The ethical failings of the ‘Robodebt’ scheme

The Australian Government’s debt recovery scheme ‘Robodebt’ was an automated debt assessment and collection program. It was first introduced in 2016 to replace a manual scheme - in response to the Government’s promise of clawing back overpaid Centrelink debts and reducing the supposed cases of fraudulent benefits claimed and paid to welfare recipients.

After ongoing complaints about the scheme, and a class action against the Government, a Royal Commission into the scheme was announced in 2022. Allegations of misconduct included:

- The harmful scheme was allowed to continue despite warnings about its shortcomings that began within months of the decision in July 2016 to switch to automated, online systems.
- Those who were sent illegitimate debts were often unable to challenge the debts due to the opacity of the system and their own difficult circumstances.
- People experienced breakdown, anxiety, depression requiring medication, sleeplessness, stress causing physical illness, and fear. (Parliament of Australia n.d.)

This module discusses the failings of the Robodebt scheme, why the issues occurred, and how to prevent similar failures in financial services and the regulations in place to prevent unethical behaviour.

Learning outcomes

At the completion of this module, you should be able to:

- explain the failings and mistakes of the Australian Government’s Robodebt scheme and the impacts on Centrelink clients
- describe the reasons behind the scheme’s unethical and unlawful behaviour
- discuss the outcomes from the Parliamentary Inquiry into the Income Compliance Program (known as Robodebt) and the suggestions to prevent similar mistakes from being repeated
- discuss similar failures in financial services and the regulations in place to prevent unethical behaviour.
What caused the Robodebt scheme to fail?

An overview of the Robodebt scheme

The primary purpose of the Centrelink’s Online Compliance Intervention program – also known as Robodebt, was to recoup funds from welfare recipients who had been overpaid, allegedly understating their income, to gain welfare benefits. The Government saw an opportunity to claw back millions of dollars to fill the gaps in the federal budget.

*From 2016 to 2019, the Robodebt scheme raised more than half a million inaccurate Centrelink debts through a method of ‘income averaging’, which has since been ruled unlawful. Debts were imposed on people … which they then had to prove they didn’t owe.* (Victoria Legal Aid 2023)

Evidence of overpayment changed under Robodebt

Prior to Robodebt, it was the role of public servants to investigate and collect debts from welfare recipients who had been overpaid. Before anyone could be accused of receiving overpaid benefits, the public servant was required to gather credible evidence to support the overpayment.

This was a fundamental change in how Robodebt operated – the accused welfare recipient was required to provide the evidence to prove they had not been overpaid, to avoid incrimination.

Accusations about Robodebt’s unlawfulness

The scheme has certainly had its fair share of complaints and criticisms, which saw the involvement of the Commonwealth Ombudsman on two occasions, a class action, and more recently, a Royal Commission.
Personal stories from the victims

The Royal Commission has received many submissions from Robodebt victims, detailing their experiences and the financial and emotional impacts.

VICTIM #1

The client received a notice stating they owed $69,000 and were unaware that they had owed anything to Centrelink. Their first reaction was one of fear – how had they accrued this debt, knowing they could not repay it, and may even lose their house or be sent to prison.

After making several visits to their local Centrelink office, the debt was reduced to $3,200. The client was still adamant they had not accrued a debt, however like other victims, they were too tired to fight anymore and entered a payment plan with the Debt Recovery office.

The client was constantly harassed to increase their fortnightly payment, and eventually they repaid the entire debt. Suddenly out of nowhere, the client received a letter informing them they would be refunded the full $3,200.

This was a highly traumatic experience - it made me very ill, very depressed. I felt totally helpless. I really didn’t think I had a debt and was anxious about repaying a debt I didn’t have.

(Royal Commission into the Robodebt Scheme n.d.a.)

VICTIM #2

The Centrelink client received a letter dated 30 September 2016 requesting confirmation of employment income, even though they were not an active client in 2016. The client had claimed welfare benefits for two separate periods in early 2013 and mid-2014.

In November 2016, the client received a “pay now” demand notice, and the notice did not provide any options to communicate with Centrelink. The notice had no phone number, email, or any other point of contact. The client attended the Centrelink office and was told no one could assist them.

After contacting Centrelink’s ‘13 number’ multiple times and waiting on hold for significant periods, the client was told “… [they] just had to pay the money back” and were subsequently transferred to an external debt collection agency. The client attempted many times to call the Centrelink “feedback and complaints” line, which no one ever answered.

