

Submission to

EXECUTIVE MANAGEMENT COMMITTEE

Meeting date: 29 August 2023

**Agenda
number:** Item 06

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18. The Royal Commission into the Robodebt Scheme released its findings on 7 July 2023. Recommendations that may impact AI policy formulation and governance are listed (along with implications for AI policy development) in **Attachment C** and includes obligations of public servants and agency heads being held to account.

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C. Royal Commission into the Robodebt Scheme

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Attachment C: Royal Commission into the Robodebt Scheme – Recommendations to consider in AI policy formulation.

The full list of recommendations are listed at the following location:

[Report | Royal Commission into the Robodebt Scheme](#)

This is not intended to be a complete consideration of the recommendations for the agency, but an initial view on how the recommendations may need to be considered whilst designing the use of AI in the ACMA.

Chapter 13 – Experiences of Human Services employees

Recommendation 13.1: Consultation process

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

Implication: ACMA staff should be consulted when the use of AI is being designed, including on the consequences for how ACMA may deliver services.

Chapter 16 – Data-matching and exchanges

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

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

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

Implication: ACMA should consider governance of what information is shared with an AI, and how the data it was trained on is used to interpret the data from

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the ACMA. This should consider whether the AI is operating outside of agency boundaries, and if the ACMA can legally share the agencies data with the AI.

Chapter 17 – Automated decision making

Recommendation 17.1: Reform of legislation and implementation of regulation

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

Where automated decision-making is implemented:

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

Implication: The ACMA should consider the current and potential future legislative environment for automated (and AI assisted) decision making. ACMA may need to explain on its website the use of AI in the agency. As AI operates as a neural net, which does not have business rules and algorithms, the agency needs to consider how it can enable independent expert scrutiny.

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

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

Implication: The ACMA should consider how the use of AI may need to be structured to allow for audit by an external body, and if an internal body needs to oversee the use of AI within the agency.

Chapter 23 – Improving the Australian Public Service

Recommendation 23.2: Obligations of public servants

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

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Implication: The ACMA should ensure that public servants in its employ are fully advised of their obligations when using AI, that they understand these obligations and acknowledge they will abide by them.

Recommendation 23.7: Agency heads being held to account

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

Implication: Any implementation of AI needs to be considered, appropriately governed, consistent with ACMA's legal obligations, in line with whole of government policy, and in the interests of the agency and our clients and stakeholders.

Recommendation 23.8: Documenting decisions and discussions

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

Implication: The different types and uses of AI need to be clearly defined, approved and documented. Deliberations on the use of AI should be documented, such as in the minutes of a governance group.