safety net, and put people back at the centre of policy design and service delivery.
- The most important role of any Government is to serve the community.
- We must not impose stigma or shame on those who seek support when they need it.
- The Government will continue to support vulnerable people, and implement changes to improve policy and service delivery.
  - The Department of Social Services and Services Australia are investing in more training for officials and will seek regular feedback on service and program delivery from front-line staff, the community and advocacy bodies. (Recommendations 10.1, 11.2, 11.4, 12.1, 12.2, 12.3, 13.1, 13.2, 19.2 and 19.4). Services Australia is also partnering with Economic Justice Australia to pilot a dedicated advocates channel into the agency (recommendation 12.1);
  - The National Legal Assistance Partnership is being independently reviewed (recommendation 12.4); and
  - The Government has committed to improving social security debt arrangements to ensure debt raising practices are timely fair and conducted with empathy and respect (recommendations 18.1 and 18.2).
- The Government looks forward to close stakeholder engagement and consultation as it works to implement its Response to the Royal Commission's recommendations.

### **Funding Commitments**

- The Government is providing \$22.1 million over four years from 2023-24 and \$4.8 million ongoing from 2027-28 to support implementation of the Royal Commission's recommendations. This includes:
  - \$2.3 million over four years from 2023-24, and \$0.7 million per year ongoing from 2027-28, for the Commonwealth Ombudsman to boost its oversight of government agencies;

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- \$5.4 million over four years from 2023-24, and \$1.7 million ongoing, to re-establish the Administrative Review Council to support better government decision-making (recommendations 20.5 and 23.4);
- \$5.2 million over four years from 2023-24, and \$1.1 million ongoing, for the Office of Legal Services Coordination (recommendations 19.7-19.11) to improve the identification and management of legal risk;
- \$3.6 million over four years from 2023-24, and \$0.9 million ongoing, for the Office of Constitutional Law to improve how legal risk is identified in advice to Cabinet (recommendations 15.1-15.4), and
- \$5.6 million over four years from 2023-24, and \$0.4 million ongoing, in new funding for the Attorney-General's Department to develop a legal framework to support the consistent and appropriate use of automated decision-making in the delivery of government services and programs (recommendation 17.1).
  - This work will be done in partnership with the Department of Industry, Science and Resources and linked to the Government's broader work on the safe and responsible use of AI.
- The Government is also providing additional funding to Services Australia to improve the way it delivers services for the Australian people.
  - The Government has announced that it will provide an additional \$228 million in further funding for Services Australia in 2023-24, available immediately to improve service delivery and increase the number of staff working in front line roles.
  - In total, the Government has provided more than \$1 billion in additional funding to Services Australia since October 2022 to support better service delivery.
- In addition to these measures, the Government is also investing \$72.9 million over three years from 2022-23 to strengthen and reform the APS.

#### **APS Reform**

- The Australian Government is working to strengthen the public service and increase the public's trust and confidence in Australia's public sector institutions.
- On 1 November 2023, the Minister for the Public Service announced the second phase of reforms to strengthen the public service, promote institutional integrity, accountability and transparency, and deliver better outcomes for the Australian community.

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- Secretaries and agency heads must be accountable for their actions. The Government will introduce legislative amendments to bolster the powers of the APS Commissioner, including powers to undertake own motion reviews and investigations into Code of Conduct matters, and impose disciplinary declarations on former officers (recommendation 23.7).
- The Government will also introduce amendments to require that Secretary and agency head appointments are merit based (recommendation 23.7).
- The performance of SES officers will be assessed on both behaviours, as well as outcomes.
- Uplifting capability across all levels in the APS is also a key priority. The APS Academy will continue to develop and roll out mandatory training, including specific training on integrity and record-keeping (recommendation 23.8).

