

# Australian Council of Social Service

29 November 2024

Senator the Hon. Murray Watt  
Minister for Employment and Workplace Relations  
Parliament House, Canberra ACT 2600

Cc: Hon Mark Dreyfus KC, MP, Attorney-General of Australia  
Hon Amanda Rishworth MP, Minister for Social Services  
Ray Griggs AO CSC, Secretary of the Department of Social Services  
Natalie James, Secretary of the Department for Employment and  
Workplace Relations  
Tania Rishniw, Deputy Secretary of Department for Employment and  
Workplace Relations

Dear Minister,

## **Re: Immediate Action in response to potential illegality of Targeted Compliance Framework Payment Cancellation Process**

ACOSS received a briefing on Wednesday 27<sup>th</sup> November 2024 from your Department regarding the recent pause of payment cancellations in Workforce Australia.

The Department told us they have legal advice that raises concern about the potential illegality of the process used to make decisions about payment cancellations under the Targeted Compliance Framework (TCF). As a result of that legal advice, the Department paused cancellations from July 2024. The issue concerns the use of discretion in the decision to cancel a person's payment, where it appears the law may have been incorrectly implemented. It appears that the Department potentially unlawfully cancelled payments of up to 1,000 people between April 2022 and July 2024. If confirmed to be unlawful, this is now the third time in recent years that detrimental action taken against people relying on social security has been found to be illegal. Illegal income apportionment came to light in 2023, and of course there was the shocking case of Robodebt.

Payment cancellation has severe impacts on people affected, with direct loss of income for at least 4 weeks in addition to the time taken to reapply and claim payment (up to 4 weeks for Jobseeker). In many cases, these harmful effects are not contained to only the loss of income and can include potential homelessness, relationship breakdown and destitution.

We have carefully assessed the information provided by the Department about the latest potential illegality related to the TCF.

We have come to the view that immediate action by you as the Minister responsible is required well beyond the action proposed by the Department.

### **Issue a Ministerial public statement without delay**

As an immediate priority, we urge you to make a public statement that you have legal advice that raises concerns about the Department potentially illegally cancelling payments for people relying on social security.

Your statement should assure the public that you take this potential illegality about the treatment of people who are disadvantaged with the utmost seriousness, and that you are taking immediate steps to protect people as a result.

We recommend that your public statement commit to the following immediate actions:

#### **1. Contact people likely affected**

You will immediately contact every person who may be affected and advise them that they have been subject to a potentially illegal payment cancellation, and detail backpay and compensation arrangements and entitlements.

You should provide an easy way for people affected to contact the Department and speak to a person who can support them in the process, including claiming back pay and compensation.

#### **2. Immediately conduct a full legal and human rights review of the TCF and release all draft and final legal advice received to date**

We understand the Department will conduct an independent review of its business rules and their compliance with the law in response to this matter. This is insufficient.

We call for this review to be broadened to a fully independent, arms-length *legal* and human rights review of the operation of the TCF to establish whether there are other areas of the system affected by the same potential illegality as that of payment cancellations or if there may be human rights violations.

Furthermore, the Department should publicly release all draft and final legal advice received regarding the TCF and its operation. That advice should include any legal advice produced leading up to the introduction of the TCF and following its commencement to the present day.

### **3. Immediate cessation of the TCF including payment suspensions until questions regarding legality are resolved**

We call for an immediate cessation of payment suspensions and cancellations until the government can ensure people's legal and human rights are guaranteed.

ACOSS strongly opposed the introduction of the TCF prior to its introduction in 2018.

We warned the Coalition Government at the time of the major risk of inflicting serious harm on people who are often dealing with significant disadvantages including mental health issues, homelessness or other vulnerabilities.

ACOSS has continued to highlight our serious concerns and called for, at the least, the pausing of payment suspensions.

This system cannot continue to operate whilst the legality of decisions affecting a person's income support payment is in question. The government must immediately suspend the TCF to prevent further harm to people receiving income support and undertake a full, independent legal and human rights review of its operations.

### **4. Implement the Digital Protection Framework and explain why it has still not been published or implemented**

ACOSS sought assurances that the digital systems associated with the introduction of the Streamlined Participation Requirements and Other Measures Act (2022) (the SPROM) would comply with human rights.