The client questioned the [debt collection] representative about the dates the debt had supposedly occurred and was told “… [the agency] didn't have access to that system”.

In December 2016, the client spoke with a Centrelink representative and was told to mail in documents to prove their income for which they still had no information about the time period the debt pertained to.

On 17 May 2017, the client received a phone call from Centrelink representative to advise the debt had been cleared, and the client responded by saying there was never any debt.

(Royal Commission into the Robodebt Scheme n.d.a.)

These stories are just two of the many submissions to the Royal Commission.
A breakdown in automated processes

*Automation of some administrative social security functions is a very good idea, and inevitable. The problem with Robodebt was the policy, not the technology. The technology did what it was asked very effectively. The problem is that it was asked to do something daft.*

(van den Hengel 2022 as cited in Graycar & Masters 2022)

Algorithms were used by Centrelink to average out the income sourced from ATO records. It resulted in inaccurate debts and was ultimately ruled unlawful.

**No human oversight**

Prior to Robodebt, Centrelink had already been collecting overpayments from welfare recipients - their previous methods involved human oversight, with Centrelink having to prove the recipient had been overpaid.

With the implementation of Robodebt, the fundamental difference was that notices were issued without human intervention, which means no one was checking the integrity of the algorithmic outputs and the **onus of evidence moved to the welfare recipient**.

… removing human agency and oversight meant that there were virtually no safeguards in place to counterbalance the algorithm’s flaws.

(Rinta-Kahila et al. 2023)

Centrelink employees warned managers and other people responsible for the implementation of the program about the inaccuracy of using the ‘averaging of income’ methods. The relevant stakeholders were not consulted during the planning of the program and the system was not tested or piloted prior to implementation (Rinta-Kahila et al. 2023).

*Implementing a new IT system calls for corresponding changes in other components – example, changing people by training workers to use the new system* (Rinta-Kahila - 2023).

As public scrutiny started to escalate and the complaints started to overload Centrelink employees, the senior leaders, and ministers responsible for the program remained staunch in their responses – claiming the program was doing as it was intended.

**Summary**

Many government representatives and Centrelink employees were aware of the unethical and unlawful impacts of the Robodebt scheme on Centrelink clients. The Centrelink system failed because of its:

- Lack of communication.
- Lack of human oversight.
- Policies that used Income averaging algorithms.

The next section recounts some of the statements provided by employees at the Royal Commission and discusses some of the possible reasons behind the scheme's unethical and unlawful behaviour.
What prevented the problems from being picked up earlier?

Defending decisions – knowing they could cause harm

There were rumours the scheme was unlawful, well before it was implemented. Those who knew or had their suspicions were reluctant to raise their concerns with senior leaders. It was also reported that where concerns had been raised, they were ignored.

_The commission uncovered, that public servants had legal advice saying the Robodebt proposal was potentially unlawful months before it was announced in the 2015 budget._

(Henriques-Gomes 2022)

Reasons cited by employees

Examples of statements heard at the Royal Commission included:

- … she knew the scheme was using averaging and she had breached the public service code of conduct because she “lacked courage”.
- Because I couldn’t convince others.
- There was always pressure to come up with ideas for savings.
- Making false statements defending the program, citing cabinet solidarity.
- The Robodebt scheme had been implemented not because internal lawyers got a legal question wrong, but because their advice had been flagrantly ignored.
- A culture of fear and pressure chiefly led … by the [Department of Human Services] DHS deputy secretary … who had policy responsibility for the scheme.
- Income averaging had been removed from documents to deceive people into thinking it’s not happening.

(Henriques-Gomes 2023)

The common theme is a fear of speaking up, and deception, with senior leaders encouraging employees to remain quiet.

Personal motivations and unconscious biases

Most people consider themselves as open, tolerant, and accepting, however humans are wired to hold unconscious preconceptions about people and the world around them - it’s a mental shortcut to understanding. Biases sometimes cause errors in subjective ways of thinking. They also seem so natural and can be difficult to detect.

Self-confidence and self-serving biases

**Self-confidence:** The tendency to be _overconfident about one’s own_ knowledge or power to control a situation and be unrealistically optimistic about outcomes.

**Self-serving biases:** The tendency to see oneself in an overly favourable manner to maintain high self-esteem, and overestimates outcomes, and _attributes their success to their own_ skills, abilities, and efforts.