### Amendments to the Freedom of Information Act

- The Commissioner made a closing observation in respect of the confidentiality of Cabinet documents and potential reform of the *Freedom of Information (FOI) Act 1982*.
- The Government will not be amending section 34 of the FOI Act.
- Cabinet, the key decision-making body of Government, must have the benefit of comprehensive, frank and fearless advice from Ministers and senior public servants. The existing exemption in section 34 of the FOI Act will be maintained to preserve the confidentiality of Cabinet documents and deliberations.
  - As set out in the Cabinet Handbook: *“The principle of collective responsibility requires that ministers should be able to express their views frankly in Cabinet meetings in the expectation that they can argue freely in private while maintaining a united front in public when decisions have been reached. This in turn requires that opinions expressed in the Cabinet and Cabinet Committees, including in documents and any correspondence, are treated as confidential.”*

### Implementation monitoring

- The Government listened carefully to the testimony of witnesses before the Royal Commission, and is committed to ensuring a failure like Robodebt never happens again.

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- Work is underway to implement many of the Commissioner's recommendations, many of which align with the Government's existing priorities and reform agenda.
- Ministers will be required to deliver on these commitments, and will report to Cabinet on progress.

**Automated decision-making**

- The Australian Government is committed to ensuring new technologies are integrated in a safe and responsible manner.
- Across society, the considered and ethical use of technology can help to deliver better services to the community, including government services.
- The Government has committed to considering opportunities for legislative reform to establish a consistent legal framework for the ethical and appropriate use of automation in government decision-making, with necessary safeguards (recommendation 17.1).
  - This work will be co-led by the Attorney-General's Department with Department of Industry Science and Resources and the Cross-Agency Taskforce on Artificial Intelligence in Government.
  - In particular, the implementation of this recommendation will be informed by the Government's broader work on the safe and responsible use of AI, and will reflect considerations through that process.
- Advice on options for establishing a body to oversee the use of automation in administrative decision-making and government service delivery will be informed by this work (recommendation 17.2).

**Sealed section/confidential chapter**

- The Government response does not address the Sealed Chapter of the Royal Commissioners report.
- The Royal Commissioner created the confidential chapter so as not to prejudice the conduct of any future civil action or criminal prosecution.
- The Government respects the Royal Commissioner's Do Not Publish Order.
- To maintain the integrity and procedural fairness, and consistent with the Commissioner's Do Not Publish Order, it is not appropriate to discuss the confidential chapter.

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## Q&As

### Content of the Government Response

#### *Why are some recommendations 'Accepted in Principle'?*

- Seven recommendations are accepted in principle either because the form of implementation outlined in the Response differs from that specifically recommended, or further consideration and consultation is required to inform implementation.
  - **Recommendation 12.2** - that the Government should consider establishing a customer experience reference group.
    - Services Australia will provide advice on whether a whole of government customer experience reference group would assist to improve service delivery design and implementation, including the potential composition of such a group.
  - **Recommendation 15.2** – legal advice to be provided in all NPPs.
    - The intent of this recommendation is being addressed in a different form.
    - The Government considers that clear, concise and succinct summaries of legal issues are likely to be of greater assistance to entities and Ministers than copies of entire legal advices.
    - This is especially the case where a number of legal advices have been provided during the development of new policy proposals. Full copies of legal advice may be provided on a case-by-case basis, where appropriate.
    - Relevant Cabinet procedures will be updated to reflect this.
  - **Recommendation 13.3** - that there be increased face-to-face service delivery by Services Australia.
    - Services Australia will continue to improve its service delivery practices, including both face-to-face and online interactions, to ensure delivery methods adopt a customer-centred approach.
    - Further improvements to service delivery will be informed by consultation with stakeholders and whole of government service delivery attributes and design standards.
  - **Recommendation 13.4** - that there be increased number of social workers in Services Australia.
    - Services Australia will continue to implement its Social Work Servicing Strategy 2021-25, which aims to increase the accessibility of social workers for customers. Approximately 65 per cent of Services Australia social workers work out of a face-to-face service centre.

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- **Recommendation 18.2** - that a statutory limitation of 6 years be imposed for social security debts.
  - The Government is committed to a strong social security safety net and service delivery that puts people at the centre.
  - The Response outlines the Government's commitment to ensuring debt raising and recovery is undertaken in a timely, fair and respectful manner.
  - This recommendation is *accepted in principle* on the basis that the development of legislative reform will require careful consideration.
  - The Government will carefully consider options for legislative reform, including appropriate statutory limitation periods for the raising and recovery of social security debts to comprehensively address the issues identified by the Royal Commission.
  
