

# **Child Support Collection Arrangements between the Department of Human Services and the Australian Taxation Office**

Department of Human Services

Australian Taxation Office

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Canberra ACT

15 May 2017

Dear Mr President  
Dear Mr Speaker

The Australian National Audit Office has undertaken an independent performance audit in the Department of Human Services and the Australian Taxation Office titled *Child Support Collection Arrangements between the Department of Human Services and the Australian Taxation Office*. The audit was conducted in accordance with the authority contained in the *Auditor-General Act 1997*. Pursuant to Senate Standing Order 166 relating to the presentation of documents when the Senate is not sitting, I present the report of this audit to the Parliament.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's website—<http://www.anao.gov.au>.

Yours sincerely



Rona Mellor PSM  
Acting Auditor-General

The Honourable the President of the Senate  
The Honourable the Speaker of the House of Representatives  
Parliament House  
Canberra ACT

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For further information contact:  
**Australian National Audit Office**  
**GPO Box 707**  
**Canberra ACT 2601**

**Phone: (02) 6203 7300**  
**Fax: (02) 6203 7777**  
**Email: [ag1@anao.gov.au](mailto:ag1@anao.gov.au)**

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<http://www.anao.gov.au>

### **Audit Team**

Kylie Jackson  
Esther Barnes  
Haydn Thurlow  
Andrew Morris

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# Summary and recommendations

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## Background

1. The Child Support Scheme is governed by the *Child Support (Registration and Collection) Act 1988* and the *Child Support (Assessment) Act 1989*, and administered through the Department of Human Services (DHS). The scheme requires parents who do not have primary care of their children to make financial contributions to their children's upbringing. In 2015–16, a total of \$3.5 billion was transferred in child support payments, supporting approximately 1.2 million children.<sup>1</sup>

2. Parents in the Child Support Scheme undertake an initial child support payment assessment, followed by periodic reassessments. Child support payment assessments are made using a formula that takes into account a range of factors including: each parent's income; the percentage of care each parent provides; and the cost of raising children.<sup>2</sup> Following an assessment, DHS determines a child support liability for the paying parent.

3. DHS has arrangements in place with the Australian Taxation Office (ATO) to help facilitate accurate assessment of Child Support Scheme parents' income, as well as the collection of child support debts. To support the accurate assessment of child support parents' incomes and child support payments, the ATO takes actions to promote the timely lodgment of tax returns by child support customers.<sup>3</sup> To support the collection of child support debts, the ATO intercepts tax refunds of parents owing child support amounts, and exchanges income information with DHS. These arrangements are governed under a Head Agreement<sup>4</sup>, and subsidiary service agreements for the Lodgment Enforcement Program<sup>5</sup> and the Tax Refund Intercept and Information Exchange Programs.<sup>6</sup>

4. The audit objective was to assess the effectiveness of the child support collection arrangements between the Department of Human Services and the Australian Taxation Office. To form a conclusion against the audit objective, the ANAO adopted the following criteria:

- arrangements are in place between DHS and the ATO in support of accurate and timely child support payments;
- DHS and the ATO fulfil their agreed responsibilities in support of accurate and timely child support payments; and
- DHS and the ATO measure the performance of their cooperative child support collection activities and transparently report on outcomes.

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1 Department of Human Services, *2015–16 Annual Report*, DHS, 2016.

2 Department of Human Services, *Child Support Guide Version 4.19* [Internet], DHS, available from <<http://guides.dss.gov.au/child-support-guide/2/4/1>> [accessed 26 October 2016].

3 DHS refers to parents participating in the Child Support Scheme as customers.

4 The *Head Agreement for the Provision of Services* supports the collaboration between DHS and the ATO for the delivery of services to the community. The latest Head Agreement was entered into in September 2012.

5 In order to obtain tax return lodgment from child support customers, in 2006 DHS entered into an agreement with the ATO to enforce the timely lodgment of tax returns by child support customers.

6 The Tax Refund Intercept Program is an arrangement between DHS and the ATO that allows DHS to garnishee potential tax refunds of customers with child support debts.

## Conclusion

5. Child support collection arrangements between the Department of Human Services and the Australian Taxation Office are based on well-established administrative processes in each agency, but there is scope to improve important aspects of these arrangements.
6. The administrative framework in place to support the implementation of the child support collection arrangements between DHS and the ATO is sound. Agreements outline the roles and responsibilities of each agency, which have been fulfilled in almost all instances. While funding amounts specified in the previous Lodgment Enforcement Agreements were based on historical costs, it was unclear how the lodgment targets had been set. There is also some scope to improve supporting administrative arrangements, including shared risk management practices and referrals of child support customers suspected of fraud and tax evasion.
7. The vast majority of tax refunds are intercepted under the Tax Refund Intercept Program. Under the Lodgment Enforcement Program, DHS and the ATO can improve the prioritisation and targeting of customers by better considering other child support compliance risks. DHS can also improve its monitoring of the application of income information received from the ATO to inform program design.
8. DHS and the ATO have effective processes in place to manage complaints associated with the Lodgment Enforcement Program. Assurance reviews for some key program processes and program improvement mechanisms are not in place to support the cooperative child support programs.
9. The performance measures applied by DHS and the ATO for the cooperative child support programs do not accurately reflect the effectiveness of the programs. In accordance with the requirements under the Lodgment Enforcement and Tax Refund Intercept Agreements, there is transparent periodic inter-agency and internal reporting of the results. However, DHS' and the ATO's public reporting does not include Lodgment Enforcement Program results.

## Supporting findings

### Program administration

10. The Lodgment Enforcement and Tax Refund Intercept Agreements support the administration of the cooperative child support programs. The agreements clearly specify the objectives and articulate the roles and responsibilities that have been fulfilled in almost all instances by DHS and the ATO.
11. The current Lodgment Enforcement Agreement was the first not to specify a lodgment target and funding amount. The basis for the target in the initial agreement and revisions in subsequent agreements is unclear. Funding under the previous agreements was based on an estimate of staff costs at the time of the initial agreement, which was not reviewed or adjusted in subsequent agreements. The key terms of the Tax Refund Intercept Agreement, including the nature and extent of data exchange, were determined on a sound basis.
12. Arrangements outlined in the Lodgment Enforcement and Tax Refund Intercept Agreements support the accurate, complete and timely transfer of data between DHS and the



ATO. There is scope to improve ad hoc customer referral processes between DHS and the ATO for investigation purposes.

13. The Lodgment Enforcement and Tax Refund Intercept Agreements do not specify risk management obligations between DHS and the ATO. However, DHS and the ATO advised that the proposed new agreements for the Tax Refund Intercept and Information Exchange Programs will include risk management provisions. DHS and the ATO need to strengthen risk management practices for their collaborative child support collection arrangements, in particular the management of shared risks.

### **Program implementation**

14. The selection of customers for compliance activities under the Lodgment Enforcement Program can be better targeted by considering risks such as compliance history, lifestyle factors, employment type and industry. DHS and the ATO do not strategically employ broader compliance activities to target customers subject to the Lodgment Enforcement Program. Further, the level of program activity undertaken by the ATO has declined markedly with the cessation of DHS funding in 2015–16, and more than half of the program results are of limited benefit to DHS.

15. The Tax Refund Intercept Program maximises child support collections as virtually all available refunds are intercepted. However, there are opportunities to increase child support collections under the Lodgment Enforcement Program by the ATO achieving a higher proportion of meaningful outcomes, such as tax return lodgments and default assessments. To inform program design, DHS should analyse the extent to which ATO-assessed taxable incomes are applied to child support payment assessments.

### **Complaint, assurance and improvement mechanisms**

16. DHS and the ATO receive a small number of complaints in relation to the Tax Refund Intercept Program. Most complaints are not upheld and are effectively managed within prescribed timeframes. Complaints are not systematically reviewed to improve the cooperative child support programs.

17. DHS and the ATO do not have effective procedures in place at some key program points to assure the accuracy of data exchange and child support debt collection activities. In particular, DHS and the ATO do not explicitly or routinely test the accuracy of: customers' reported incomes; amounts intercepted from tax refunds; or customers' exclusion from the Lodgment Enforcement Program.

18. Some of the potential program improvements identified by DHS and the ATO have been implemented, while others have not. Program outcomes could be improved by applying continuous improvement mechanisms, for example one that categorises proposed changes according to potential impact, to assist DHS and the ATO to prioritise and implement identified program enhancements.

### **Performance measurement and reporting**

19. There are shortcomings in the measures used by DHS and the ATO to monitor the performance of the cooperative child support programs. Both agencies use the number of

income tax period finalisations as the performance measure for the Lodgment Enforcement Program. However, finalisations do not measure the objective of the program which is to achieve more accurate child support payment assessments and to maximise debt collection opportunities. Performance of the Tax Refund Intercept Program is measured by the number and value of tax refunds intercepted, and could be strengthened by implementing measures for the effectiveness of the program's administration. DHS does not monitor the impact of the Information Exchange Program.

20. DHS and the ATO have fulfilled their periodic inter-agency and internal reporting obligations as required under the respective agreements. With respect to external reporting, DHS has reported on program outcomes in its annual reports, however, in 2015–16 no performance information in relation to the Lodgment Enforcement Program was publicly reported.

## Recommendations

**Recommendation No. 1**  
**Paragraph 2.40** The Department of Human Services and the Australian Taxation Office implement arrangements to manage shared risks in administering the Lodgment Enforcement, Tax Refund Intercept and Information Exchange Programs.

**Department of Human Services' response:** *Agreed.*

**Australian Taxation Office's response:** *Agreed.*

**Recommendation No. 2**  
**Paragraph 3.14** The Department of Human Services and the Australian Taxation Office:  
(a) prioritise customers under the Lodgment Enforcement Program according to the most relevant child support compliance risk factors; and  
(b) strategically employ broader compliance activities to target child support customers.

**Department of Human Services' response:** *Agreed.*

**Australian Taxation Office's response:** *Agreed.*

**Recommendation No. 3**  
**Paragraph 3.39** To inform program design, the Department of Human Services examines the application of income information received from the Australian Taxation Office to child support payment assessments, to gauge the extent to which the information is being applied and reasons for it not being applied.

**Department of Human Services' response:** *Agreed.*

**Recommendation  
No. 4**

**Paragraph 4.22**

- The Department of Human Services and the Australian Taxation Office:
- (a) identify and implement assurance mechanisms at key points of the Lodgment Enforcement, Tax Refund Intercept and Information Exchange Programs to support the accuracy of child support payment assessments and the timely collection of child support; and
  - (b) establish a continuous improvement mechanism that assists with prioritising and implementing identified program improvements.

**Department of Human Services' response:** *Agreed.*

**Australian Taxation Office's response:** *Agreed.*

**Recommendation  
No. 5**

**Paragraph 5.8**

The Department of Human Services and the Australian Taxation Office improve performance measures under the Lodgment Enforcement and Tax Refund Intercept Agreements to demonstrate the effectiveness of child support collection activities.

**Department of Human Services' response:** *Agreed.*

**Australian Taxation Office's response:** *Agreed.*

## Summary of entity responses

21. The Department of Human Services' and the Australian Taxation Office's summary responses to the report are provided below, with the full responses at Appendix 1.

### Department of Human Services

The Department of Human Services (the department) welcomes this report, and considers that implementation of its recommendations will enhance child support collection arrangements between the department and the Australian Taxation Office (ATO).

The department notes the ANAO has concluded that child support collection arrangements between the department and the ATO are based on well-established administrative processes in each agency. In particular, the report notes that:

- 99.96 per cent of all available Tax Refund Intercepts were successfully intercepted during 2015–16;
- both agencies have effective processes in place to manage the very small number of complaints received in regard to the cooperative collection arrangement, with only 10.3 per cent being upheld and over 90 per cent effectively managed within the prescribed 10 working day timeframe; and
- the arrangements outlined in the agreements support the accurate, complete and timely transfer of data between the two agencies.

The department agrees with all five recommendations made by the ANAO.

## **Australian Taxation Office**

The ATO welcomes the ANAO's review and is committed to continuing to work closely with DHS to ensure that separated parents are assessed to financially support their children according to their taxable income.

The ANAO's review recognises the lengthy partnership between the ATO and DHS, and that both agencies have a strong relationship and generally effective processes.

However, in finding the ATO's involvement in the mutual programs mainly effective, the review identified four opportunities for change and improvement by the ATO.

The ATO agrees with these recommendations without reservation as they largely embody ongoing performance improvement, strengthened governance and improved client outcomes.

## **Audit Findings**



# 1. Background

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## Child support in Australia

1.1 The Child Support Scheme was introduced in 1988 to address the inadequacy of existing court-ordered child maintenance and payment collection arrangements.<sup>7</sup> The scheme requires parents who do not have primary care of their children to make financial contributions to their children's upbringing.

1.2 The Child Support Scheme is governed by the *Child Support (Registration and Collection) Act 1988* and the *Child Support (Assessment) Act 1989*, and administered through the Department of Human Services (DHS). In 2015–16 there was a total of \$3.5 billion transferred in child support payments, supporting approximately 1.2 million children.<sup>8</sup>

1.3 Either parent may elect to enter into a formal child support arrangement with DHS. Parents in the Child Support Scheme undertake an initial child support payment assessment, followed by periodic reassessments. Child support payment assessments are made using a formula that takes into account a range of factors including: each parent's income; the percentage of care each parent provides; and the cost of raising children.<sup>9</sup> Following a payment assessment, DHS determines a child support liability for the paying parent.

1.4 Child support payments can be transferred between parents under private arrangements, or payments can be facilitated by DHS. Under private arrangements, known as Private Collect, parents transfer child support payments directly without the assistance of DHS. Private Collect represented 52.6 per cent of child support cases in 2015–16, and DHS assumes a 100 per cent collection rate for these customers. Under a Child Support Collect arrangement, DHS collects and transfers child support payments on behalf of the non-paying parent (payee). In 2015–16, DHS collected and transferred \$1.5 billion under Child Support Collect arrangements that covered 1.4 million parents.<sup>10</sup>

1.5 Parents who fail to meet their child support obligations under Child Support Collect arrangements accrue a child support debt.<sup>11</sup> As of June 2016, 23.7 per cent of all active payers had an outstanding child support debt, and total outstanding child support debt was \$1.5 billion.<sup>12</sup> DHS employs a range of compliance actions to recover this debt, including income garnishee, prosecution, litigation, departure prohibition orders and collection arrangements with the Australian Taxation Office (ATO).