The ethical climate that impacts an organisation can be both internal and/or external. Internally, the climate may focus on self-interest and profit. The statements from the Royal Commission suggest the decision-makers in the DHS wielded a lot of power, driven by promises of job promotions and large salaries. Both self-confidence bias and self-serving bias were evident in the descriptions provided by employees.
The organisational culture

One of the victim’s submissions to the Royal Commission stated:

Robodebt was born of a culture of submissive, incompetent, and predominantly exploited employees, both high and low ranking, who are not appropriately trained in supporting the wellbeing of vulnerable people. (Royal Commission into the Robodebt Scheme n.d.a.)

Organisational culture and values play a large part in what behaviours are acceptable and what is considered ‘normal’. It is these values and norms which can lead to systemic issues and unethical practices. As processes and practices become accepted and entrenched, there is a risk that employees may unwittingly overlook critical issues.

The fear of speaking up

The Robodebt scheme illustrates an extreme situation and consequences if employees feel it isn’t safe to speak up. There are many reasons employees may feel this way:

1. no one listens
2. decisions are made based on hierarchy
3. risk of feeling stupid
4. louder people drown out quieter people.

An environment where ideas are discouraged and challenged may be lacking psychological safety. Public service employees openly admitted they ‘lacked courage’ and others stated there was a ‘culture of fear and pressure’. They did not feel comfortable and ‘safe’ to share issues and challenges, without fear of retribution and negative consequences.

Tunnel vision

Tunnel vision among DHS leaders may have been another factor preventing early detection of significant problems. Decision makers lacked the ability to look at the issues from a broader perspective, particularly from the perspective of Centrelink clients. They did not act on the information provided from a variety of sources and people.

Welsh (2022) suggests the main reasons that employees may experience tunnel vision is that they:

• are so confident the decisions they’ve made and the outcome is right, that they’re unable to accept there might be better ways of achieving a goal
• don’t even stop to consider other possibilities or seek the input of other people
• just keep forging ahead, certain that they’ve got it all worked out, and unable to see the ‘wood for the trees’.

Accountabilities are not shifted when functions are outsourced

Often when organisational systems are developed and implemented, some of the functions of the project may be outsourced to external partners or other internal departments. Projects may require specific skills and expertise, and often advice is sought and provided from other experts.

Even though the skills and knowledge may be outsourced, the departmental accountabilities remain with the leadership teams and, depending on specific roles, the employees.
Accountability in financial services

Member banks who subscribe to the Australian Banking Association (ABA) Banking Code of Practice agree to the principle of 'Transparency and accountability', which states how they will engage with their customers. Members agree to:

- Communicate in a clear and timely manner
- Be accountable in their dealings
- Be transparent in their communications.  

(ABA 2021)

Summary

A lot of the employee's statements from the Royal Commission suggests the DHS culture was lacking psychological safety. Themes about the culture which became evident in the hearings were:

- A culture of fear and deception.
- Leaders displayed self-serving and self-confidence biases.
- Unethical and unlawful processes and practices became the norm.

Any organisation could be susceptible to similar mistakes that emerged in the Robodebt scheme. The next section explores the costs and consequences from the scheme and a discussion of how similar mistakes could be prevented in the future.

Weighing up the costs and consequences

The Parliamentary Inquiry

"On 31 July 2019, the Senate referred an inquiry into Centrelink's compliance program to the Senate Community Affairs References Committee for inquiry". The purpose of the inquiry was to address the following concerns about the income compliance program:

- the implementation and operation
- the legality of the program
- impact to Centrelink clients.  

(Parliament of Australia 2023)

Reliance on automation

Prior to Robodebt, Centrelink had used data-matching to determine if there was a difference in what the welfare recipient had reported to DHS and the records held by the ATO. If there was difference, DHS would need to seek evidence, for example, they would contact the recipient's previous employers.

Automated systems often remove the need for employee intervention and therefore creates efficiencies and cost savings for a business.

So, what prompted the Government to make a change?

Automation should bring efficiencies, cost savings, and make arduous and time-consuming tasks smoother. In the case of Robodebt, the change from manual processes to automated processes meant they could process 20,000 transactions in one week, when previously this number would have taken 12 months. Employees no longer needed to investigate the debts – if the system identified a discrepancy, a debt notice would be automatically sent to the welfare recipient.

The Government at the time, saw an opportunity to cover some of the budget deficit by recouping funds from welfare recipients. They believed that a lot of people had been fraudulently claiming social security payments, and Centrelink could claw back $2 billion (for the period 2015-2019) (Parliament of Australia 2022).
The Government made a significant change to the program – previously DHS would only use income averaging when all other avenues to confirm income had been exhausted.