- **Recommendation 21.3** - that agency/department responses to Ombudsman own motion investigations be overseen by the legal division of the relevant department or agency.
  - The Government agrees that responses to Ombudsman investigations must be accurate, complete and provided in a timely manner.
  - The intent of this recommendation is being addressed in a different form as not all agencies have specialist legal divisions. The approach recommended may also not be appropriate if the legal division is the subject of the investigation.
  - The Government has accepted recommendation 21.1 and will progress legislative amendments to require that departmental secretaries and agency chief executive officers ensure that their department or agency use its best endeavours to assist the Ombudsman.
  - Consistent with this obligation, the response also commits to ensuring agency heads identify and manage conflicts of interest in arrangements to oversee Ombudsman investigations.
  
- **Recommendation 23.1** that the Government commission a review of the social services portfolio structure and the status of Services Australia as an agency.
  - This recommendation requires further consideration.
  - The Government agrees that portfolio structures should support the effective delivery of government services and programs.
  - The Government will be guided by the Royal Commission's findings when considering the most optimal arrangement of functions and responsibilities between social policy agencies and Services Australia.

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*What is being done to address call wait times and front line staffing at Services Australia?*

- The Government is providing \$228 million in further additional funding for Services Australia in 2023-24, to improve service delivery and increase the number of staff working in front-line roles.
- In total, the Government has provided more than \$1 billion in additional funding to Services Australia since October 2022 to support better service delivery.

*What is being done to support vulnerable recipients?*

- The Commissioner made a number of recommendations directed at improving the way Services Australia engages with vulnerable members of our community (recommendations 11.2, 11.3 and 11.4).
- Services Australia continues to implement its 'Vulnerability Strategy', which includes additional training for staff to help them identify and support customers with a vulnerability.
- Where a customer has advised Services Australia staff of a change in their circumstances, staff may also have access to vulnerability information when engaging with customers in relation to compliance and debt recovery programs.
- Services Australia will continue to consider options to improve how vulnerability information is identified and recorded, and improve service delivery.

*Will income support payments be increased?*

- The social security system is a vital safety net.
- The Government has permanently increased the base rates of working age and student payments, as well as the maximum rates of Commonwealth rent assistance.
  - From 20 September 2023, additional support is being provided through the Jobseeker Payment, Youth Allowance, Parenting Payment (Partnered), Austudy, ABSTUDY, Disability Support Pension (Youth) and the Special Benefit payment.
  - In addition, access to the Parenting Payment (single) has been expanded for single parents with a youngest child under 14 years of age (up from 8 years of age).
  - Eligibility for the higher single JobSeeker payment has also been extended to persons aged 55 years and older who are on the payment for nine or more continuous months (previously limited to those aged 60 years or older).

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*Will the Government implement the Thodey recommendations?*

- The Government is implementing its commitment to reform the APS. This includes new measures to improve the transparency of Secretary and agency head appointments, and uplift APS capability and SES performance.
- The Response outlines that the Government will progress reforms to:
  - require the PM&C Secretary and APS Commissioner to conduct merit-based appointments process for Secretary roles;
  - publish a Secretaries' performance framework and process;
  - improve the handling of sustained underperformance of Secretaries, including appropriate consequences;
  - improve transparency and consistency in the processes for Agency Head appointments, performance and suspension, including requiring merit-based appointment processes;
  - create a power to suspend Agency Heads, including without pay; and
  - create a power to apply sanctions following breaches of the Code of Conduct by Agency Heads.
- In addition, the Response also undertakes to progress reforms to the *Public Service Act 1999* to give the APS Commissioner own-motion powers to initiate investigations and reviews.

*How does the Government response relate to the recent Bletchley Declaration signed by Australia on 3 November and the government's broader work on the safe and responsible use of AI?*

- Australia, alongside the EU and 27 countries, including the US, UK and China, has signed the Bletchley Declaration affirming that AI should be designed, developed, deployed, and used in a manner that is safe, human-centric, trustworthy and responsible.
- The Declaration signals our commitment to work with other governments, civil society, and the tech companies to ensure AI is developed with the right guardrails in place.
- The signing of the Bletchley Declaration reinforces the importance of nations working together to support the safe and responsible use of AI.
- The Declaration aligns to the themes presented in the Royal Commission report, particularly the issues reflected in recommendations 17.1 and 17.2.