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7 Department of Social Services, *History of the Child Support Scheme* [Internet], DSS, available from <<https://www.dss.gov.au/our-responsibilities/families-and-children/programs-services/history-of-the-child-support-scheme>> [accessed 26 October 2016].

8 Department of Human Services, *2015–16 Annual Report*, DHS, 2016.

9 Department of Human Services, *Child Support Guide Version 4.19* [Internet], DHS, available from <<http://guides.dss.gov.au/child-support-guide/2/4/1>> [accessed 26 October 2016].

10 Department of Human Services, *2015–16 Annual Report*, DHS, 2016, p. 68.

11 While all outstanding child support payments are payable to the payee parent, debt accrued under the Child Support Scheme is considered debt owed to the Commonwealth.

12 The figure for outstanding child support debt includes ended cases as well as active cases. Department of Human Services, *2015–16 Annual Report*, DHS, 2016, p. 68.

## Arrangements between the Department of Human Services and the Australian Taxation Office

1.6 DHS has arrangements in place with the ATO to help facilitate accurate assessment of Child Support Scheme parents' incomes, as well as the collection of child support debts. To support accurate assessment of child support parents' incomes, and child support payments, the ATO takes actions to promote the timely lodgment of tax returns by child support customers and exchanges income information with DHS.<sup>13</sup> To support the collection of child support debts, the ATO intercepts tax refunds of parents owing child support amounts.

1.7 Current arrangements between both agencies are governed under a Head Agreement<sup>14</sup>, and subsidiary service agreements for the Lodgment Enforcement Program, the Tax Refund Intercept Program and the Information Exchange Program.

### Lodgment Enforcement Program

1.8 The child support formula relies on customers' ATO-assessed taxable incomes to calculate child support payment assessments. This requires timely and accurate lodgment of income tax returns from child support customers. In instances where child support customers do not lodge income tax returns, DHS is able to use income estimates or previous assessed taxable income information subject to appropriate indexation to derive a child support payment assessment.<sup>15</sup>

1.9 Under the child support legislation<sup>16</sup>, child support payment assessments must be based on an ATO assessed taxable income<sup>17</sup>, therefore all child support customers are required to lodge a tax return.<sup>18</sup> To this end, the Commissioner of Taxation publishes a legislative instrument each year specifying the requirement for child support customers to lodge a tax return. However, in this instrument, the Commissioner exempts those customers who have received certain welfare benefits totalling less than an annual threshold amount.<sup>19</sup> This exemption results in a legislative misalignment where customers who are required to lodge for child support purposes are not required to lodge for taxation purposes.

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13 DHS refers to parents participating in the Child Support Scheme as customers.

14 The *Head Agreement for the Provision of Services* supports the collaboration between DHS and the ATO for the delivery of services to the community. The latest Head Agreement was entered into in September 2012.

15 Department of Human Services, *Child Support Guide* [Internet], DHS, available from <<http://guides.dss.gov.au/child-support-guide/2/5/1>> [accessed 29 November 2016]. DHS advised that it utilises a legislated income hierarchy to determine the most suitable income to apply to child support payment assessments.

16 *Child Support (Assessment) Act 1989*, section 57.

17 *Income Tax Assessment Act 1936* or *Income Tax Assessment Act 1997*.

18 The Department of Social Services is responsible for child support policy. The Department of Social Services determined that an ATO assessment that a customer is not required to lodge a tax return is not a determination under the Income Tax Assessment Act and therefore these customers are still required to lodge tax returns for the purpose of child support.

19 This threshold is the self-support amount which is the amount deducted from parent's adjusted taxable income for their own support, for example, living expenses. In 2016, the self-support amount was \$23 752. Parents whose income is less than the self-support amount may be required to pay the minimum annual rate of child support or none at all. The minimum annual rate of child support for 2016 was \$320. ATO, *TPAL 2016/1* [Internet], available from: <<http://law.ato.gov.au/atolaw/view.htm?docid=%22OPS%2FTPAL20161%2F00001%22>> [accessed 20 December 2016].



1.10 In order to obtain tax return lodgment from child support customers, in 2006 DHS entered into an agreement with the ATO to enforce the timely lodgment of tax returns by child support customers. The ATO was provided annual funding by DHS of \$6.9 million exclusive of goods and services tax (GST) for the Lodgment Enforcement Program up to 2014–15 when a Government decision discontinued funding arrangements.<sup>20</sup>

1.11 Under the Lodgment Enforcement Program, DHS sends a prioritised list of child support customers to the ATO for lodgment enforcement activity.<sup>21</sup> The ATO refines the customer list referred by DHS<sup>22</sup> and employs measures to obtain lodgment from prioritised child support customers including written correspondence, telephony work, penalties, prosecution and default assessments.<sup>23</sup>

### **Tax Refund Intercept and Information Exchange Programs**

1.12 The Tax Refund Intercept Program is an arrangement between DHS and the ATO that allows DHS to garnishee potential tax refunds of customers with child support debts. Under the arrangement, DHS provides the ATO with a list of child support customers and requests the ATO to notify DHS when these customers lodge income tax returns or have potential tax refunds available.

1.13 If a child support debtor lodges a tax return and is eligible for a tax refund, DHS may request the ATO to withhold and transfer that refund to DHS so that it can offset that customer's child support debt. In instances where a potential refund exceeds the amount a customer owes, DHS will request only the outstanding debt amount from that customer's refund.<sup>24</sup>

1.14 Under the Information Exchange Program, the ATO advises DHS of any new income information for the customer, allowing DHS to update its income data used for child support payment assessments. Beyond this information exchange, the Tax Refund Intercept Agreement has measures in place to allow DHS officers to access ATO customer information on an as-needs basis for the purposes of accurate and timely child support payments.

### **Programs' impact**

1.15 These programs<sup>25</sup> support the operation of the Child Support Scheme by helping to ensure that child support payment assessments are calculated using accurate income information and

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20 DHS advised that the Lodgment Enforcement Program is now business-as-usual practice.

21 The ATO advised that DHS commenced prioritising the child support customer lists from 2012–13.

22 To refine the list, the ATO removes the names of those customers it assesses as not being required to lodge tax returns. Other categories of customers removed from the list include compromised clients, deceased customers and customers of certain ages. Compromised customers are those that the ATO is unable to match to an ATO record because the Tax File Number provided by DHS is compromised in some respect. For example, the Tax File Number may not belong to the customer, the number was incorrectly transposed when it was recorded, or the integrity of the number has been compromised (for example, it is a duplicate). Customers aged 18 years or younger and 65 years or older are also excluded from the list.

23 The ATO can issue a default assessment of taxable income when customers have outstanding tax returns. The ATO generally undertakes default assessments on customers who are salary and wage earners and where there is reliable third-party income information.

24 In addition to the outstanding debt amount, DHS advised that it also requests the withholding of relevant penalties.

25 These three programs are sometimes referred to in this report as the cooperative child support programs.

contributing to the collection of child support payments. The value of child support debt collected through the Lodgment Enforcement and Tax Refund Intercept Programs in 2015–16 was \$114.6 million or 7.6 per cent of the total value of outstanding child support debt in 2015–16 (\$1.5 billion). As illustrated in Table 1.1, the amount of child support debt collected under the Lodgment Enforcement Program declined in the last three years.

**Table 1.1: Lodgment Enforcement, Tax Refund Intercept and Information Exchange Programs' results**

Lodgment Enforcement Program			Tax Refund Intercept Program		Information Exchange Program
Financial year	No. of finalisations <sup>a</sup>	Amount of debt collected	No. of refunds intercepted	Amount of debt collected	No. of incomes exchanged
2013–14	177 034	\$33.9 m	87 845	\$96.5 m	1 224 098
2014–15	236 436	\$27.4 m	83 830	\$94.1 m	1 247 255
2015–16	130 248	\$16.9 m	85 302	\$97.6 m	1 224 213

Note a: The ATO defines a 'finalisation' for an income tax period as one of the following: a lodgment received; a 'return not necessary' determination<sup>26</sup>; a 'further returns not necessary' determination<sup>27</sup>; or a default assessment issued.

Source: ANAO analysis of DHS and ATO information.

## Audit approach

### Audit objective, criteria and scope

1.16 The objective of the audit was to assess the effectiveness of the child support collection arrangements between the Department of Human Services and the Australian Taxation Office.

1.17 To form a conclusion on the audit objective the following high-level criteria were adopted:

- arrangements are in place between DHS and the ATO in support of accurate and timely child support payments;
- DHS and the ATO fulfil their agreed responsibilities in support of accurate and timely child support payments; and
- DHS and the ATO measure the performance of their cooperative child support collection activities and transparently report on outcomes.

1.18 The audit addressed a recommendation arising from the House of Representatives Standing Committee on Social Policy and Legal Affairs' inquiry report, *From Conflict to Cooperation: Inquiry into the Child Support Program* (2015). The Committee recommended the ANAO conduct a performance audit of the Lodgment Enforcement Program.

26 A 'return not necessary' status applies to a customer when the lodgment of an income tax return for the relevant income tax period is not necessary under the tax law.

27 A 'further returns not necessary' status applies to a customer when the lodgment of further income tax returns for future income tax periods is not necessary under the tax law. There are several reasons for this including the customer is moving overseas or no longer in receipt of taxable income.

1.19 The audit also examined cooperation between DHS and the ATO for child support collection activities including tax refund intercepts and information exchange. The audit did not examine broader child support payment assessment and compliance strategies.

### **Audit methodology**

1.20 The major audit tasks included:

- reviewing relevant DHS and ATO documentation, procedures and reporting;
- analysing data including information held by DHS and the ATO, and data exchanged between the two agencies;
- interviewing relevant agency staff and child support stakeholders; and
- reviewing citizen contributions received through the ANAO's website.<sup>28</sup>

1.21 The audit was conducted in accordance with the ANAO Auditing Standards at a cost to the ANAO of approximately \$445 000.

1.22 The team members for this audit were Kylie Jackson, Esther Barnes, Haydn Thurlow and Andrew Morris.

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28 The ANAO received 26 citizen contributions via the ANAO website and four other submissions from relevant community and stakeholder groups (refer Appendix 2). The ANAO does not verify the contents of public submissions.

## 2. Program administration

### Areas examined

This chapter examines the administration and risk management arrangements that DHS and the ATO have in place for the cooperative child support programs.

### Conclusion

The administrative framework in place to support the implementation of the child support collection arrangements between DHS and the ATO is sound. Agreements outline the roles and responsibilities of each agency, which have been fulfilled in almost all instances. While funding amounts specified in the previous Lodgment Enforcement Agreements were based on historical costs, it was unclear how the lodgment targets had been set. There is also some scope to improve supporting administrative arrangements, including shared risk management practices and referrals of child support customers suspected of fraud and tax evasion.

### Areas for improvement

The ANAO made one recommendation aimed at improving the risk management arrangements for the cooperative child support programs (paragraph 2.40).

The ANAO also made two suggestions aimed at: reviewing the finalisation target set for the Lodgment Enforcement Program (paragraph 2.13) and improving responses to referrals of customers suspected of fraud and tax evasion (paragraph 2.25 to 2.27).

## Are agreements in place to support the administration of the cooperative child support programs?

The Lodgment Enforcement and Tax Refund Intercept Agreements support the administration of the cooperative child support programs. The agreements clearly specify the objectives and articulate the roles and responsibilities that have been fulfilled in almost all instances by DHS and the ATO.

2.1 DHS and the ATO entered into an agreement in July 2006 to expand the Lodgment Enforcement Program.<sup>29</sup> The Lodgment Enforcement Agreement has been renewed three times since 2006, as illustrated in Figure 2.1. This audit focused on the lodgment enforcement arrangements pertaining to the previous agreement (2012–15 Lodgment Enforcement Agreement) and the current abridged agreement (the Abridged Lodgment Enforcement Agreement).<sup>30</sup>

29 As part of the Australian Government's response to the recommendations of the Ministerial Taskforce on Child Support in 2005, funding was provided in the May 2006 Budget for DHS to implement expanded compliance arrangements for the Child Support Scheme reforms. The Australian Government provided \$162.2 million to DHS over four years to improve compliance for the Child Support Scheme, including the expansion of the Lodgment Enforcement Program.

30 The terms applicable to the Abridged Lodgment Enforcement Agreement include the terms within the revised agreement and the overarching terms of the 2012–15 Lodgment Enforcement Agreement and the Head Agreement. The Abridged Lodgment Enforcement Agreement includes high-level program requirements, such as roles and responsibilities and exchange requirements, and excludes lower-level prescriptive requirements, for example meeting frequencies, incident notification and complaints management.

**Figure 2.1: Timeline of Lodgment Enforcement Agreements**

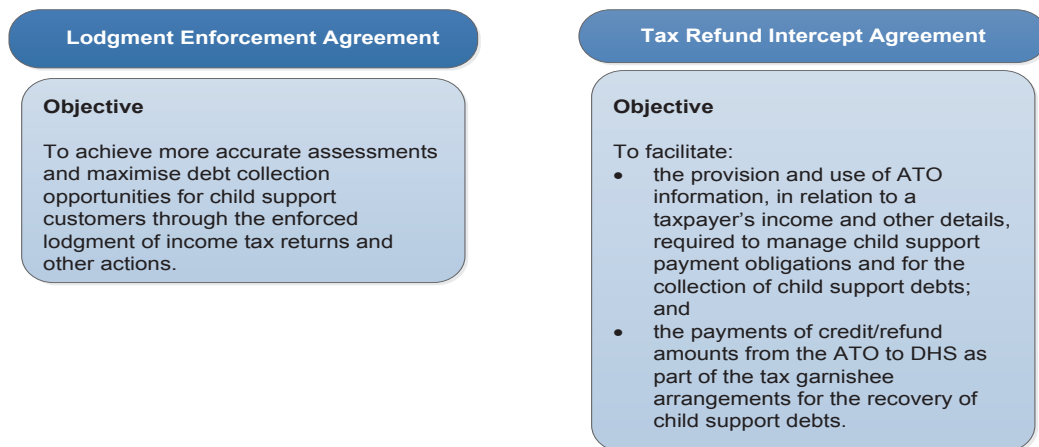
Note: The second agreement expired on 30 June 2011 but was further extended until 30 June 2012. The 2012–15 Lodgment Enforcement Agreement expired on 30 June 2014 but was extended until 30 June 2015.

Source: ANAO analysis of the Lodgment Enforcement Agreements.