The unlawful and unethical decisions

The Parliament of Australia (2022) inquiry uncovered many unlawful and unethical decisions:

- The Government persisted with the program despite mounting evidence it was causing real and significant harm.
- The incorrect or incomplete income information - averaged income calculations do not reflect the reality of how many income support recipients earn income over time.
- Communication processes did not fulfil Services Australia’s service commitments and delivery standards.
- Debt notification letters were unclear and did not provide an explanation of how or why a debt had been raised.
- Some people were pushed further into poverty, making it more difficult for them to meet basic living expenses and exacerbating their stress and anxiety.

Vulnerable clients

Robodebt affected some of the most vulnerable members of the community, and at a time when people are experiencing some of the most difficult situations in their lives. These people were forced to engage with the program, without appropriate support from Services Australia.

The fallout and long-term impacts

The result of the Government’s unethical and unlawful behaviour will have long-term impacts, both in terms of dollars and the human aspect.

The quantifiable costs – the monetary costs

An estimated $1.73 billion in illegitimate debts were raised against approximately 433,000 Australians. Approximately 381,000 clients were pursued by debt collection agencies and ordered to repay almost $752 million to the Commonwealth (Parliament of Australia 2022).

A class action

Eligible group members got settlement payments from the agreed $112 million settlement sum.

Gordon Legal's court-approved costs of $10.3 million were deducted from the settlement sum of $112 million. This left $101.7 million to distribute to eligible registered group [400,000] members, known as the distribution sum.

(Services Australia 2023)

The unquantifiable costs – the human costs

Submissions from Centrelink clients to the inquiry, showed that Robodebt caused emotional and psychological harm. Throughout the parliamentary inquiry, the committee repeatedly requested crucial information from the Government, which was refused on the basis that the release of information would harm the public interest (referred to as claims of public interest immunity or PII claims) (Parliament of Australia 2022).

The underlying vulnerability of people issued with debts and the lack of support, combined with the difficulties interacting with Services Australia, created an environment where the notification of a debt was not simply a bureaucratic inconvenience, but an antecedent of serious harm to people’s emotional and financial wellbeing.

(Parliament of Australia 2022)
Erosion of trust

The program “undermined many people's financial security as well as their willingness to engage with and trust government services” (Parliament of Australia 2023).

Recommendations for change

To prevent similar mistakes in the future, the 2022 parliamentary inquiry recommended the following changes:

- improvements to communication, transparency, and accountability
- the elimination of averaged income data to calculate debts
- moving away from retrospective data-matching and moving to real-time.

The Royal Commission was recommended, which was subsequently established in August 2022, and a report from this commission is due in June 2023 (Parliament of Australia 2022).

Summary

A lot of people identified the unlawfulness of the program; however, they were met with roadblocks when trying to raise their concerns. The significant savings to the Government overshadowed the impacts to Centrelink clients, both financially and emotionally. The parliamentary inquiry found:

- A lack of communication, transparency, and accountability.
- The automated method of income-averaging was unlawful.
- Significant erosion of trust by Centrelink clients.

The next section explores ethical decision making, and the relevant codes of practice that are available to guide those who work in the financial services industry.

Preventing similar failures in financial services

The financial services industry has also seen many ethical failures and unlawful behaviour, as identified in the Royal Banking Commission.

Case

An insurer pressured a man with Down Syndrome into purchasing insurance

A 26-year old man with Down Syndrome was pushed to purchase a life insurance policy by a cold caller.

Later, the man was forced to say “I wish to terminate the policy” over the phone, after his father contacted the insurer three times to cancel the policy.

“He believed he'd done something wrong and was quite embarrassed and didn't know what he’d done,” his father told the Royal Commission.

In the wake of the incident, his father described the man as “quite distressed”, while the CEO of the Insurance company also agreed this episode was “unsettling”. (The Treasury 2019)
Making ethical choices and decisions

The Australian Human Rights Commission has recommended that where artificial intelligence is used to support decision-making, governments must ensure these decisions remain *lawful, transparent, explainable*, [that artificial intelligence is] used responsibly, and subject to appropriate human oversight, review and intervention’ (Parliament of Australia 2023).

A guide for making ethical decisions

The following is a guide for responding to and overcoming unethical situations.