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- The implementation of recommendations 17.1 and 17.2 will be informed by the Government's broader work on the safe and responsible use of AI, and will reflect considerations through that process.

*When will the government reinstate the statutory limitation period for debt recovery?*

- Recommendation 18.2 of the Robodebt Royal Commission Report recommended the Commonwealth reinstate the previous 6-year limitation for the recovery of social security debts. This limitation has not been in effect since 2016.
- Reinstating the previous 6-year limitation, which was complex and created ambiguity while in place, will not provide the certainty the Royal Commissioner sought in making the recommendation that current and former social security recipients should not be on any different footing from other debtors.
- To wholly resolve the issues identified by the Commissioner, debt raising and recovery needs to be reformed to ensure the settings are right, so people who rely on the social safety net are not unfairly treated by the Commonwealth by subjecting them to debt and recovery arrangements which are no longer fit for purpose.

*Why should cabinet documents be exempt from disclosure under FOI?*

- The Government will not repeal section 34 of the FOI Act, which allows agencies to exempt Cabinet material subject to an FOI request.
- This reflects the importance of maintaining confidentiality of Cabinet discussions, the collective responsibility of the Cabinet, and promoting the exchange of frank and fearless advice between Departments, agencies and Ministers.

*Will the Government formally apologise to Robodebt victims and impacted APS staff?*

- On 10 August 2023, the Minister for Government Services, the Hon Bill Shorten MP, moved a motion in the House of Representatives that the House accepts the findings of the Royal Commission, expresses its deep regret and apologises to the victims and to front-line Centrelink staff.
- While the House agreed to that motion, the Opposition – including former ministers who were responsible for the Robodebt Scheme – voted against it.
- Three APS leaders have publicly apologised to APS staff:
  - Secretary of the Department of Social Services, Mr Ray Griggs AO CSC (7 July 2023 to DSS staff), and

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- Former CEO of Services Australia, Ms Rebecca Skinner PSM (8 September 2023, to current and former Services Australia staff).
- APS Commissioner, Dr Gordon de Brouwer PSM (10 April 2022, Institute of Public Administration Australia podcast) apologised in a personal capacity to the victims of Robodebt for what the public service did to them.
- Questions regarding apologies made by agency heads should be directed to those agencies.

### Income Apportionment

*What is Income Apportionment? How is this different to Robodebt?*

- Income apportionment is not Robodebt. The Commonwealth Ombudsman has made this distinction clear.
- On 30 October 2023, Services Australia paused repayments on debts related to employment income earned prior to 7 December 2020.
  - Services Australia used income apportionment to work out a person's entitlement when their employment earnings period didn't align with their Centrelink payment fortnight.
  - Income apportionment was the practice of evenly dividing a customer's employment income across two or more Centrelink fortnightly reporting periods. Income apportionment is not the averaging of annual income data supplied by the ATO, which occurred in Robodebt.
- The Department of Social Services and Services Australia are continuing to work with the Ombudsman to address issues with the historical practice of income apportionment.
- This involves complex legal and policy issues which will take further time to clarify. The Department of Social Services is working through these issues as quickly as possible.
- Impacted customers are being contacted and won't need to make repayments on debts that are paused.

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**Monitoring implementation**

*When will the recommendations be implemented?*

- The Government will work hard to implement the commitments outlined in the Response as quickly as possible.
  - As at 13 November 2023:
    - 11 recommendations have been substantially implemented (noting some also have ongoing commitments);
    - 35 are in progress;
    - 8 require legislation; and
    - 2 require further consideration.
- Ministers will be required to report to Cabinet on the status of implementation.
- However, as Commissioner Holmes AC SC identified, implementing the recommendations will not, of itself, be enough.
- The Albanese Government remains committed to a culture of accountability and transparency.
  - For the first time, Government Ministers are required to act in accordance with a Ministerial Code of Conduct.
- The Government will keep working for Australians, to rebuild trust and improve services for the community.