2.2 The tax refund intercept and information exchange arrangements are outlined in the *Subsidiary Arrangement—Tax Garnishee Arrangements and Access to ATO Information* agreement (the Tax Refund Intercept Agreement) which DHS and the ATO entered into in November 2011. At the time of the ANAO's audit fieldwork, DHS and the ATO were in the process of negotiating new agreements for the tax refund intercept and information exchange arrangements.<sup>31</sup>

## Objectives

2.3 The Lodgment Enforcement Agreement and Tax Refund Intercept Agreement clearly specify the objectives of the child support collection arrangements between DHS and the ATO. Figure 2.2 illustrates the objectives of the arrangements under the two agreements.

**Figure 2.2: Objectives of the Lodgment Enforcement Agreement and Tax Refund Intercept Agreement**

Source: Lodgment Enforcement Agreement and Tax Refund Intercept Agreement.

<sup>31</sup> The new agreements for the tax refund intercept and information exchange arrangements were due for sign-off by the end of January 2017. DHS and the ATO plan to implement two separate agreements for the governance of the tax garnishee and information exchange arrangements. The tax garnishee arrangements will be moved into a new agreement, *Services Schedule for the Tax Garnishee Process Administrative Arrangements for Centrelink and Child Support*. The information exchange arrangements will be transitioned into an abridged agreement, *Abridged Arrangement for Child Support Access to ATO Information*.

## Roles and responsibilities

2.4 The 2012–15 and Abridged Lodgment Enforcement Agreements clearly articulate the roles and responsibilities of DHS and the ATO. Table 2.1 illustrates that DHS and the ATO have fulfilled their agreed roles and responsibilities under the agreements.

**Table 2.1: Fulfilment of roles and responsibilities for Lodgment Enforcement Agreements**

Roles and responsibilities	DHS	ATO
<b>2012–15 Lodgment Enforcement Agreement</b>		
Provision of all documentation, guidelines, rules, prescribed forms and scripts necessary for the ATO to perform the services.	✓	Not applicable
Provision of all information and data necessary for the ATO to perform the services, in the format reasonably requested by the ATO.	✓	Not applicable
Prompt provision of policy advice, legal advice or guidance following a request from DHS.	Not applicable	✓
Development of instruments or delegated legislation required for the implementation or performance of the program.	✓	✓
Obtaining all Financial Management Act approvals, authorisations and drawing rights, and any other financial delegations and requirements, which either agency is required to obtain in order to perform the services.	✓	✓
<b>Abridged Lodgment Enforcement Agreement</b>		
Provision of data within the agreed timeframes and request for updated data within a reasonable timeframe in the method specified.	✓	✓
Assessment of the suitability of the information exchange and immediate notification to the other party if the data is no longer suitable or required.	✓	✓

Source: ANAO analysis of the 2012–15 and Abridged Lodgment Enforcement Agreements.

2.5 While the Tax Refund Intercept Agreement does not have a clause that explicitly specifies the roles and responsibilities of DHS and the ATO, the agreement does indicate each agency's roles and responsibilities. The ANAO extracted the key roles and responsibilities under the agreement and analysed whether they have been fulfilled, as illustrated in Table 2.2. The only responsibility that had not been met was DHS' assessment of the suitability of ATO information provided for the purposes of carrying out the Child Support Registrar's functions. In this regard, DHS had considered the adequacy of some information exchanged under the Lodgment Enforcement Program, but had not considered the relevance of information provided on a weekly basis by the ATO in 19 large, separate files. While DHS advised the ANAO that it used information held within these files for compliance activities, it could not advise which information it used.

**Table 2.2: Fulfilment of key roles and responsibilities for Tax Refund Intercept Agreement**

Roles and responsibilities	DHS	ATO
DHS requests and the ATO provides requested information about a taxpayer via the appropriate identified channels pursuant to relevant provisions under the child support legislations and tax law.	✓	✓
DHS assesses the suitability of ATO information provided for the purposes of carrying out the Child Support Registrar's functions.	✗	Not applicable
The ATO advises DHS of the potential refund available under the tax garnishee arrangements. DHS responds with a specified amount to be paid in satisfaction of debt. The ATO deducts the right amount of refund following internal and other offsetting, advises DHS of the amount deducted and arranges for payment of that amount to DHS.	✓	✓
DHS and the ATO is responsible for developing procedures relating to the tax refund intercept and information exchange arrangements, making those procedures available to staff, providing adequate training to staff, and providing the procedures to each other on request.	✓	✓

Source: ANAO analysis of the Tax Refund Intercept Agreement.

## Resources

2.6 One of the guiding principles of the 2012–15 Lodgment Enforcement Agreement was that DHS and the ATO allocate sufficient resources to meet the objectives of the program within the allocated annual funding.

2.7 DHS advised the ANAO that it has dedicated a consistent proportion of officers' time to support the program, including an Executive Level 1, Executive Level 2, Senior Executive Service Band 1 and Australian Public Service Level 6. DHS further advised the ANAO that the Lodgment Enforcement Program outcomes can require manual intervention by DHS staff but was unable to advise of the level of effort associated with completing these tasks.<sup>32</sup> To improve program efficiency and outcomes, there is opportunity for DHS to review resourcing in relation to the customer prioritisation process and compliance action under the Lodgment Enforcement Program, as discussed in Chapter 3.

2.8 Under the 2012–15 Lodgment Enforcement Agreement, the ATO was funded for 69 full-time equivalent officers. From 2012–13 to 2014–15, the number of ATO officers dedicated to the Lodgment Enforcement Program fluctuated between 43 and 75 full-time equivalent officers (refer Table 2.4).

32 There were between 45 000 and 52 000 tasks requiring manual intervention per annum between 2013 and 2016.

## Was there a sound basis for determining the key terms of the agreements?

The current Lodgment Enforcement Agreement was the first not to specify a lodgment target and funding amount. The basis for the target in the initial agreement and revisions in subsequent agreements is unclear. Funding under the previous agreements was based on an estimate of staff costs at the time of the initial agreement, which was not reviewed or adjusted in subsequent agreements. The key terms of the Tax Refund Intercept Agreement, including the nature and extent of data exchange, were determined on a sound basis.

### Lodgment Enforcement Agreement

#### Target

2.9 The 2012–15 Lodgment Enforcement Agreement indicated a target of 105 000 finalisations of income tax periods for the ATO. This target was higher than targets in preceding agreements, as illustrated in Table 2.3. The ATO defines a ‘finalisation’ for an income tax period as one of the following: a lodgment received; a ‘return not necessary’ determination<sup>33</sup>; a ‘further returns not necessary’ determination<sup>34</sup>; or a default assessment issued.

**Table 2.3: Targets for Lodgment Enforcement Agreements**

Lodgment Enforcement Agreement	Target (per annum)
First agreement (1 July 2006–30 June 2010)	29 297 finalised cases <sup>a</sup>
Second agreement (1 July 2010–30 June 2011)	70 000 finalisations of income tax periods
Extension of second agreement (1 July 2011–30 June 2012)	101 000 finalisations of income tax periods
2012–15 agreement (1 November 2012–30 June 2015)	105 000 finalisations of income tax periods

Note a: A finalised case occurred where the customer: lodged outstanding tax returns; or was assessed as not being required to lodge a tax return.<sup>35</sup> All subsequent Lodgment Enforcement Agreements redefined targets as ‘finalisations of income tax periods’.

Source: Lodgment Enforcement Agreements and internal documents of DHS and the ATO.

2.10 The basis for determining the targets for the Lodgment Enforcement Program is unclear. The ATO advised that it could not locate documents detailing considerations in relation to the setting of targets. However, the ATO advised that the increases in targets were likely to be the result of it consistently exceeding the performance target each year. The ATO further advised that there was probably a reasonable assumption that as the ATO’s processes became more efficient, the target would increase while DHS’ payment remained unchanged.

33 A ‘return not necessary’ status applies to a customer when the lodgment of an income tax return for the relevant income tax period is not necessary under the tax law.

34 A ‘further returns not necessary’ status applies to a customer when the lodgment of further income tax returns for future income tax periods is not necessary under the tax law. There are several reasons for this including the customer is moving overseas or no longer in receipt of taxable income.

35 A customer was not required to lodge for the income tax years requested due to being: a non-resident for taxation purposes; deceased; insolvent; incarcerated; only in receipt of Centrelink Benefits; or the customer address is unknown to the ATO and DHS.



2.11 There is no target set under the Abridged Lodgment Enforcement Agreement as the program funding ceased from 2015–16. Nonetheless, the ATO remains committed to achieving 105 000 income tax period finalisations per annum from 2015–16.

2.12 The ATO advised that as part of its new prioritisation approach from 2016–17 it has set a target of 1000 default assessments for the first time.<sup>36</sup> In addition, the ATO has stated that of the 105 000 finalisations, it will aim to achieve 30 000 lodgment finalisations from taxpayers in cash economy industries or taxpayers who are employees in the Pay-As-You-Go income tax withholding system. The ATO advised that these targets have been established with consideration to its workload capacity.

2.13 The ANAO suggests that DHS and the ATO review the finalisation target set for the Lodgment Enforcement Program to ensure that there is a clear basis for the target determination, and that the target drives the achievement of intended program objectives.

### *Funding*

2.14 As part of the Australian Government's response to the recommendations of the Ministerial Taskforce on Child Support in 2005, funding was provided in the May 2006 Budget for DHS to implement expanded compliance arrangements for the Child Support Scheme reforms.<sup>37</sup> The Australian Government provided \$162.2 million to DHS over four years to improve compliance for the Child Support Scheme. Consequently, DHS worked collaboratively with the ATO to expand the Lodgment Enforcement Program.<sup>38</sup>

2.15 The Lodgment Enforcement Agreements from 2006–07 to 2014–15 specified the payment of an annual service fee from DHS to the ATO subject to satisfactory performance of services. The ATO advised that the funding amount was determined based on its 2005 estimate of costs to undertake the expanded Lodgment Enforcement Program of between \$6.7 million and \$6.9 million per annum for the four-year period from 2006–07 to 2009–10.<sup>39</sup> DHS and the ATO continued to apply the initial 2005 cost estimate as the basis for the funding amount under the subsequent two Lodgment Enforcement Agreements, where the funding remained constant at \$6.9 million (exclusive of GST). The Australian Government announced in the May 2015 Budget that the payment to the ATO for the Lodgment Enforcement Program would cease from 1 July 2015 as a measure to achieve ongoing efficiencies within DHS.<sup>40</sup> Therefore, there is no service fee for the provision of services under the new Abridged Lodgment Enforcement

36 The ATO can issue a default assessment of taxable income when customers have outstanding tax returns. This assessment is based on information available to the ATO, including in relation to employment, bank accounts and investments.

37 Australian Government, *Budget Measures: Budget Paper No. 2 – Part 2: 2006–07*, Commonwealth of Australia, Canberra, 2006, p. 185.

38 The Lodgment Enforcement Program was a component of DHS' broader National Compliance Program that was in operation from 1 July 2006 to 30 June 2010.

39 The ATO based this estimate on 69 full time equivalent staff from its lodgment compliance, mail out and call centre teams processing an additional 100 000 customers per year. The number of non-lodgers being referred for lodgment enforcement action increased from 24 000 to 125 000 from 1 July 2006. DHS was required to refer 125 000 non-lodgers to the ATO annually under the first Lodgment Enforcement Agreement. The cost estimate was developed in consultation with DHS and was based on the ATO's general lodgment enforcement action and past experience with child support customers.

40 DHS advised that the Lodgment Enforcement Program is now business-as-usual practice.

Agreement. The ATO advised that there was, however, a government expectation that DHS and the ATO would continue to work together to achieve whole-of-government outcomes.

2.16 As illustrated in Table 2.4, the ATO reduced the number of resources allocated to the Lodgment Enforcement Program with the cessation of DHS funding in 2015–16. Nevertheless, the ATO has indicated its intention to retain the target of 105 000 finalisations under the Lodgment Enforcement Program.

**Table 2.4: ATO staffing and costs for the Lodgment Enforcement Program**

Financial year	Full-time equivalent officers			Cost		
	Funded	Actual	Difference	Funded	Actual	Difference
2012–13	69	65	-4	\$6 875 000	\$7 347 342	+\$472 342
2013–14	69	43	-26	\$6 875 000	\$5 619 108	-\$1 255 892
2014–15	69	75	+6	\$6 875 000	\$8 249 605	+\$1 374 605
2015–16	0	30	+30	\$0	\$2 846 831 <sup>a</sup>	+\$2 846 831

Note a: One reason for the lower cost in 2015–16 was the lesser number of lodgment activities compared to previous years. As shown in Table 5.1, the ATO completed 130 248 finalisations in 2015–16 compared to 236 436 the previous year.

Source: ATO information.

2.17 There is little correlation between the number of ATO staff and the results achieved under the program. In 2013–14, the ATO incurred the least cost for the program due to reduced staffing levels and achieved the greatest results in terms of the number of default assessments completed and amount of child support debt collected (refer Table 5.1). The ATO advised that the reduction in staff was due to the reallocation of staff to under-resourced teams.

## Tax Refund Intercept Agreement

2.18 The key terms of the Tax Refund Intercept and Information Exchange Agreement form the basis for the programs' operations. The agreement clearly outlines the:

- nature and extent of data exchange between DHS and the ATO;
- legislative basis for the ATO's provision of taxpayer information to DHS<sup>41</sup>;
- process for accessing and providing ATO information, including the methods for transferring the information; and
- process for transferring child support debt collected from tax refunds to DHS.

2.19 The Tax Refund Intercept Agreement does not specify a target as all eligible refunds should be actioned under the agreement. As specified in the agreement, there is no service fee payable by DHS to the ATO for the provision of taxpayers' information or the transfer of child support debt collected through tax refund intercepts.

41 The provision of access to taxpayer data is covered by the *Child Support (Registration and Collection) Act 1988*, the *Child Support (Assessment) Act 1989* and the *Taxation Administration Act 1953*.

## Do arrangements support the accurate, complete and timely transfer of data between DHS and the ATO?

Arrangements outlined in the Lodgment Enforcement and Tax Refund Intercept Agreements support the accurate, complete and timely transfer of data between DHS and the ATO. There is scope to improve ad hoc customer referral processes between DHS and the ATO for investigation purposes.

### Child support population

2.20 Mutual customers of the Child Support Program and the ATO are designated as 'clients of interest'. As at December 2016, there were approximately three million clients of interest. DHS applies an indicator to each client of interest that instructs the ATO to provide that customer's income information and/or potential tax refund information to DHS as it becomes available.<sup>42</sup> While DHS requires the most current income information for all child support customers, refund information is ordinarily sought in instances where a child support customer has a child support debt, has had unreliable incomes, or is a Child Support Collect payer. The three client of interest indicators are outlined in Table 2.5.