**Step 1: Identity and define the ethical dilemma**
- Identify the problem and what decision needs to be made.
- Separate the facts from opinions or personal biases.
- Who are the affected parties/stakeholders?

**Step 2: Gather the facts and reflect on the problem**
- Is the request legal - consider any legislation, obligations, rules, and laws?
- What other factors might be relevant – relationships, circumstances, constraints?

**Step 3: Consider alternative solutions and actions**
- Assess risks and benefits for all parties that might be affected.
- Which option will produce the best outcome and do the least harm?
- Are there other departments or managers that need to be consulted?

**Step 4: Make and implement the decision**
- Selecting the option that best addresses the situation.
- Make a decision and evaluate the outcomes.

Source: Adapted from WA Country Health Service 2021.

Balancing people and profits

Centrelink’s Online Compliance Intervention was touted to the public as a way of recouping the significant losses from those purportedly claiming fraudulent welfare payments. The Government claimed people were ‘rorting’ the system, which was proven to be incorrect.

The Government placed the financial goals ahead of Centrelink clients’ financial and mental wellbeing. The impacts and costs incurred because of the unlawfulness of the Robodebt scheme has far exceeded the monetary benefits, and Centrelink clients no longer trust those Government departments.

“*Consumer protection regulations are important, otherwise firms may increase profits by behaving in ways that are unproductive and welfare reducing, including by taking advantage of customers’ behavioural biases and relative lack of information about how a bank’s processes and decisions affect them*” (ACCC n.d.).

Consumer protections and codes of practice

The Banking Code of Practice

“The *Code provides safeguards and protections not set out in the law. It complements the law and, in some areas, sets higher standards than the law*” (ABA 2021a).

Failure to address poor behaviour in organisational settings erodes trust and consumer confidence.
A commitment to ethical behaviour

By agreeing to the Banking Code of Practice, banks are “committed to ethical behaviour … which remains critical to trust and confidence” (ABA 2021a).

The (ABA 2021a) Code is underpinned by four ‘Statement of Guiding Principles.’ The purpose of the principles is to guide members in their ethical decision-making, amongst other things.

1. Trust and confidence
2. Integrity
3. Service
4. Transparency and accountability.

For the key attributes of each of the four principles, refer to the Banking Code of Practice.

Banking Code of Practice: CLICK HERE

Escalation of customer concerns and complaints

One of the issues identified by the parliamentary inquiry found that the Robodebt scheme omitted the 1800 compliance helpline telephone number (from the debt letter). Clients had no way of contacting the relevant people and when they visited a Centrelink office, no one was able to assist.

The voice of the customer

A condition of holding a financial services license is that the organisation is obligated to follow the procedures outlined in ASIC’s Regulatory Guide 271 Internal dispute resolution.

RG 271 states:

- A response or resolution is explicitly expected if a consumer clearly requests it.
- It is implicitly expected if the consumer raises the expression of dissatisfaction in a way that implies the consumer reasonably expects the firm to respond and/or take specific action.
- A consumer or small business is not required to expressly state the word ‘complaint’ or ‘dispute’, or put their complaint in writing, to trigger a financial firm’s obligation to deal with a matter according to the Internal Dispute Resolution (IDR) requirements.

Since 2016, the Australian Banking Association (ABA) has required their members to have a ‘customer advocate’ who is effectively the voice of the customer, ensuring the organisation aligns their services with the needs of the customers and the community. The role is to “build and sustain a culture based on strong ethical foundations” (ABA 2021a).

Some of the key responsibilities of the customer advocate include:

- driving fairer dispute resolution outcomes (e.g. enhancing the complaints handling process for customers experiencing vulnerability)
- identifying opportunities to enhance products, services, systems, and processes and facilitating better decision-making and fairer outcomes for customers (ABA 2021a).

Whilst organisations may be able to temporarily increase their profits through unethical practices, a good reputation is built from long-term ethical practices.
The submissions by those directly affected by the Robodebt scheme highlighted the lack of support, communication fairness and transparency, by Services Australia employees.

Even when public servants and senior officials were aware of the escalating problems, customers were unable to challenge the decisions. There was no clear framework or process for the escalation of complaints, with a lot of employees claiming the automated program does not make mistakes.

The unethical and unlawful behaviour by those in charge of the scheme caused significant stress and harm to some of the most vulnerable members of the community. There are a lot of insights uncovered in the Parliamentary Inquiry and the Royal Commission, which organisations can draw upon to ensure similar failings do not occur in their financial service businesses.

References