*Who will be responsible for ensuring the Recommendations are implemented?*

- Ministers will be required to deliver on the commitments the Government has outlined in the Government Response, and will report to Cabinet on progress

*How will stakeholders be consulted to inform implementation?*

- Government agencies and departments will engage with stakeholders during implementation.
- In particular, Services Australia and the Department of Social Services will build and expand on mechanisms to support engagement with peak advocacy groups and seek their views on the design and implementation of projects where there are likely to be implications for users of the social security system.

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## **Development of the Government Response**

### *How was the Government Response developed?*

- In July 2023, the Prime Minister approved establishing a joint-agency Taskforce to coordinate the Government Response to the Royal Commission.
- The Response to the Robodebt Royal Commission Taskforce (the Taskforce) was jointly led by PM&C, AGD and APSC.
- The Taskforce included officers from PM&C, AGD, APSC, the Department of Social Services (DSS), the Department of Finance (Finance), Services Australia and the Australian Taxation Office (ATO).

### *What consultation informed the development of the Government Response?*

- The Taskforce undertook broad consultation with government departments and agencies to develop advice on the Government response.
  - Work to develop the Government Response was supported by an interdepartmental committee.
- The work was overseen by a Steering Group of Secretaries and agency heads of Accountable Authorities, and regular updates were provided to Secretaries Board.

### *Did the Government consult with civil society / unions on the Government Response?*

- The Taskforce did not consult outside the Australian Government on the development of the response.
- The Government has accepted or accepted in principle all 56 recommendations.
- The Government is committed to working closely with stakeholders on the implementation of the Royal Commission's recommendations.
- The Taskforce provided a briefing to key stakeholders ahead of the release of the Government Response.

### *Which stakeholders did the Taskforce notify ahead of the release of the Government Response?*

- Ahead of the release of the Government Response, the Taskforce provided a briefing to:
  - Australian Council of Social Service (ACOSS)
  - Community Legal Centres Australia
  - Community and Public Sector Union (CPSU)
  - Financial Counselling Australia
  - Economic Justice Australia

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- National Aboriginal and Torres Strait Islander Legal Services (NATSILS)
- The Law Council of Australia
- National Legal Aid (NLA) & Victoria Legal Aid (VLA)
- Coalition of Peaks
- As a matter of courtesy, the Attorney-General Department notified the Royal Commissioner ahead of the public release of the Government's Response.

**Findings against individuals**

*Public servants being stood down in their current role*

- It is not appropriate to speculate or discuss which individuals have been stood down in relation to the report and its findings or whether they are part of a referral. Referrals are subject to the Royal Commissioner's Do Not Publish Order. The Government respects the Royal Commissioner's Do Not Publish Order.

*Findings against individual public servants/statutory office holders*

- The Royal Commission's report makes various findings about the roles and responsibilities of individual public servants involved in the Robodebt Scheme.
- A centralised inquiry mechanism has been established to inquire into alleged breaches of the Code of Conduct by APS employees, former APS employees and Agency Heads arising from the Royal Commission.
- This decision was taken by Secretaries Board to ensure the integrity of the APS is upheld in a fair, consistent, independent and transparent manner.
- Under the *Public Service Act 1999*, Agency Heads are able to request that the APS Commissioner inquire into and determine whether a current or former APS employee has breached the Code.
- The Royal Commission only referred individuals to the Australian Public Service Commissioner in the sealed section of its report who, if found to have breached the Code of Conduct, could be subject to a sanction. This means that only current APS employees who may be subject to sanctions were proposed for a possible Code of Conduct investigation by the APSC.
- To ensure equitable treatment of current APS employees, former APS employees and former APS Agency Heads, further consideration was given to whether additional referrals to the centralised code of conduct mechanism, was warranted with respect to:

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- former APS employees, by Agency Heads, in consultation with the Code of Conduct Taskforce in the APSC;
- current APS employees mentioned in the open version of the Royal Commission report but not referred in the sealed section, by Agency Heads, in consultation with the Code of Conduct Taskforce in the APSC; and
- former Agency Heads, with the Secretary of the Department of the Prime Minister and Cabinet advising the Minister for the Public Service to make referrals under section 41(2)(k) of the Public Service Act 1999 to the Australian Public Service Commissioner.