**Table 2.5: Client of interest indicator definitions as at December 2016**

Client of interest indicator	Definition	No. of customers
COI-0	DHS does not require income or refund information <sup>a</sup>	1 224 118 <sup>b</sup>
COI-1	DHS requires both income and refund information	906 765
COI-2	DHS requires income information only	841 802

Note a: COI-0 represents customers who are a third party, or customers that have: no debt; no unreliable income; no case with a status of either active, ended with arrears or ended with liability due; and had no account activity for at least one year.

Note b: DHS advised that of the 1 224 118 customers with a COI-0 indicator: 1 209 839 had closed cases; 1262 had active cases; and the remainder were withdrawn, ineligible, cancelled or in the process of registration.

Source: DHS and ATO information.

2.21 DHS and the ATO undertake a reconciliation process to confirm that they share the same population of child support customers.<sup>43</sup> Prior to 2012, this reconciliation process was automatic. DHS advised that with the introduction of the real-time data exchange process, it was more cost-effective to change the automatic reconciliation process to a manual one. DHS further advised that while automation could be re-established, it has not yet attempted to cost or develop a new automated process. DHS advised that the manual reconciliation process is undertaken approximately twice per year.

<sup>42</sup> DHS provides customer status updates on a daily basis.

<sup>43</sup> ATO advises that population discrepancies can arise from COI indicators failing to turn on or off as required during the daily population updates. This can be a result of DHS messages failing to send to the ATO, or the ATO failing to action a message received from DHS.

2.22 Discrepancies between the populations represent customers who have the incorrect client of interest indicator applied to them. Customer discrepancies can result in customers having an incorrect indicator and this can mean that income or refund information is not sent to DHS from the ATO. The number of client of interest discrepancies identified through the reconciliation process is illustrated in Table 2.6.

**Table 2.6: Discrepancies identified in client of interest reconciliation**

2013–14	2014–15	2015–16
9826	5182	617

Note: DHS attributes the fall in discrepancies to data cleansing activities and addressing duplicate Tax File Numbers in the child support system.

Source: DHS information.

## Lodgment Enforcement Program

2.23 Data transfer requirements under the Lodgment Enforcement Program mainly relate to the exchange of information in relation to the program and program reporting.

2.24 Potential improvements to the information exchanged in relation to the prioritisation and targeting of customers were discussed at the monthly operational meetings (refer Chapter 4), such as identifying those customers who have been referred by DHS on multiple occasions and prioritising customers according to risk factors other than the number of years without lodgment and debt amount, but these improvements were not implemented.

2.25 The 2012–15 Lodgment Enforcement Agreement required that the ATO provide DHS with a process for DHS to make ad hoc customer referrals to the ATO. The process for the ad hoc referral of customer information is unclear however, and DHS officers are referring child support customers suspected of fraud and tax evasion to three different ATO email addresses. There would be merit in consolidating and prioritising these customers for investigation as child support customers represent one-quarter of DHS customers referred for investigation of tax evasion to ATO business lines, as illustrated in Table 2.7.<sup>44</sup>

**Table 2.7: Customers suspected of tax evasion who have been referred to business lines within the ATO**

Financial year	Total no. of DHS customers referred to business lines	No. of child support customers referred to business lines	Child support customers as a proportion of total
2015–16	37 188	9463	25.4%

Note: The ATO received 45 010 DHS customer referrals in 2015–16. Of the remaining 7822 referrals, 2362 were duplicate referrals and 5460 were determined not to be tax evasion.

Source: DHS information.

<sup>44</sup> The ATO was unable to differentiate DHS referrals from other referrals it received. Other referrals can include tip-offs from members of the public.

2.26 There is scope for DHS and the ATO to better utilise referral information, including by:

- improving customer profiling and targeting under the Lodgment Enforcement Program; and
- using it to confirm the accuracy of 'return not necessary' assessments. This was discussed at an operational meeting but was never implemented.

2.27 Only some of the ATO's business lines routinely investigate these referrals. Due to the volume of referrals (approximately 750 per month) received by business lines such as Cash Economy and Individuals, they are used for planning purposes rather than subject to individual investigation. The ATO could consider a risk-based approach to investigating referrals.

### Tax Refund Intercept and Information Exchange Programs

2.28 The key information exchange arrangements as outlined in the Tax Refund Intercept Agreement are the basis for the program's operations.

2.29 Virtually all available tax refunds are intercepted under the Tax Refund Intercept Program. DHS has 25 business days to respond to the ATO's notification of a customer refund.<sup>45</sup> As illustrated in Table 2.8, there have been only a small number of instances where DHS did not respond to the ATO within the required 25 business day timeframe, which may have resulted in child support debt not being collected.

**Table 2.8: Number of tax refunds not intercepted because DHS did not respond within the required 25 business day timeframe**

Refunds	2012–13	2013–14	2014–15	2015–16
Number of refunds not intercepted because DHS did not respond within 25 business day timeframe	7	3	21	17
Amount available from refunds	\$27 685	\$10 936	\$38 817	\$42 414
Amount available from refunds as proportion of total amount of child support collected through the Tax Refund Intercept Program	0.03%	0.01%	0.04%	0.04%
Average amount available per refund not intercepted	\$3955	\$3645	\$1848	\$2494

Source: ANAO analysis of ATO information.

### *Direct access arrangements*

2.30 DHS officers are provided with direct access to the ATO's information technology systems under the Tax Refund Intercept Agreement. However, within the agreement, it is recognised that this is the least preferred method for providing DHS with access to ATO information and that a new information exchange approach would be implemented when possible. To manage the direct access arrangement, information security measures were outlined in the agreement including:

45 DHS advised that it may not meet this timeframe if: it was waiting for evidence to support a hardship claim from a customer; there were unresolved errors in DHS' customer record management system that would prevent the processing of a tax refund intercept opportunity; or there was a delay in decision making associated with a case requiring manual intervention.

regularly reviewing the access requirements of DHS officers; and logging and reviewing access to ATO information technology systems by DHS officers.<sup>46</sup>

2.31 A 2015 ATO internal audit found that key risks associated with the direct access arrangements were not being effectively managed. In particular, the audit found that there was limited monitoring of DHS officers access to ATO systems and that while access audit logs were being produced, there was no evidence that the ATO or DHS reviewed these logs. Consequently, the audit report noted that there was a risk that DHS staff were inappropriately accessing ATO information. The audit made three recommendations and all three have been implemented.<sup>47</sup>

2.32 DHS advised that it commenced a proactive detection program in 2014–15 after the ATO's access logs were improved to include more relevant information. The detection program involves analysing the Tax File Numbers associated with the ATO customer records accessed by DHS officers to identify if they belong to individuals known to the officer or high profile individuals. Since the program commenced in 2014–15, DHS identified 30 possible incidents of inappropriate access. Two of these incidents were referred for investigation; of which one was found to be not substantiated and the second was confirmed as unauthorised access.

## Do the agreements specify risk management obligations?

The Lodgment Enforcement and Tax Refund Intercept Agreements do not specify risk management obligations between DHS and the ATO. However, DHS and the ATO advised that the proposed new agreements for the Tax Refund Intercept and Information Exchange Programs will include risk management provisions. DHS and the ATO need to strengthen risk management practices for their collaborative child support collection arrangements, in particular the management of shared risks.

### Lodgment Enforcement Agreements

2.33 The 2012–15 Lodgment Enforcement Agreement included a requirement for DHS and the ATO to apply and comply with the Australian and New Zealand risk management standard *AS/NZS ISO 31000:2009—Risk Management—Principles and Guidelines*. The Abridged Lodgment Enforcement Agreement does not specify risk management requirements for DHS and the ATO.

2.34 DHS has a risk management plan for the collection of child support debt. The *Collection of Child Support Debt Risk Management Plan* document, drafted in May 2016, outlined DHS' approach to identifying, assessing and managing the risks relevant to the collection of child support debts. However, the risk management plan did not include accountabilities or responsibilities for managing risks associated with the Lodgment Enforcement Program between DHS and the ATO.

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46 These are among other requirements including: DHS advising the ATO Information Technology Service Desk promptly of any DHS user changes; providing on a monthly basis a list to the ATO of DHS officers who have ceased requiring access to ATO systems or have commenced long term leave; and providing on a monthly basis a list of all current DHS staff and delegates who are authorised to approve access to ATO systems.

47 The three recommendations were in relation to: improving the ATO's oversight of DHS' detection controls for staff access to ATO Information Technology systems; preparing a revised risk assessment of the ATO-DHS data transfer risk; and improving the currency and accuracy of the ATO's Information Transfer Register.

2.35 The ATO has risk assessment documents and risk treatment plans for risks associated with non-lodgment of tax returns. The ATO has not developed any specific risk management documentation to support the lodgment enforcement arrangements with DHS.<sup>48</sup>

### Tax Refund Intercept Agreement

2.36 The Tax Refund Intercept Agreement does not stipulate risk management requirements for DHS and the ATO. However, DHS advised that risk management provisions are being drafted in the proposed new agreements.

2.37 DHS develops annual risk management plans for the Child Support Program. The plans outlined the approach for the management of risks associated with all systems that interface with the child support system, including the ATO system that supports the tax refund intercept and information exchange arrangements.<sup>49</sup> However, these risk management plans did not include collaborative approaches for DHS and the ATO to manage risks associated with the Tax Refund Intercept and Information Exchange Programs. DHS intends to develop a risk management plan relevant to the tax refund intercept and information exchange arrangements with the ATO in early 2017.

2.38 The ATO conducted a risk assessment for the direct access to ATO systems by DHS staff for child support program purposes in June 2015. The ATO subsequently included DHS' direct access to the ATO systems as one of its broader enterprise risks in its ATO Open Risk Register. The ATO recognised that the DHS direct access risk is an externally-shared risk and a mitigation plan has been put in place. The ATO advised that it is also working to develop an operational level procedure to provide a more detailed agreement between itself and DHS on steps to take in managing risks/incidents in relation to system failure or information transmission.

2.39 In summary, DHS and the ATO have not assessed the shared risks under the Lodgment Enforcement, Tax Refund Intercept and Information Exchange Programs. One of the elements of the *Commonwealth Risk Management Policy* is the requirement for Commonwealth entities to implement arrangements to understand and contribute to the management of shared risks.<sup>50</sup> There would be merit in DHS and the ATO strengthening the management of shared risks associated with their collaborative child support collection arrangements.

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48 Taxpayers with a child support obligation were identified as a driver of non-lodgement in the current and previous Lodgment Risk Assessments. However, there were no specific documented actions to address the risks arising from the population.

49 Other than the ATO system, DHS's child support system also has an interface with a number of other systems including those belonging to Centrelink, the Reserve Bank of Australia and the Department of Veterans' Affairs.

50 Department of Finance, *Commonwealth Risk Management Policy* [Internet], Canberra, July 2014, available from <<http://www.finance.gov.au/sites/default/files/commonwealth-risk-management-policy.pdf?v=1>> [accessed 10 March 2017].

## Recommendation No.1

2.40 The Department of Human Services and the Australian Taxation Office implement arrangements to manage shared risks in administering the Lodgment Enforcement, Tax Refund Intercept and Information Exchange Programs.

**Department of Human Services' response:** *Agreed.*

2.41 *The department notes the ANAO acknowledges that the department has existing risk management plans which may not necessarily be captured in shared documentation, however roles and responsibilities are clearly documented and risks are acknowledged and managed on a regular basis. The department has commenced work with the ATO to develop shared risk management arrangements to support the identification, mitigation, monitoring and reporting of shared risks.*

**Australian Taxation Office's response:** *Agreed.*

2.42 *The ATO continues to work with DHS to develop and implement a shared risk framework, which will detail the actions to be taken including the responsibilities and accountabilities for risk management.*



### 3. Program implementation

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#### Areas examined

This chapter examines the two agencies' implementation of the cooperative child support programs, particularly in targeting compliance activities under the Lodgment Enforcement Program, and conducting compliance activities under all programs to help maximise child support collection.

#### Conclusion

The vast majority of tax refunds are intercepted under the Tax Refund Intercept Program. Under the Lodgment Enforcement Program, DHS and the ATO can improve the prioritisation and targeting of customers by better considering other child support compliance risks. DHS can also improve its monitoring of the application of income information received from the ATO to inform program design.

#### Areas for improvement

The ANAO made two recommendations aimed at: improving the prioritisation and targeting of customers under the Lodgment Enforcement Program (paragraph 3.14); and monitoring the application of income information to child support payment assessments (paragraph 3.39).

### Are activities effectively targeted under the Lodgment Enforcement Program?

The selection of customers for compliance activities under the Lodgment Enforcement Program can be better targeted by considering risks such as compliance history, lifestyle factors, employment type and industry. DHS and the ATO do not strategically employ broader compliance activities to target customers subject to the Lodgment Enforcement Program. Further, the level of program activity undertaken by the ATO has declined markedly with the cessation of DHS funding in 2015–16, and more than half of the program results are of limited benefit to DHS.

### Prioritising customers for action

3.1 The 2012–15 and Abridged Lodgment Enforcement Agreements specify that DHS will supply a prioritised population of customers to the ATO for lodgment enforcement action.<sup>51</sup> DHS has referred approximately 440 000 customers each year to the ATO under the Lodgment Enforcement Program.

3.2 Table 3.1 outlines the number of customers by population category referred from DHS to the ATO from 2013–14 to 2016–17.

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51 The 2012–15 agreement also indicated that the ATO would action the population of customers according to the order and priority indicated by DHS.

**Table 3.1: Customers referred from DHS to the ATO, 2013–14 to 2016–17**

Category	Description of category	No. of customers referred to the ATO			
		2013–14	2014–15	2015–16	2016–17
1a	Debt >\$100 000 with multiple income tax periods overdue	16 893 <sup>a</sup>	69	55	160
1b	Debt >\$50 000 and <=\$100 000 with multiple income tax periods overdue		774	530	553
1c	Debt >\$20 000 and <=\$50 000 with multiple income tax periods overdue		5998	4136	4148
1d	Debt >\$10 000 with multiple income tax periods overdue		9177	6749	6437
2	Debt >=\$1,000 and <=\$10,000 with multiple income tax periods overdue	28 037	23 784	18 688	17 415
3	Debt >=\$1,000 with a single income tax period overdue	14 856	16 211	29 704	25 489
4a	Debt >=\$1 and <\$1,000 with multiple income tax periods overdue	251 816 <sup>b</sup>	238 810 <sup>b</sup>	22 382	21 467
4b	Debt =\$0 with multiple income tax periods overdue			209 601	198 307
5	Debt <\$1,000 with a single income tax period overdue	136 397	140 612	180 322	166 715
<b>Total</b>		<b>447 999</b>	<b>435 435</b>	<b>472 167</b>	<b>440 691</b>

Note a: Categories 1a to 1d were not in place in 2013–14.