We held grave concerns that the interaction of the TCF and the SPROM Act could cause serious harm to people.

ACOSS negotiated for the requirement to establish a Digital Protection Framework by the Employment Secretary, introducing human rights protections and natural justice principles within the TCF.

Despite repeated advocacy and requests for two years, your government has failed to publish the final proposed Framework let alone implement it. It should be implemented and published without delay.

### **5. Referral of this matter to the Federal Ombudsman for immediate investigation and oversight of all action taken**

Given the seriousness of the issues presented, you should immediately refer this matter for independent investigation by the Commonwealth Ombudsman.

ACOSS can make this referral. However, we consider that your government should make this referral to give the public confidence in the system, noting the recommendations of the Robodebt Royal Commission and the need for government to rebuild the community's trust in social security administration.

The proposed actions by the Department will not involve an arm's-length, independent, legal review. This is unacceptable.

### **ACOSS's advocacy regarding the TCF**

ACOSS has repeatedly raised our concerns about the TCF since its introduction in 2018 and has consistently warned of the harms of automation of processes affecting people's income support payments, particularly regarding payment suspensions and cancellations.

The new information provided by your Department on 27<sup>th</sup> November 2024 confirms that our concerns were well founded and that people receiving income support have once again been subject to unjust processes that have breached their right to social security and likely caused severe hardship and harm.

The harm caused by the TCF through automated payment suspensions for hundreds of thousands of people is clear. Cancelling a person's income support payment for four weeks is completely disproportionate to a person not meeting requirements and is a breach of their fundamental right to social security. It is unacceptable that the government has once again potentially not complied with social security law, with people's payments possibly cancelled as a result.

I highlight that the meeting two days ago is the first time that we were actively sought out and briefed on these serious issues, despite the issues having been identified within the Department since July 2024 at the latest.

I confirm that I was not aware of the meeting with the Department taking place nor its contents when I saw you briefly in Parliament House on Tuesday 26 November 2024.

I attach our submissions and briefings on the relevant legislation (both the Welfare Reform Act 2018 and the Streamlined Participation Requirements and Other Requirements Act 2022) where we stated our opposition to the TCF and called for protections against automation.

I also attach our correspondence over the period this potential illegality has been identified (April 2022- July 2024), demonstrating our consistent advocacy on the harms of the TCF. In each meeting I have held with the responsible Minister and Secretary, I have raised these serious concerns and highlighted the high risk of cutting people off from their life-sustaining income support.

I also note that many of the Robodebt Royal Commission recommendations are yet to be implemented, despite its findings that our social security system is too often used as a tool of punishment rather than support. Our latest letter to the government about this is attached.

## Conclusion

It is important that the government understands that people receiving JobSeeker are most at risk of deprivation, suicide, and poverty. Someone receiving JobSeeker is 14 times more likely to go without a substantial meal at least once a day, and suicide rates among people receiving these payments are 4.5 times that of the broader population. I refer to our most recent report on the Material Deprivation of people on income support payments, [\*Material Deprivation in Australia: the essentials of life\*](#).

I urge you and your colleagues to take seriously the gravity of the situation regarding the impact of the TCF upon people receiving income support, who are much more likely to experience multiple deprivation. I urge you to suspend payment suspensions and the TCF until the above actions are completed, including the independent legal and human rights review.

I seek your immediate written response to our requests and urge you to issue a public statement without delay.

I also seek an urgent meeting with you to discuss these very concerning issues and the further action that your government will now take.

Yours sincerely,

Dr Cassandra Goldie AO  
Chief Executive Officer  
Australian Council of Social Service

## **Attachments**

ACOSS Briefing Note on Welfare Reform Bill (2018)

ACOSS Submission on SPROM Bill (2021)

ACOSS Letter to Minister Burke – 31<sup>st</sup> January 2023

ACOSS Letter to Minister Burke – 23<sup>rd</sup> August 2023

ACOSS Letter to Minister Burke - 18th October 2023

ACOSS Letter to Minister Burke – 13<sup>th</sup> December 2023

ACOSS Briefing Note: Targeted Compliance Framework Data Q1 2024, July 2024

ACOSS Letter to Minister Watt – 2<sup>nd</sup> August 2024

ACOSS Letter to the Prime Minister – 4<sup>th</sup> November 2024