*Code of Conduct Inquiry Taskforce*

- All referrals for investigation of potential breaches of the APS Code of Conduct have now been made, and the Code of Conduct Taskforce in APSC has notified all referred individuals.
  - The Commissioner has received 16 referrals to the APSC's centralised code of conduct mechanism, consisting of:
    - current APS employees named in the sealed section of the Royal Commission's report
    - former APS employees referred by their most recent Agency Head, and
    - former Agency Heads referred by the Minister following advice from the Secretary of the Department of the Prime Minister and Cabinet.
- An assessment is being undertaken to establish in each case whether there are sufficient grounds to commence an investigation into suspected breach(es) of the APS Code of Conduct.
- Individuals who become the subject of a formal investigation will have an opportunity to respond to any allegations of suspected breach(es) of the APS Code of Conduct and provide their own submissions either in writing, by interview, or both.
- Timeframes will depend on availability, length of submissions and any extensions that may be requested.
- The APS Commissioner has engaged an Independent Reviewer and delegated his powers to conduct inquiries and make determinations.
  - Mr Stephen Sedgwick AO, a former Public Service Commissioner, has taken on the role of Independent Reviewer. Mr Sedgwick's role is to inquire into and determine whether an individual has breached the Code of Conduct.

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- Ms Penny Shakespeare has been appointed as a supplementary reviewer to make inquiries into the conduct of former Agency Heads. The *Public Service Act 1999* requires that the reviewer for referrals under section 41(2)(k) is a current senior public servant.
- An independent sanctions adviser will be appointed, as required, to make recommendations to the relevant Agency Head, should any current APS employees be found to have breached the APS Code of Conduct.

*Are there consequences for people who have not been referred?*

- Agency Heads have considered the full range of actions available for effective and proportionate responses to the adverse commentary presented in the Royal Commission's report.
- In line with their legislated duties, Agency Heads have determined the most appropriate action to improve or change behaviour, including ongoing management of performance through counselling, training, mentoring or closer supervision for those employees not referred to the APS Code of Conduct processes.
  - The Code of Conduct Taskforce in APSC has supported Agency Heads and their delegates as they have completed this process.
- Agency Heads have made decisions regarding the employment arrangements for current APS employees who have been referred to the Code of Conduct process.

*Referrals to the National Anti-Corruption Commission, AFP or other body*

- A Royal Commission is not a court and cannot determine the criminal or civil liability of a person. However, it is open to the Royal Commission to make findings about a person's evidence or conduct, and if it considers appropriate, to refer matters to law enforcement authorities and other bodies for consideration of civil action or criminal prosecution (section 6P of the *Royal Commissions Act 1902*).
- It would not be appropriate to comment on any individual who may or may not be the subject of a referral to the National Anti-Corruption Commission, Australian Federal Police or any other body.
  - The Chapter of the report that deals with referrals pursuant to section 6P is subject to a Direction Not to Publish made by the Royal Commissioner.

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*Legal assistance for former Ministers appearing before the Royal Commission*

- Legal assistance to current and former Ministers may be provided in relation to proceedings relating to their ministerial duties, under the *Parliamentary Business Resources Regulations 2017*.
  - This includes legal representation for inquiries and Royal Commissions.
- Assistance was approved for 10 former Ministers during the Robodebt Royal Commission.
  - Consistent with previous practice, details of any future approvals for legal assistance will be tabled in Parliament in accordance with the requirements of the *Parliamentary Business Resources Regulations 2017*.

*Legal assistance for future inquiries arising from the Royal Commission*

- Current or former Ministers (or parliamentarians) may be able to receive legal financial assistance in relation to their engagement with the National Anti-Corruption Commission if the engagement arises because of their role as a Minister (or parliamentarian) and it is appropriate to provide the assistance.
  - It would not be appropriate to comment on any individual who may or may not be the subject of a referral to the National Anti-Corruption Commission or other body.
  - The Chapter of the report that deals with referrals pursuant to section 6P is subject to a Direction Not to Publish made by the Royal Commissioner.

*Legal assistance for Commonwealth officials*

- Under Appendix E of the *Legal Services Direction 2017*, current and former public servants are eligible to apply for assistance in relation to their participation and engagement with the inquiries, such as the Robodebt Royal Commission. The approving authority is the agency where the events relevant to the assistance occurred.
  - It would not be appropriate to comment on any individual who may or may not be subject to a Code of Conduct inquiry or any other form of investigation.
  - The Chapter of the report that deals with referrals pursuant to section 6P is subject to a Direction Not to Publish made by the Royal Commissioner.