Note b: Category 4 was not split into two components prior to 2015–16.

Source: ANAO analysis of ATO information.

3.3 As illustrated in Table 3.1, DHS prioritises customers according to the value of their outstanding debt and number of years without lodgment; categories 1a and 1b represent the highest priority while category 5 is of lowest priority. DHS does not prioritise customers according to broader risk factors such as compliance history, lifestyle factors, employment type and industry. While DHS indicated in its *Compliance Program 2013–2015* that it would increase its focus on parents who avoid their child support responsibilities through the cash economy or deliberate misrepresentation of their income, there is no such prioritisation of customers for the Lodgment Enforcement Program.<sup>52</sup>

3.4 DHS is notified on a weekly basis by the ATO of customers who have been assessed as not being required to lodge tax returns. However, as DHS requires an ATO-assessed taxable income for these customers, it does not exclude them from the population referred to the ATO. These customers represent the majority of customers subsequently removed as part of the ATO's review

52 Department of Human Services, *Compliance Program 2013–2015* [Internet] p. 17, available from <<https://www.humanservices.gov.au/sites/default/files/documents/compliance-program-2013-15.pdf>> [accessed 10 December 2016].

of the population.<sup>53</sup> As illustrated in Table 3.2, the number of customers removed from the population by the ATO has been steadily increasing.

**Table 3.2: Customers removed by the ATO from the population referred by DHS**

Financial year	Number of customers removed from the population	Number of customers remaining in the refined population	Removed customers as a proportion of the total number referred
2013–14	112 519	335 480	25.1%
2014–15	132 415	303 010	30.4%
2015–16	170 508	301 659	36.1%
2016–17	173 281	267 308	39.3%

Source: ANAO analysis of ATO information.

3.5 The ATO advised the ANAO that following its initial refinement, it targets customers according to DHS' priorities. However, the ANAO found that not all customers from DHS' higher priority categories are contacted. The ATO advised that additional customers may be removed from the refined population by applying the exclusions used in its initial review (see footnote 53). The ATO did not provide evidence to confirm that this was the approach it applied. The ANAO identified a number of information sources that referred to the ATO's application of the risk to revenue approach to the population. However, the ATO advised that it did not apply this model.<sup>54</sup>

3.6 There is some misalignment between customers who represent a risk to the ATO and those who are a risk to DHS. For example, customers with Pay-As-You-Go income tax withholding arrangements are generally a low revenue and compliance risk for the ATO as their income tax has already been collected. However, for DHS these customers are a priority if they have not lodged a tax return for a number of years and/or have a child support debt.

3.7 For the 2016–17 population, the ATO analysed the population according to employment type and industry to better categorise customers in line with its current compliance risks.<sup>55</sup> From this activity, the ATO identified a population that is categorised as joint DHS and ATO priority

53 ATO determines those customers who are not required to lodge by applying a model that predicts customers' requirement to lodge. Other categories of customers removed from the population include compromised clients, deceased customers and customers of certain ages. Compromised customers are those that the ATO is unable to match to an ATO record because the Tax File Number provided by DHS is compromised in some respect. For example, the Tax File Number may not belong to the customer, the number was incorrectly transposed when it was recorded, or the integrity of the number has been compromised (for example, it is a duplicate). Customers aged 18 years or younger and 65 years or older are excluded from the population. The ATO advised that these are standard age exclusions that are applied to all customers.

54 The 'risk to revenue' model predicts the taxation revenue that the Australian Government would collect if the customer lodged a tax return.

55 ATO priority groups are: non-lodging customers who are in the construction, hair and beauty and hospitality industries; customers with high risk to revenue scores; customers who appear to be working in the cash economy; and customers who have been prosecuted in the past but still have un-lodged income tax returns and there is Pay-As-You-Go evidence of income.

customers, including customers with high risk to revenue scores regardless of DHS priority category.<sup>56</sup>

## Targeting customers

3.8 Customers targeted under the Lodgment Enforcement Program are sent letters from the ATO. Letters are sent to those customers within the refined populations of DHS' higher priority categories followed by customers in lower priority categories (as set out in Table 3.1 and Table 3.2). Those customers in higher priority groups who do not lodge tax returns following the ATO's lodgment enforcement mail out subsequently receive up to three telephone calls. The ATO may also initiate 'other actions' against these customers, including field investigations and risk reviews.<sup>57</sup>

3.9 The ATO does not target every customer in the refined population. The number of customers contacted is dependent on the ATO's priorities and capacity. As illustrated in Table 3.3, the proportion of the target population to be actioned by the ATO reduced to 32.0 per cent in 2015–16 with the cessation of funding from DHS. With a reasonably small proportion of the target population being actioned by the ATO, effective targeting is required to ensure meaningful program results, for example, lodgment of income tax returns.

**Table 3.3: Lodgment Enforcement Program actions**

Financial year	No. of individuals targeted	No. of individuals as a proportion of refined population	No. of letters sent	No. of phone calls	No. of other actions initiated	No. of prosecution cases initiated
2013–14	191 229	57.0%	341 711	34 922	6108	377
2014–15	223 962	73.9%	563 137	40 314	6097	1553
2015–16	96 429	32.0%	220 575	5416	2731	574

Note: The number of lodgments is reported in Table 5.1.

Source: ANAO analysis of ATO information.

Customers in the higher priority groups who are repeatedly contacted by the ATO without achieving lodgment outcomes may be escalated for prosecution action or a default assessment (refer paragraphs 3.21 to 3.23). Prosecutions for non-lodgment can result in convictions and fines but may not result in the lodgment of tax returns. This is illustrated by a comparison of the

56 The other two joint priority groups were: category 1 customers who also fall into an ATO priority group; and previously prosecuted customers where the ATO has evidence of income through the Pay-As-You-Go withholding system.

57 Reviews are undertaken once a compliance risk has been identified and are used to determine whether a more in-depth response is required from the ATO, for example, an audit. Field investigations are visits by ATO staff to the home or business of a taxpayer, or to their tax agent's office.

number of prosecutions undertaken (Table 3.3) with the number of customers subject to prosecution who subsequently lodged tax returns (Table 3.4).<sup>58</sup>

**Table 3.4: Number of customers subject to prosecution for non-lodgment who subsequently lodged tax returns**

Financial year	Number of customers who lodged tax returns	Number of tax returns lodged
2013–14	123	783
2014–15	509	2570
2015–16	163	900

Source: ATO information.

3.11 As illustrated in Table 3.5, few child support customers are charged penalties by the ATO. Financially penalising customers for non-lodgment of tax returns could act as a disincentive for non-lodgment to those customers who have been penalised as well as the broader child support population if it was effectively communicated as part of an awareness campaign.

**Table 3.5: Number of non-lodging child support customers who were charged penalties**

Financial year	No. of individuals penalised	Proportion of customers targeted <sup>a</sup>	Total penalties charged
2013–14	1248	0.7%	\$838 980
2014–15	933	0.4%	\$646 940
2015–16	901	0.9%	\$707 730

Note a: This is as a proportion of individuals targeted under the Lodgment Enforcement Program (refer Table 3.3).

Source: ANAO analysis of ATO information.

3.12 Child support customers are not strategically targeted in the ATO's broader compliance work despite the potential dual incentive for them to minimise their income to avoid paying tax as well as child support. The Cash Economy business line applies case selection rules to identify taxpayers for compliance action. Despite 10 per cent of taxpayers identified by the Cash Economy risk model having a child support indicator, it is assigned a very low risk score compared with other risk indicators within the model.<sup>59</sup> The Individuals business line does not have a child support risk indicator in any of the risk models applied to identify taxpayers to target with compliance action. The Lodgment Enforcement Program also does not refer customers to other relevant business lines for consideration and action as part of their compliance activity.

3.13 In summary, the Lodgment Enforcement Program does not effectively target the breadth of compliance risks associated with the child support customers who do not lodge their income tax returns, for example, customers with an extensive history of non-compliance or who may be operating in the cash economy. There is an opportunity for DHS and the ATO to: better prioritise

58 In 2013–14, 393 child support customers were convicted and a total of \$2.6 million in fines and costs were awarded; in 2014–15, 463 were convicted and \$2.9 million in fines and costs were awarded; and in 2015–16, 361 customers were convicted and \$1.8 million in fines and costs awarded.

59 Other risk indicators include but are not limited to ownership of property and luxury vehicle(s).

customers according to compliance risks; develop strategies to target different customer groups, including those with serious non-compliance backgrounds or who would not normally be subject to ATO compliance activity; and better target customers with compliance actions, including the strategic use of broader compliance mechanisms.

## Recommendation No.2

3.14 The Department of Human Services and the Australian Taxation Office:

- a) prioritise customers under the Lodgment Enforcement Program according to the most relevant child support compliance risk factors; and
- b) strategically employ broader compliance activities to target child support customers.

**Department of Human Services' response:** *Agreed.*

3.15 *The department notes the ANAO acknowledges that the department does prioritise customers under the Lodgment Enforcement Program according to the relevant child support compliance risk factors such as the value of the outstanding debt and number of years without lodgment. Nonetheless, the department will commence discussions with the ATO to identify if further prioritisation can be applied to better maximise program outcomes.*

**Australian Taxation Office's response:** *Agreed.*

3.16 *The ATO will continue to work with DHS to ensure prioritisation of taxpayers according to relevant risk factors. Additionally, the ATO will consider the introduction of additional compliance activities to better target child support customers currently outside the ATO's treatment framework.*

## Do compliance activities maximise child support collection opportunities?

The Tax Refund Intercept Program maximises child support collections as virtually all available refunds are intercepted. However, there are opportunities to increase child support collections under the Lodgment Enforcement Program by the ATO achieving a higher proportion of meaningful outcomes, such as tax return lodgments and default assessments. To inform program design, DHS should analyse the extent to which ATO-assessed taxable incomes are applied to child support payment assessments.

## Lodgment Enforcement Program

3.17 Assessments that customers are not required to lodge tax returns are of limited benefit to DHS and yet they represent more than half of the Lodgment Enforcement Program outcomes. Further, default assessments result in income determinations that can be applied to child support payment assessments, however, the ATO undertakes relatively few default assessments for child support customers.

### *Return not necessary*

3.18 As discussed in paragraphs 1.8, 1.9 and 4.15, for child support purposes, all customers are required to lodge a tax return. However, for taxation purposes, some child support customers are

exempt from lodging tax returns. Since 2013–14, over 90 per cent of the customers removed from the referred population by the ATO as part of its review process were assessed as not being required to lodge tax returns (refer Table 3.2). From 2013–14 to 2015–16, approximately 55 per cent of the reported program outcomes were assessments that customers were not required to lodge tax returns (refer Table 5.1). These assessments were based on customers notifying the ATO that they were not required to lodge tax returns and automatic assessments generated by the ATO's data matching with other government agencies.<sup>60</sup>

3.19 Most customers are assessed as not being required to lodge tax returns because their only source of income is welfare payments that total below the relevant income threshold. As illustrated in Table 3.6, since 2013–14 over 8000 customers within categories 1a to 1d, who have debts over \$10 000 and have not lodged tax returns for multiple income tax periods (Table 3.1), have been assessed as not being required to lodge income tax returns either for a relevant income year or in the future. DHS does not specifically target these customers through its compliance program. Given the size of some customers' debts, there would be merit in DHS applying a risk-based approach to considering these customers for compliance action.

**Table 3.6: Return not necessary and further return not necessary outcomes**

Category	2013–14		2014–15		2015–16	
	RNN <sup>a</sup>	FRNN <sup>b</sup>	RNN <sup>a</sup>	FRNN <sup>b</sup>	RNN <sup>a</sup>	FRNN <sup>b</sup>
1a	3087	24	22	1	15	0
1b			119	2	60	0
1c			1068	7	480	2
1d			2289	10	933	10
2	6557	108	6280	30	2148	16
3	2192	46	2145	22	3185	28
4a	11 542	348	7700	90	3535	37
4b	54 901	2522	77 653	966	39 809	353
5	13 433	716	27 708	389	20 817	232
<b>Total</b>	<b>91 712</b>	<b>3764</b>	<b>124 984</b>	<b>1517</b>	<b>70 982</b>	<b>678</b>

Note a: RNN stands for 'return not necessary'. Refer paragraph 3.19.

Note b: FRNN stands for 'further return not necessary'. Refer to paragraph 3.20.

Source: ANAO analysis of ATO information.

3.20 Customers may be assessed as 'further return not necessary' for a number of reasons, including that they are moving overseas, are in receipt of an age or disability pension, or their business has ceased trading. This assessment means that the ATO does not expect these customers to lodge tax returns in the future. As at 19 December 2016, the ATO provided advice to DHS that 120 115 child support customers had 'further return not necessary' indicators on their records. Of these customers: 7619 had outstanding tax returns; 4147 had debts; and 2050 had

60 Data matching is undertaken with data from DHS, the Department of Education and Training and the Department of Veterans' Affairs, among others.

outstanding tax returns and debts.<sup>61</sup> DHS advised that these customers may be subject to its business-as-usual compliance arrangements and are not specifically targeted for compliance action. As these customers would not be subject to the ATO's Lodgment Enforcement or Tax Refund Intercept Programs, DHS could consider specifically targeting these customers with alternate compliance approaches.<sup>62</sup>

### *Default assessments*

3.21 The ATO can issue a default assessment of taxable income when customers have outstanding tax returns. This assessment is based on information available to the ATO, including in relation to employment, bank accounts and investments. DHS can apply the default assessment income amounts to new child support obligations for customers.

3.22 The default assessment amount should better reflect the customer's capacity to pay child support as it is based on their current financial position. Default assessments can act as an incentive for customers to lodge tax returns, for example, where they do not consider the default assessment amount accurately represents their circumstances.

3.23 Default assessments may result in increased child support collections where a customer's previous child support obligation was based on an income amount—either an estimate or an outdated taxable income—that was lower than the default assessment amount. The issuance of default assessments has been declining since 2013–14 (refer Chapter 5), due to the reverse workflow associated with the assessments and the planned implementation of an accelerated default assessment pilot that was never introduced.<sup>63</sup>

3.24 Recognising the wider benefits to government of accurate child support payment assessments, including minimising child support and Family Tax Benefit debts, in 2016–17 the ATO set a target to complete 1000 default assessments—approximately one-fifth of the number completed in 2013–14.<sup>64</sup>

### **Tax Refund Intercept Program**

3.25 The Tax Refund Intercept Program contributes the highest amount of child support debt collected among the collaborative programs undertaken by DHS and the ATO, and data examined by the ANAO indicates extremely high levels of intercepts by the ATO. In some circumstances, the amount of child support debt available for collection is limited by the application of a debt hierarchy and financial hardship provisions.

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61 DHS advised that these figures applied to customers for the entirety of the scheme. DHS also advised that the 2050 customers are a subset of the other two customer categories.

62 The ATO advised the ANAO that if it received information that the customer's situation may have changed, for example, if it received payment summaries from an employer, it could remove the 'further return not necessary' indicator from the customer's record and pursue lodgment.

63 The ATO advised that the reduction in the number of default assessments completed was due to: the amount of work associated with customers lodging objections to the assessments, estimated to be equivalent to 10 to 20 per cent of the number of completed default assessments; and plans to implement a pilot of accelerated default assessment that involved sending pre-populated income tax returns to be confirmed by customers.

64 Customers subject to the default assessment process are those who fail to lodge tax returns despite repeated contact from the ATO encouraging lodgment.



### *Proportion of tax refunds intercepted*

3.26 The ANAO's data analysis identified a small number of possible instances where the ATO did not intercept a tax refund despite being advised by DHS to do so, as illustrated in Table 3.7.<sup>65</sup> The ATO advised that while these may be missed opportunities, there are other explanations for why an intercept may not have been undertaken, including that between the time when the ATO notified DHS of the tax refund and DHS responded, further events associated with the customer's account reduce the available tax refund to nil.<sup>66</sup> The ATO has subsequently reviewed a sample of potential missed tax refund intercepts identified in the ANAO's analysis. Of the 47 cases reviewed, the ATO advised that in: 35 cases the amount requested by DHS was not intercepted for a valid reason; eight cases there was no obvious reason for the intercept not being undertaken; and four cases the refund was correctly intercepted but the data provided to the ANAO did not reflect this.

**Table 3.7: Possible missed tax refund intercept opportunities**

Intercepts	2012–13	2013–14	2014–15	2015–16
No. of customers who had less intercepted than requested by DHS	146	150	12	8
No. of customers who had nothing intercepted	795	684	46	26
Amount of child support debt not collected	\$303 985	\$411 296	\$62 411	\$60 485
Amount of child support debt not collected as a proportion of total amount collected through the Tax Refund Intercept Program	0.30%	0.40%	0.10%	0.10%

Source: ANAO analysis of ATO information.

3.27 The ANAO's analysis also identified a small number of instances where tax refunds were intercepted without DHS' confirmation, as illustrated in Table 3.8. The ATO has subsequently reviewed a sample of 77 of the tax refunds intercepted without DHS confirmation and advised that: 46 cases had a valid reason for the interception; four cases had no obvious reason for the interception; and 27 cases were appropriately intercepted but the information provided to the ANAO did not reflect this.

**Table 3.8: Number of tax refunds intercepted without DHS confirmation**

Tax refunds	2012–13	2013–14	2014–15	2015–16
Number of refunds intercepted without DHS confirmation	586	192	4	47
Amount of child support debt collected	\$640 982	\$204 420	\$4672	\$337 038
Amount of child support debt collected as a proportion of total amount collected through the Tax Refund Intercept Program	0.7%	0.2%	0.0%	0.3%

Source: ANAO analysis of ATO information.

65 These are only instances where the customer has lodged one tax return in the relevant years. Due to the complexity in mapping transactions associated with multiple tax returns lodged in a single year, these scenarios have been excluded from the ANAO's analysis.

66 Further processing could include the customer submitting a revised income tax return.

## Hierarchy of debts

3.28 Amounts are deducted from tax refunds for the payment of debts according to a hierarchy: tax debts are the first to be paid from tax refunds; then Family Tax Benefit debts; and then child support debts.<sup>67</sup> The *Taxation Administration Act 1953* requires tax debts to be the first in the repayment hierarchy. The ATO advised that Family Tax Benefit debt is second in the hierarchy based on the previous operation of the law when Family Tax Benefit and child support were functions administered by the Commissioner of Taxation.<sup>68</sup> From 2013–14 to 2015–16, \$17.2 million was collected from the tax refunds of child support customers by the ATO for the payment of Family Tax Benefit debt.

## Financial hardship

3.29 In certain circumstances, DHS customers in receipt of a social security pension or benefit can apply for additional assistance when they are in severe financial hardship. DHS also extends hardship provisions to child support customers who may be subject to the Tax Refund Intercept Program.<sup>69</sup> Guidance from the Department of Social Services enables DHS officers to consider hardship claims from customers if they can demonstrate that their commitments exceed their income or they have specific expenses to pay outside their essential living expenses.<sup>70</sup> As illustrated in Table 3.9, while the number of customer hardship claims has been declining since 2012–13, the number of refunds that have not been intercepted on the basis of financial hardship has increased since 2013–14—indicating that customers are lodging multiple income tax returns that are all being excluded from interception.

**Table 3.9: Number and value of refunds not intercepted on the basis of hardship**

Refunds	2012–13	2013–14	2014–15	2015–16
No. of customer hardship claims	729	582	565	548
No. of refunds not intercepted on the basis of hardship	1024	705	742	760
Amount of child support debt not collected	\$1 018 028	\$628 586	\$830 585	\$832 372
Amount of child support debt not collected as a proportion of total amount collected through the Tax Refund Intercept Program	1.2%	0.7%	0.9%	0.9%
Average amount per refund not intercepted	\$994	\$892	\$1119	\$1095

Source: ANAO analysis of DHS information.

67 Section 8AAZLA *Taxation Administration Act 1953*, section 87 *A New Tax System (Family Assistance) (Administration) Act 1999*, and section 72 *Child Support (Registration and Collection) Act 1988*.

68 The ATO advised the ANAO that the offsetting hierarchy is based on its guidance for staff on payments credit allocations: ATO, *Practice Statement Law Administration PS LA 2011/20* [Internet], 16 November 2015, available from <<http://law.ato.gov.au/atolaw/view.htm?Docid=PSR/PS201120/NAT/ATO/00001>> [accessed 14 December 2016].

69 Customers are made aware of the hardship provisions in their monthly account statements that advise customers to inform DHS, prior to lodging their tax return, if intercepting their tax return would cause them financial hardship.

70 Department of Social Services, *Child Support Guide: 5.2.8 Tax Refund Intercepts* [Internet], 8 February 2016, available from <<http://guides.dss.gov.au/child-support-guide/5/2/8>> [accessed 14 December 2016].

## Information Exchange Program

3.30 Assessed taxable income is reported by the ATO to DHS to be applied to child support payment assessments. Receipt of customers' assessed taxable incomes may not trigger a new or revised child support payment assessment.<sup>71</sup> For example, if the income relates to a financial year that is within the existing child support period or if the income would have no effect on the existing child support payment assessment, it will not be applied.<sup>72</sup> As illustrated in Table 3.10, customers may have more than one child support case and their income information may not be applied to all cases.

**Table 3.10: Number of incomes applied to cases**

Cases	2013–14	2014–15	2015–16
Total no. of incomes received by DHS	1 224 098	1 247 255	1 224 213
Total no. of cases that resulted in a new assessment	475 117	509 644	466 075
Cases resulting in a new assessment as a proportion of total cases	33.2%	36.5%	41.3%
Total no. of cases that did not result in a new assessment	956 611	885 308	661 476
Cases that did not result in a new assessment as a proportion of total cases	66.8%	63.5%	58.7%

Source: ANAO analysis of DHS information.

### *Revised incomes*

3.31 After issuing a customer's assessed taxable income, the ATO may revise it to correct either a customer's or an ATO mistake. While revised assessed incomes are provided to DHS, there are only limited circumstances in which DHS can apply the revised income amount to a child support payment assessment—even if this results in customers having child support payment assessments that are based on income amounts significantly different to their actual income.<sup>73</sup> Instances where a revised income amount can be applied include if: a new child support payment

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- 71 DHS further advised that they are unable to apply all incomes received from the ATO to new child support payment assessments. Instances when they are unable to apply incomes include assessments that are based on a change of assessment decision, child support agreement cases and cases that have ended. Customers can apply to have their assessment changed in certain circumstances; this is called the change of assessment process. There are eight reasons for which customers can apply for a change of assessment, including high care costs, special needs of the child or the financial circumstances of the parent(s) or the child. Information must be exchanged with the other parent as part of this process. A child support agreement is a written agreement between parents on the amount of child support that will be paid and the method for payment.
- 72 An example of this is if the estimate or indexed income amount was the same as or very close to the assessed taxable income amount, the child support obligation will not change. A child support period is the period of time to which a child support payment assessment applies. It cannot exceed 15 months and can include three financial years.
- 73 In its submission to the child support inquiry, the Commonwealth Ombudsman included an example of a child support customer whose income was \$92 000 however due to a mistake made by their accountant, their ATO assessed taxable income was \$292 000. While the ATO revised the income amount, DHS could not apply the correct revised income amount to the customer's child support payment assessment which remained based on an income amount of \$292 000.

assessment has not already been issued with the original income amount as assessed by the ATO; or the income was revised as a result of fraud or tax evasion.<sup>74</sup>

3.32 In 2014–15, 49 075 revised taxable incomes were reported by the ATO to DHS, of which 1707 were applied to child support payment assessments. As at 14 November 2016, of the 19 415 revised incomes reported to DHS for the 2015–16 financial year, 1381 had been applied. As revised incomes can be applied for the purposes of the Family Tax Benefit system<sup>75</sup>, this can result in customers having different incomes recorded for child support and family tax benefit purposes.

3.33 Child support payment assessments based on an incorrect income amount do not reflect the customers' capacity to pay child support. Recommendation 12 of the Parliamentary Inquiry report on child support: *From conflict to cooperation – Inquiry into the Child Support Program* was to amend sub-section 56(2) of the *Child Support (Assessment) Act 1989* to enable child support payment assessments to be amended to reflect revised tax assessments. DHS advised that this matter is under consideration by the Department of Social Services and is subject to Ministerial agreement.

#### *Revised incomes due to fraud and evasion*

3.34 Sub-section 56(2) of the *Child Support (Assessment) Act 1989* allows DHS to apply revised taxable incomes provided by the ATO where the amended income amount has been issued as a result of fraud or tax evasion by customers. In 2009, the ATO ceased sending notifications to DHS advising that a customer's income has been revised due to fraud or tax evasion when it implemented a new information technology system that did not have this capability.

3.35 From 2013–14 to 2015–16, the ATO revised the incomes of 3206 child support customers on the basis of fraud or tax evasion, but in only one instance DHS applied a revised income to a child support payment assessment due to fraud and tax evasion. There is scope to improve processes for the ATO to advise DHS that a customer's income has been revised due to fraud or tax evasion.

#### *Application of assessed taxable incomes to child support payment assessments*

3.36 Four of the 30 public submissions to the ANAO in relation to the audit indicated that assessed taxable incomes were not consistently being applied to child support payment assessments by DHS.<sup>76</sup>

3.37 The ANAO planned to carry out testing to determine the impact that ATO assessed taxable incomes have on child support payment assessments. This testing was to include:

- the difference between the income amount that had been applied to a child support payment assessment (for example an estimated amount) and the assessed taxable income provided by the ATO;

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74 The other instance includes if the original assessment was nil. Customers can apply for a change of assessment in instances where DHS is unable to apply their revised taxable income to their child support payment assessment. There are eight reasons for which customers can apply for a change of assessment, including high care costs, special needs of the child or the financial circumstances of the parent(s) or the child. Information must be exchanged with the other parent as part of this process.

75 Section 31A *A New Tax System (Family Assistance) (Administration) Act 1999*.

76 The ANAO did not verify the contents of these public submissions.

- the difference between the assessments derived using these two income amounts; and
- whether revised child support payment assessments based on assessed taxable incomes were paid on time and in-full.

3.38 DHS was unable to provide the data required to undertake this testing as it advised that it is not a data set that it uses for monitoring and reporting purposes or to manage the program.<sup>77</sup> Analysis of the difference between income estimates supplied by customers and their ATO assessed taxable income for the relevant period could be considered by DHS to gauge the extent and nature of these differences and potentially support program design. DHS could also consider such analysis to monitor the consistency with which guidance is being implemented by frontline customer service officers and whether implementation of guidance is in line with the policy intent.

### Recommendation No.3

3.39 To inform program design, the Department of Human Services examines the application of income information received from the Australian Taxation Office to child support payment assessments, to gauge the extent to which the information is being applied and reasons for it not being applied.

**Department of Human Services' response:** *Agreed.*

3.40 *ATO assessed incomes are applied to every child support assessment upon receipt, unless there is an underlying reason not to do so, such as an income amount order. Nonetheless, the department will undertake sampling of ATO assessed incomes as applied to child support assessments to provide assurance that incomes are being applied consistently.*

<sup>77</sup> DHS is required to compare income estimates with the ATO-assessed taxable income for the determination of estimate penalties which are applied where actual income amounts are 110 per cent more than income estimates.

## 4. Complaint, assurance and improvement mechanisms

### Areas examined

This chapter examines the complaint management, assurance, and program improvement mechanisms in place to support the cooperative child support programs.

### Conclusion

DHS and the ATO have effective processes in place to manage complaints associated with the Tax Refund Intercept Program. Assurance reviews for some key program processes and program improvement mechanisms are not in place to support the cooperative child support programs.

### Area for improvement

The ANAO made one recommendation aimed at implementing assurance processes and identified program improvements (paragraph 4.22).

### Are complaints effectively managed and analysed to identify potential improvements?

DHS and the ATO receive a small number of complaints in relation to the Tax Refund Intercept Program. Most complaints are not upheld and are effectively managed within prescribed timeframes. Complaints are not systematically reviewed to improve the cooperative child support programs.

4.1 Complaints management processes are outlined under each agreement. The Head Agreement stipulates the process for managing privacy complaints. The Tax Refund Intercept Agreement stipulates that complaints relating to the provision of services under the agreement are: managed to finalisation by the agency receiving the complaint; and brought to the attention of the other agency where necessary notwithstanding privacy provisions. The Tax Refund Intercept and Lodgment Enforcement Agreements require that complaints are: brought to the attention of the other agency in writing; and dealt with cooperatively, including the provision of necessary information where permitted under legislation.