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## Related legal issues / litigation

### *Robodebt class action*

- The Robodebt class action was settled by a Deed of Settlement entered into by the parties in late 2020. The settlement was approved by the Federal Court on 11 June 2021.
- The Commonwealth completed all steps required of it under the settlement by early 2023. The Scheme Assurer's final report, and draft consent orders agreed between the parties, were filed with the Federal Court on 6 June 2023.
- The Federal Court has not yet issued final orders.

### *Warren litigation*

- Mr Warren made a Freedom of Information (FOI) request in January 2017 seeking access to 8 Cabinet documents pertaining to the Pay as you Go (PAYG) data matching initiative program which related to the Robodebt Scheme.
- The Commonwealth refused access on the grounds of Cabinet confidentiality.
- In December 2022, the Administrative Appeals Tribunal (AAT) upheld the Commonwealth's position and Mr Warren appealed to the Federal Court.
- The case before the Federal Court is ongoing, with further hearings listed for late November 2023. It is not appropriate to discuss the details of an ongoing court proceeding.

## Royal Commission Background

### *Establishment*

- The Royal Commission was established on 18 August 2022 in recognition of the harm caused to affected members of the Australian community by the Robodebt Scheme.
- It was tasked with investigating, among other things:
  - the establishment, design and implementation of the scheme; who was responsible for it; why they considered Robodebt necessary; and, any concerns raised regarding the legality and fairness;
  - the handling of concerns raised about the scheme, including adverse decisions made by the Administrative Appeals Tribunal;

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- the outcomes of the scheme, including the harm to vulnerable individuals and the total financial cost to government; and
- measures needed to prevent similar failures in public administration.

*What did the Royal Commission inquire into?*

- The Letters Patent and full Terms of Reference can be found on the Royal Commission's website (<https://robodebt.royalcommission.gov.au>).
- The Royal Commission determined its work program, including witnesses called and the means through which it conducts its enquiry.
- Without limiting its inquiry, the Royal Commission was asked to focus on decisions made by those in positions of seniority.

*Release and tabling of the report*

- On 7 July 2023, the Australian Government tabled the report by the Royal Commission into the Robodebt Scheme.

*Hearings*

- The Royal Commission was conducted independently of Government and determined how it undertook its inquiry.
- The Royal Commission held its inaugural hearing on 27 September 2022.
- Hearing Block 1 was held from 31 October 2022 – 11 November 2022.
- Hearing Block 2 was held from 5 – 16 December 2022.
- Hearing Block 3 was held from 23 January – 3 February 2023.
- Hearing Block 4 was held from 20 February – 10 March 2023.

*Extensions*

- On 16 February 2023, the Government announced that the Royal Commission had been extended to 30 June 2023.
- The extension acknowledged the breadth of the Royal Commission's responsibilities under the Terms of Reference and the substantial work undertaken by the Royal Commission.
- On 11 May 2023, the Government announced a further extension of one week to 7 July 2023.
- This brief extension was sought by Royal Commissioner Holmes and the Government agreed.

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*Funding for the Royal Commission*

- In the 2022-23 Budget, the Government allocated \$30 million for the Royal Commission over 2022-23.
- The funding allocated to establish the Royal Commission was determined based on previous inquiries of a similar nature.
- An additional \$3.6 million for the Attorney-General's Department in 2022-23 was announced in the 2023-24 Budget Paper No. 2 to meet the ongoing costs of the Commonwealth Representation before the Royal Commission.

*Commissioner*

- The Royal Commission was led by a single Royal Commissioner, Ms Catherine Holmes AC SC, a former Chief Justice of the Supreme Court of Queensland who brought vast experience from a distinguished legal career.

*What role did the government agencies play in the Royal Commission?*

- The Royal Commission was an independent inquiry supported by its own staff.
- Commonwealth agencies including Services Australia, the Department of Social Services, the Australian Taxation Office, the Department of the Prime Minister and Cabinet, and the Attorney-General's Department worked to respond expeditiously to requests made by the Royal Commission.