4.2 DHS manages customer complaints through a two-level system. Level one complaints consist of all complaints received and recorded by frontline customer service officers. Complaints of a difficult, sensitive or high profile nature can be escalated to level two, where they are dealt with by a complaints management team. DHS aims to finalise 85 per cent of complaints within 10 working days, and as illustrated in Table 4.1, DHS has been exceeding this target. There has also been a decline in the number of level one and level two complaints in relation to the Tax Refund Intercept Program and the proportion of those complaints that were upheld.<sup>78</sup> DHS attributes the decline in upheld complaints to the introduction of advice in monthly customer statements

78 DHS and the ATO do not receive complaints in relation to the Lodgment Enforcement Program. While customers may complain to the ATO about being contacted in relation to non-lodgment, they would not be aware that this was under the Lodgment Enforcement Program.

advising child support customers that they must contact DHS if a tax refund intercept would cause them financial hardship. DHS claims this advice shifts the onus onto customers to contact DHS prior to an intercept taking place, resulting in fewer complaints being upheld.

**Table 4.1: Tax Refund Intercept Program complaints received by DHS**

Financial year	Complaints finalised	Proportion upheld	Finalised within 10 working days
2013–14	711	17.0%	89.4%
2014–15	598	13.2%	90.0%
2015–16	581	10.3%	90.9%

Source: ANAO analysis of DHS information.

4.3 The ATO administers complaints arising from the service agreements through its ordinary complaints management process. The ATO receives a small number of complaints from child support customers disagreeing with their tax return being intercepted, as shown in Table 4.2.

**Table 4.2: Tax Refund Intercept Program complaints received by the ATO**

Financial year	Complaints finalised	Proportion upheld	Finalised within 15 working days <sup>a</sup>
2013–14	23	21.7%	86.9%
2014–15	18	50.0%	88.9%
2015–16	18	22.2%	88.9%

Note a: The ATO can extend the complaint timeframe beyond 15 days with customer consent. The ATO advises that the majority of complaints finalised after 15 days were done so with customer agreement.

Source: ANAO analysis of ATO information.

4.4 Both DHS and the ATO also receive a number of complaints arising from instances where customers have revised an income tax return with the ATO, however DHS has not applied the revised income for the purpose of child support payment assessments (refer Chapter 3). Between 2013–14 and 2015–16, DHS received 46 complaints relating to the application of revised incomes.<sup>79</sup> During the same period the ATO received 16 complaints relating to the application of revised incomes.

4.5 DHS and the ATO introduced arrangements in March 2016 to better administer complaints arising from the agreements between both agencies. The objective of this joint management process is to prevent mutual customers of both agencies having to contact DHS and the ATO individually to resolve their complaints. As at November 2016, there had been 21 complaints referred between DHS and the ATO pertaining to issues arising from the agreements.<sup>80</sup> Monthly meetings in relation to the implementation of this referral process indicate that it is operating as intended.

79 Due to limitations in DHS' internal complaints reporting, DHS notes it is probable that the number of complaints received regarding revised incomes is higher than presented in this report.

80 While DHS and the ATO provided evidence of 55 complaints being referred through this process, ANAO analysis deemed only 21 complaints to be directly relevant to the service agreements.

4.6 Both DHS and the ATO include child support complaint information in their internal complaints reporting, however neither agency conducts reporting or analysis solely regarding complaints relating to the agreements. While individual and collective complaint issues have been raised at routine meetings between DHS and the ATO regarding the implementation of the agreements, there is no formal process by which complaints data is routinely analysed by both agencies. There is no evidence of DHS or the ATO utilising complaint information to identify potential program improvements.

### **Are effective assurance arrangements in place to support data exchange and collection activities?**

DHS and the ATO do not have effective procedures in place at some key program points to assure the accuracy of data exchange and child support debt collection activities. In particular, DHS and the ATO do not explicitly or routinely test the accuracy of: customers' reported incomes; amounts intercepted from tax refunds; or customers' exclusion from the Lodgment Enforcement Program.

4.7 Assurance arrangements are not in place at key points of the Lodgment Enforcement, Tax Refund Intercept and Information Exchange Programs. Key processes that are not subject to an assurance review include: income amounts reported by customers; amounts collected from tax refunds; and the accuracy of return not necessary assessments.

### **Accuracy of reported incomes**

4.8 As a matter of course, the ATO does not undertake targeted testing of the accuracy of incomes reported by child support customers subject to the Lodgment Enforcement Program, for example, by benchmarking the income amounts reported with previous income years, peers or industry averages. ATO business lines such as Individuals or Cash Economy may conduct some analysis of incomes as part of their business-as-usual compliance arrangements. However, testing is not targeted towards child support customers despite their disproportionate representation in ATO compliance populations and the additional incentive they may perceive for underreporting their income.

4.9 DHS advised the ANAO that while it does not have a proactive assurance program to test the incomes reported by customers, it encourages customers to notify the department if they think that their child support payment assessment is incorrect. Five of the public submissions to the ANAO in relation to the audit claimed that despite parents advising DHS that the other parent's income was incorrect, DHS did not take any action.

4.10 Where child support payment assessments are not considered to reflect a parent's earning capacity, income, property or financial resources, the other parent can initiate a change of assessment process. For some parents, there may be a disincentive to initiate such a process, for example, creating conflict with the other parent. Consequently, DHS can also initiate a change of assessment process without an application from either parent. DHS advised that Registrar-initiated change of assessment processes are undertaken as a result of proactive investigation.

4.11 As illustrated in Table 4.3, there is a significantly larger number of customer-initiated change of assessment processes undertaken compared with Registrar-initiated ones. In 2015–16,



of the 89 Registrar-initiated changes of assessment that were completed, 82 (92.1 per cent) resulted in higher child support payment assessments.<sup>81</sup>

**Table 4.3: Change of assessment processes undertaken in 2015–16**

Total finalised	Assessment increased	Assessment decreased	No change	Joint election to withdraw	Agreement accepted
Customer-initiated finalised processes					
17 143	5039	3511	8585	0 <sup>a</sup>	8
Registrar-initiated finalised processes					
89	82	3	3	1	0

Note a: The joint-election to withdraw finalisation outcome is not available for the customer-initiated change of assessment process. However, customers can elect to withdraw their own application.

Source: DHS information.

4.12 Customers targeted under the Lodgment Enforcement Program who were required to lodge income tax returns and/or have a child support debt have demonstrated non-compliant behaviour. There is scope for DHS and the ATO to increase the importance of this group in their risk-based compliance programs.

### Accuracy of amounts collected from tax refunds

4.13 The ATO reconciles the amount of child support transferred to DHS with the total amount collected from tax refunds to confirm that it is correct. However, it does not confirm that the amount collected from individual tax refunds was the correct amount, for example, that the amount is equivalent to that requested by DHS.<sup>82</sup> Consequently, it is unknown whether the correct amount of child support debt is collected from tax refund intercepts. As discussed in Chapter 3, it was also unknown whether opportunities to collect child support are being missed.

4.14 DHS advised that it also does not check the accuracy of the amount intercepted from tax refunds; although it does review: the number of tax refund notifications from the ATO; the number of refunds intercepted; whether the intercept direction from DHS was manual or automated; and the number of instances that were a partial intercept. In relation to the potential missed intercepts identified in Chapter 3, DHS advised that it undertakes high level assurance and does not perform quality assurance tasks at the customer level.

### Customers assessed as not being required to lodge tax returns and excluded customers

4.15 Customers may self-assess as not being required to lodge tax returns and advise the ATO as such. A frontline ATO officer then reviews and approves this assessment. Alternatively, the ATO's data matching process with DHS welfare information results in automatic determinations

81 DHS undertook 229 financial investigations; of which, 112 were referred for the Registrar-initiated change of assessment process. Of the 117 investigations that did not result in a change of assessment process, 20 resulted in a child support agreement; 15 cases were ended; 75 did not have any further action; and seven resulted in a joint election to cease the investigation.

82 This reconciliation involves comparing: the amount of the tax refund that was available; the amount of debt the customer has (as advised by DHS); and the amount collected from the refund.

that customers are not required to lodge tax returns and these determinations are not verified with customers. These customers are subsequently excluded from the Lodgment Enforcement Program, and are not subject to any targeted DHS or ATO compliance action.

4.16 In 2013, DHS undertook a stratified sample review of 109 customers who had been excluded by the ATO from the target population for the Lodgment Enforcement Program. The review identified that 62 customers (57 per cent) had been inappropriately excluded, including:

- nine customers who DHS had recently spoken to and held Australian addresses for but who the ATO had excluded on the basis that they were living overseas;
- eight customers who were receiving child support payments but who the ATO had recorded as incarcerated;
- 11 customers had valid Tax File Numbers recorded but the ATO had the customers recorded as having been referred with invalid Tax File Numbers; and
- 34 customers were excluded for 'other reasons' including tracing, restricted access, deceased and bankruptcy, but DHS held differing information from that held by the ATO that did not support their exclusion.<sup>83</sup>

4.17 DHS has not undertaken any further reviews of this nature. These results indicate a broader risk that without assurance reviews of these types of assessments, customers may be inappropriately excluded from the target population for the Lodgment Enforcement Program.

### **Are mechanisms in place to support the identification and resolution of issues associated with implementing the agreements?**

Some of the potential program improvements identified by DHS and the ATO have been implemented, while others have not. Program outcomes could be improved by applying continuous improvement mechanisms, for example one that categorises proposed changes according to potential impact, to assist DHS and the ATO to prioritise and implement identified program enhancements.

4.18 The Lodgment Enforcement and Tax Refund Intercept Agreements do not include continuous improvement mechanisms. Such mechanisms can include requiring the development of business cases to assess proposed improvements and categorising improvements according to potential impact to inform priority.

4.19 While a number of program improvements were discussed at the various operational and governance meetings held in relation to implementation of the agreements, there was no clear process for prioritising and progressing program improvements.

4.20 Some of the identified improvements implemented were the:

- introduction of DHS and ATO processes to enable easy and early identification of MQ messaging service failures<sup>84</sup>; and

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83 These 'other reasons' are the same standard exclusions applied by the ATO to the population of customers referred by DHS for action under the Lodgment Enforcement Program. Refer paragraphs 3.4 to 3.5.

- successful implementation of a pilot in 2016 to garnishee child support debt from unclaimed superannuation funds.<sup>85</sup>

4.21 Other improvements that were discussed but not implemented would have resulted in enhanced program outcomes and are the subject of recommendations in this report. For example, prioritising customers according to risk factors other than level of debt and number of years without lodgment. Reasons for not implementing improvements were not consistently documented and where they were, there was insufficient consideration given to the impact of the proposed improvement.

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84 Message Queue (MQ) Platform is a data exchange platform that enables real time transfer of data between DHS and the ATO.

85 The ATO advised that in October 2016 the pilot has transitioned to business-as-usual. As at 20 February 2017, \$584 700 had been garnisheed from unclaimed superannuation funds.

## Recommendation No.4

4.22 The Department of Human Services and the Australian Taxation Office:

- (a) identify and implement assurance mechanisms at key points of the Lodgment Enforcement, Tax Refund Intercept and Information Exchange Programs to support the accuracy of child support payment assessments and the timely collection of child support; and
- (b) establish a continuous improvement mechanism that assists with prioritising and implementing identified program improvements.

**Department of Human Services' response:** *Agreed.*

4.23 *The department and the ATO have effective processes in place to manage complaints associated with the three programs. As an example, the number of Tax Refund Intercept Program complaints upheld, as a proportion of the number of tax refund intercepts, has been less than one per cent for the last three financial years. Given the size of the programs, the volume of refunds intercepted and the money collected, when compared to the upheld complaints, the numbers are extremely small.*

4.24 *The department notes that the ANAO acknowledges some program improvements identified by the department and the ATO have been implemented. The department meets regularly with the ATO to identify opportunities to refine the cooperative collection arrangements and prioritise program improvements.*

4.25 *The department agrees that there is a need to formalise the existing assurance processes with a formal documentation and implementation schedule to ensure assurance activities continue to occur.*

**Australian Taxation Office's response:** *Agreed.*

4.26 *The ATO agrees that there is an opportunity for strengthened quality assurance mechanisms with regard to all three programs. The ATO will work with DHS to ensure that meaningful mechanisms are identified and implemented to support the underlying objective/s of each program.*

## 5. Performance measurement and reporting

### Areas examined

This chapter examines whether DHS and the ATO effectively measure the performance of the cooperative child support programs and transparently report on results.

### Conclusion

The performance measures applied by DHS and the ATO for the cooperative child support programs do not accurately reflect the effectiveness of the programs. In accordance with the requirements under the Lodgment Enforcement and Tax Refund Intercept Agreements, there is transparent periodic inter-agency and internal reporting of the results. However, DHS' and the ATO's public reporting does not include Lodgment Enforcement Program results.

### Areas for improvement

The ANAO recommended that the two agencies apply more relevant performance measures that reflect the effectiveness of child support collection activities (paragraph 5.8).

The ANAO suggested that DHS and the ATO determine which agency will report publicly on program outcomes (paragraph 5.21).

### Do DHS and the ATO measure the performance of the cooperative child support programs?

There are shortcomings in the measures used by DHS and the ATO to monitor the performance of the cooperative child support programs. Both agencies use the number of income tax period finalisations as the performance measure for the Lodgment Enforcement Program. However, finalisations do not measure the objective of the program which is to achieve more accurate child support payment assessments and to maximise debt collection opportunities. Performance of the Tax Refund Intercept Program is measured by the number and value of tax refunds intercepted, and could be strengthened by implementing measures for the effectiveness of the program's administration. DHS does not monitor the impact of the Information Exchange Program.

### Performance measures

5.1 Under the 2012–15 Lodgment Enforcement Agreement, the ATO measured its performance against an annual target of 105 000 income tax period finalisations—the only performance measure for the program. Due to the cessation of DHS' funding for the Lodgment Enforcement Program in 2015–16, no performance target was included in the Abridged Lodgment Enforcement Agreement. Nevertheless, the ATO has indicated its commitment to retaining the performance target of 105 000 income tax period finalisations per year.

5.2 As illustrated in Table 5.1, the Lodgment Enforcement Program results declined considerably in 2015–16 (with the cessation of DHS funding). As discussed in Chapter 2, the ATO defines a 'finalisation' for an income tax period as one of the following: a lodgment received; a

‘return not necessary’ determination<sup>86</sup>; a ‘further returns not necessary’ determination<sup>87</sup>; or a default assessment issued.

5.3 The objective of the Lodgment Enforcement Program is to achieve more accurate child support payment assessments and to maximise debt collection opportunities. The achievement of these objectives requires the lodgment of accurate income tax returns. Consequently, finalisation results as defined under the program do not provide an accurate measure of program effectiveness. For example, in 2015–16, only around 45 per cent of finalisations were income tax returns lodged.<sup>88</sup>

**Table 5.1: Lodgment Enforcement Program results**

Financial year	No. of tax returns lodged	No. of customers assessed as RNN/FRNN <sup>a</sup>	No. of default assessments	Total no. of finalisations	Amount of child support debt collected
2012–13	67 569	64 095	383	132 047	\$25.3 million
2013–14	76 563	95 476	4995	177 034	\$33.9 million
2014–15	109 216	126 501	719	236 436	\$27.4 million
2015–16	58 545	71 660	43	130 248	\$16.9 million

Note a: RNN stands for ‘return not necessary’ and FRNN stands for ‘further return not necessary’.

Source: ANAO analysis of ATO information. The ANAO has not verified the information reported in the table.

5.4 For 2016–17, the ATO is aiming for 30 000 of the finalised tax returns lodged to belong to customers who are in the priority groups of cash economy and those with evidence of income through the Pay-As-You-Go withholding system (refer Chapter 2).

5.5 The ATO measures the performance of its Tax Refund Intercept Program based on the number and value of tax refund intercepts. As illustrated in Table 5.2, the amount of child support debt collected through the Tax Refund Intercept Program has remained relatively stable since 2013–14.

**Table 5.2: Tax Refund Intercept Program results**

Financial year	No. of refunds intercepted	Amount of debt collected from refunds
2013–14	87 845	\$96.5 million
2014–15	83 830	\$94.1 million
2015–16	85 302	\$97.6 million

Note: These figures are different to those reported by DHS in its Annual Report as those figures also include lodgment enforcement results (refer to paragraph 5.22).

Source: ANAO analysis of DHS information and ATO information.

86 A ‘return not necessary’ status applies to a customer when the lodgment of an income tax return for the relevant income tax period is not necessary under the tax law.

87 A ‘further returns not necessary’ status applies to a customer when the lodgment of further income tax returns for future income tax periods is not necessary under the tax law. There are several reasons for this including the customer is moving overseas or no longer in receipt of taxable income.

88 The ATO advised that from 2013–14 to 2015–16, the number of tax returns lodged under the Lodgment Enforcement Program represented approximately 15 per cent of the total lodgments under its broader lodgment enforcement program.

5.6 No performance targets have been set for the Tax Refund Intercept Program, although the number and value of tax refund intercepts is measured. There is scope for DHS and the ATO to implement measures for the effectiveness of the program's administration, particularly the proportion of available tax refunds that were intercepted.<sup>89</sup>

5.7 While DHS monitors the application of income assessments received from the ATO to active child support payment assessments, it does not monitor their impact on the amount of child support raised and collected (refer Chapter 3).

### Recommendation No.5

5.8 The Department of Human Services and the Australian Taxation Office improve performance measures under the Lodgment Enforcement and Tax Refund Intercept Agreements to demonstrate the effectiveness of child support collection activities.

**Department of Human Services' response:** *Agreed.*

5.9 *The department currently has performance measures in place to measure collection outcomes as a result of tax lodgment. The department will work with the ATO to refine and enhance the reporting that is currently in place.*

**Australian Taxation Office's response:** *Agreed.*

5.10 *The ATO recognises and supports the need for strengthened governance with regard to these two agreements, and will work with DHS to set new and/or improve existing performance targets and effectiveness measures.*

### Do DHS and the ATO transparently report on the outcomes of child support collection activities?

DHS and the ATO have fulfilled their periodic inter-agency and internal reporting obligations as required under the respective agreements. With respect to external reporting, DHS has reported on program outcomes in its annual reports, however, in 2015–16 no performance information in relation to the Lodgment Enforcement Program was publicly reported.

### Inter-agency and internal reporting

#### *Lodgment Enforcement Program*

5.11 From 2012–13 to 2015–16, the ATO provided monthly reports to DHS, in accordance with the reporting requirement under the 2012–15 Lodgment Enforcement Agreement. These reports detailed the results achieved for the Lodgment Enforcement Program. The monthly reports were comprehensive and comprised the performance results achieved for each DHS priority category in the following areas: income tax period finalisations; compliance actions undertaken<sup>90</sup>; total value

89 DHS' response rate to ATO notifications of available tax refunds could also be measured.

90 Compliance actions undertaken by the ATO include the issuance of lodgment reminder letters, outbound dialler contacts and 'other actions' initiated.

of intercepts<sup>91</sup>; prosecution cases and convictions; and progress of DHS' ad hoc referrals of ministerial and high priority complaint customers. The monthly reports also included the population analysis undertaken by the ATO and a breakdown of the analysis results by DHS priority categories following the ATO's review and prioritisation process (refer Chapter 3).

5.12 From 2016–17, DHS and the ATO have mutually agreed to reduce the performance reporting from monthly to quarterly as part of the new arrangements under the Abridged Lodgment Enforcement Agreement. The ATO will report on the lodgment enforcement outcomes achieved against the new ATO-determined priority groups as part of its new customer prioritisation approach.<sup>92</sup>

5.13 As required under the 2012–15 Lodgment Enforcement Agreement, the ATO also provided governance reports to DHS on the mid-year and final lodgment enforcement outcomes biannually. The ATO provided presentations to DHS at their biannual governance meetings during which they discussed the program performance results and the ATO's strategies for the Lodgment Enforcement Program. The biannual governance reporting is not required under the Abridged Lodgment Enforcement Agreement.

### *Tax Refund Intercept and Information Exchange Programs*

5.14 The ATO provides weekly tax refund data consisting of the number and amount of tax refund intercepts to DHS.

5.15 In accordance with the Tax Refund Intercept Agreement, DHS and the ATO are required to provide to their Head Agreement manager an annual report on the operation and progress of the arrangements (including achievements and any outstanding issues). Both DHS and the ATO have fulfilled this reporting obligation whereby each agency reports: operational achievements; relevant issues in relation to the arrangements; tasks to be progressed; and potential future improvements.

5.16 The ATO's reporting of its operational achievements for the Tax Refund Intercept Agreement includes: the number and amount of tax refund intercepts; the number of incomes supplied to DHS; the number of mutual child support customers maintained; and the number of compromised Tax File Number cases actioned.

5.17 Prior to 2014–15, DHS' internal reporting of its operational achievements of the Tax Refund Intercept and Information Exchange Programs was limited. In its 2014–15 and 2015–16 annual reports, DHS included additional performance information for the peak lodgment period between July and October in the 2012–13, 2013–14, 2014–15 and 2015–16 financial years.<sup>93</sup>

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91 These intercepts are credit assessments from lodgments received where a compliance action has occurred. The credit assessments are intercepted as payment towards existing child support debts.

92 The ATO advised that the reduction in reporting was partially due to the cessation of DHS funding and the impact of the monthly reporting on ATO resources.

93 Approximately 70 per cent of the total transactions for a financial year occur during the peak Tax Time lodgment period from 1 July to 31 October.



Additional information included the number of ATO incomes received for child support payment assessments and the number of tax refund intercepts applied to child support debts.<sup>94</sup>

## External reporting

5.18 Performance reporting in relation to DHS' and the ATO's child support collection activities does not provide a holistic view of the achievement of the programs' objectives.<sup>95</sup>

5.19 The ATO does not report publicly on the program results for the Lodgment Enforcement, Tax Refund Intercept and Information Exchange Programs in its annual reports. The ATO last reported on the results achieved for the Lodgment Enforcement Program—lodgment obligations finalised against the target—and the resultant tax refund intercepts in its 2010–11 Annual Report.

5.20 DHS has been reporting publicly on the results achieved for the Lodgment Enforcement and Tax Refund Intercept Programs in its annual reports since the inception of the child support collection arrangements with the ATO.<sup>96</sup> However, DHS did not report on the results achieved for the Lodgment Enforcement Program in its 2015–16 Annual Report. This timing coincided with the cessation of DHS funding for the program.

5.21 While both agencies do not need to report on the results achieved under the Lodgment Enforcement Program, DHS and the ATO should determine which agency will report publicly on program outcomes.

5.22 With respect to tax refund intercept activities, DHS reported the total number of tax refund intercepts and their total value for the year in its annual reports. The amounts collected from tax refund intercept activities also include the value of tax refund intercepts from lodgment enforcement which are also separately reported as results for the Lodgment Enforcement Program. In effect, DHS counted these results twice and should differentiate these results.



Rona Mellor PSM  
Acting Auditor-General

Canberra ACT  
15 May 2017

94 The additional performance information reported by DHS consist of: the mutual child support customer count as at 31 October; the number of ATO incomes received and loaded into its customer record system that were used in a child support payment assessment; the number of tax refunds offered and intercepted; and the amounts of tax refund intercepts received.

95 The *Resource Management Guide No. 131: Developing good performance information* provides that the performance measures reported by entities on their collaborative cross-entities activities should be clearly linked to provide a holistic view of the achievement of the common purpose. This guide is available from <<http://finance.gov.au/sites/default/files/RMG%20131%20Developing%20good%20performance%20information.pdf>> [accessed 12 December 2016].

96 The information that DHS reported for its tax return lodgment enforcement activities included: income tax periods finalised against the target; the number of lodgments finalised; the number of customers who finalised all outstanding tax obligations; and the tax refund amounts intercepted from lodgment enforcement.



## **Appendices**



## Appendix 1 Entities' responses

### Department of Human Services



Australian Government  
Department of Human Services

Kathryn Campbell CSC  
Secretary

Ref: EC17-000709

Mr Grant Hehir  
Auditor-General  
Australian National Audit Office  
GPO Box 707  
CANBERRA ACT 2601

Dear Mr Hehir

Thank you for your letter of 31 March 2017, providing the Department of Human Services (the department) with the opportunity to comment on the Australian National Audit Office's (ANAO) proposed report on *Child Support Collection Arrangements between the Department of Human Services and the Australian Taxation Office*.

The department notes the ANAO has acknowledged the overall success and effectiveness of the cooperative child support collection arrangements and has concluded that child support collection arrangements between the department and the Australian Taxation Office are based on well-established administrative processes in each agency.

The department agrees with the five recommendations made by the ANAO.

Attachment A to this letter details the overall response to the proposed report and to each of the ANAO's recommendations.

Mr George Thiveos, General Manager, Families Division is the department's contact for this matter. Mr Thiveos may be contacted on 02 6141 8927 or [george.thiveos@humanservices.gov.au](mailto:george.thiveos@humanservices.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kathryn Campbell'.

Kathryn Campbell  
/ May 2017

PO Box 7788, Canberra Business Centre ACT 2610 • Telephone (02) 6223 4411 • Facsimile (02) 6223 4489  
Internet [www.humanservices.gov.au](http://www.humanservices.gov.au)



Second Commissioner of Taxation

Ms Michelle Kelly  
Group Executive Director  
Performance Audit Services Group  
Australian National Audit Office  
GPO Box 707  
CANBERRA ACT 2601

Dear Ms Kelly

**AUSTRALIAN NATIONAL AUDIT OFFICE PERFORMANCE AUDIT OF THE  
CHILD SUPPORT COLLECTION ARRANGEMENT BETWEEN THE  
DEPARTMENT OF HUMAN SERVICES AND THE AUSTRALIAN TAXATION  
OFFICE**

Thank you for your letter dated 31 March 2017 and for the opportunity to provide comments on the proposed report on the Child Support Collection Arrangements between the Department of Human Services (DHS) and the Australian Taxation Office (ATO).

The ATO agrees with the four recommendations (relevant to the ATO) as presented in the section 19 report.

Attached is the ATO response to the recommendations (Annexure 1) and a summary of our comments to be included in the report (Annexure 2).

The ATO has engaged in a partnership with DHS over the past 15 years in aid of the Child Support Program.

The key activities of this partnership have been undertaking income tax return lodgment enforcement activities; tax refund intercepts; and information exchange.

This partnership has predominantly been expressed in formal agreements, with identified outcomes and expectations. Both agencies have worked closely together and the lodgment enforcement and tax refund intercept programs have seen refinement since inception. The key outcomes include the effective assessment of taxable income and garnisheeing of income tax returns, which respectively allow for the accurate assessment and determination of child support obligations; and the payment of outstanding child support debts.

We note the ANAO's acknowledgement of the administrative framework between the two agencies is sound, and that roles and responsibilities are identified and fulfilled in most circumstances. We accept that early agreements could have benefited from greater review of lodgment targets and costing, and in moving forwards are mindful of the opportunity to better manage shared risk as well as providing more effective processes for referral of fraud and tax evasion.

We recognise that there are further opportunities to strengthen case selection and prioritisation of Child Support Program clients under the Lodgment Enforcement program, taking into account other child support compliance risks and applying appropriate treatments across the ATO.

We are pleased with the ANAO's findings in respect of the effectiveness of the Tax Refund Intercept Program and the information sharing provisions. This and the Lodgment enforcement program have delivered significant outcomes for the community in terms of ensuring clients of the Child Support Program meet their obligations.

We acknowledge that both the lodgment enforcement and tax refund intercept can benefit from more effective performance measures and public transparency of outcomes and will look implement reforms to this effect.

I would like to thank the ANAO audit team for the cooperative and professional manner they have adopted in working with us on this matter. I look forward to continuing the good working relationship developed in this performance audit.

If you require further information on this matter, please contact Les de Wind, Assistant Commissioner, Tax Practitioner, Lodgment Strategy and Engagement Support on 08 926 85119.

Yours sincerely



Neil Olesen  
Second Commissioner

21 April 2017

## Appendix 2 Stakeholder consultation

The Australian National Audit Office (ANAO) engaged with a range of stakeholders in relation to the audit, including:

- conducting face-to-face interviews and teleconferences with two national stakeholder groups;
- receiving four submissions from various stakeholder and community groups; and
- receiving 26 citizen contributions from members of the public via the ANAO's website.

Common themes identified by stakeholders in relation to the audit criteria included:

- child support customers failing to lodge tax returns for extended periods;
- income estimates provided by child support customers being inaccurate or outdated;
- child support customers advising DHS of inaccurate income information, however DHS taking no or insufficient action; and
- tax refund intercept amounts not aligning with child support debt amounts.

The ANAO does not verify the contents of stakeholder submissions and citizen contributions.