



Australian Government
Inspector-General of Taxation
Taxation Ombudsman

IGTO

Review into the Australian Taxation Office's use of Garnishee Notices

Tax administration management report

A close-up, low-angle shot of a calculator with black buttons and white text. The calculator is resting on a surface with financial charts and data tables. The charts show various trends, including a line graph with a peak and a bar chart. The data tables contain numerical values. The overall image has a blue tint.

MARCH 2019

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Taxation Ombudsman

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EXECUTIVE SUMMARY



Mr Andrew McLoughlin
Acting Inspector-General of Taxation
and Taxation Ombudsman

The Inspector-General of Taxation and Taxation Ombudsman (IGTO) commenced this review to maintain community confidence in the administration of the tax system after serious allegations were made about the Australian Taxation Office's (ATO) inappropriate use of garnishee notices on small businesses. These allegations were made by both a current and former ATO officer on the Australian Broadcasting Corporation's (ABC) Four Corners program on 9 April 2018. In this review, the IGTO investigated allegations that the ATO:

- gave directions to staff to issue *enduring* garnishee notices in every case as a 'cash grab' towards the end of the 2016–17 financial year; and
- set targets for staff and assessed their performance based on the level of debt collected.

Garnishee notices allow the ATO to recover taxpayer debts from third parties, such as banks or trade debtors. If used inappropriately, they can severely affect a taxpayer's cash flow, in particular, the more vulnerable such as small businesses and individuals.

The ATO's collection of revenue and tax debt recovery is vital for government policy and services for the benefit of citizens. It must be done fairly and equitably, taking into account the particular circumstances of each taxpayer but also ensuring a level playing field for taxpayers who pay on time, so as to foster a level playing field in support of the significant voluntary compliance levels from which our nation benefits.

The IGTO investigation team physically visited four main ATO local sites that issue garnishee notices or conduct related actions—Melbourne, Penrith, Parramatta and Adelaide—to see firsthand ATO systems operations and personally interview management and frontline staff at all levels. The IGTO's independent powers were used to interview a range of ATO staff during the investigation, as well as access ATO systems, information and records. The IGTO also ensured that former ATO officers were invited to provide information, either in person or anonymously.

A clearer picture of events emerged following analysis of the totality of the facts and evidence that was obtained during the investigation process.

Problems did arise in certain localised pockets with the issuing of *enduring* garnishee notices for a limited period, particularly so at the ATO's Adelaide local site, but these problems were anticipated and addressed by management once they became aware of them.

In the IGTO's view, the allegations that there was an ATO direction for a 'cash grab' on small businesses or that debt staff's personal performance were set on amounts collected—are not sustained on the evidence.

Notwithstanding this view, opportunities for improvement were identified. As a result, the IGTO made four recommendations, all of which have been accepted and agreed by the ATO. They were:

1. to incorporate into the annual planning process, contingency plans for material assumptions used in operational plans and appropriate assurance for related business continuity measures;
2. to improve the candidate selection models for garnishee work and refine these models with feedback from staff who conduct this work;
3. to facilitate consistency of expectations between all levels of staff by providing facility for direct communication from the Debt Executive for critical or complex messages where major changes to personnel resource deployment occur, particularly where personnel are new or are undertaking new work or expected to carry out work they have not engaged in for a period; and
4. to improve support for Early Intervention unit staff by developing more effective mechanisms for regular case-specific outcome feedback and by incorporating role-playing exercises into facilitated training sessions.

Overall, for the ATO, the 2016–17 financial year was a challenging one—with the House of Representatives Standing Committee on Tax and Revenue dubbing it ‘annus horribilis’.

The ATO issued over 40 per cent less garnishee notices in the 2016–17 financial year than planned and as compared to the year prior and the year following—a large shortfall. The main factors for this reduction were anticipated financial and collection systems changes which were not deployed, two major ATO IT systems outages (the ATO’s Storage Area Network (SAN) failures) and the backlogs of work that flowed from these outages.

These events had ATO-wide impact which required change to the Debt business line’s plans and redeployment of resourcing to priority areas of work, thereby increasing operational risks. One of those risks that did emerge, and that management had identified and anticipated, was the inappropriate use of *enduring* garnishee notices particularly at the Adelaide site for a period approaching 3 months. However, once identified by management, those problems were addressed.

Importantly, there were certainly small business people who were disaffected who received support from the IGTO in resolving their complaints through this period. While it is a relatively small group as compared to the number of garnishee notices issued, it is very important that the system demonstrates care for disaffected taxpayers, especially the more vulnerable, including small businesses.

The IGTO analysis draws upon the full range of facts and evidence in reaching its conclusion across the ATO and its Debt business line areas in addressing the allegations, including all relevant plans, other reports, metrics, statistics, management communications, interview testimony and accounting standards for reporting tax collections. Importantly, employment issues regarding current and former ATO staff are not within the IGT’s legislative purview and were not part of this review.

The IGTO greatly appreciates the contribution of individuals, small businesses, academics, tax practitioners and their representative bodies as well as ATO officers (current and former) who provided valuable insight and assistance to the IGTO investigation team.

A more expansive overview of the findings, observations and recommendations is provided in the Conclusion section. A way forward for small business support is also provided in the section thereafter, outlining the Taxation Ombudsman's free service offered to affected small business taxpayers as a first port-of-call where they are not able to resolve matters with the ATO directly.

LIST OF RECOMMENDATIONS

RECOMMENDATION 2.1

The IGTO recommends the ATO Debt business line's annual planning process incorporate:

- (a) contingency plans for assumptions regarding new systems or processes that may materially affect the estimation of internal resource-allocation and collection planning if these assumptions are not realised; and*
- (b) appropriate assurance regarding the effectiveness and responsiveness of related business continuity measures.*

RECOMMENDATION 2.2

The IGTO recommends the ATO:

- (a) improve the candidate-selection models for potential officer garnishee action; and*
- (b) further refine these models by providing for improved feedback input from staff considering these actions to those staff who plan and schedule their work.*

RECOMMENDATION 2.3

The IGTO recommends the ATO to develop a communication strategy for the Debt business line local site management and staff which includes a facility for direct communication from the Debt Executive for critical or complex messages where major changes to personnel resource deployment occur, particularly where personnel are new or are undertaking new work or expected to carry out work they have not engaged in for a period, so as to facilitate consistency of expectations between all levels of staff, including team working groups, at all site locations.

RECOMMENDATION 2.4

The IGTO recommends the ATO improve support for Early Intervention unit staff, by:

- (a) developing more effective mechanisms to facilitate more regular case-specific outcome feedback; and*
- (b) incorporating role-playing exercises into facilitated training sessions as an ongoing feature.*

CHAPTER 1: INTRODUCTION

CONDUCT OF REVIEW

1.1 The Inspector-General of Taxation and Taxation Ombudsman (IGTO) review into the Australian Taxation Office's (ATO) use of garnishees notices is in response to allegations, made on the Australian Broadcasting Corporation (ABC) Four Corners television program aired on 9 April 2018, by a current and former ATO officer about inappropriate use of ATO powers to issue garnishee notices¹ and extract payment, particularly from small business taxpayers.

1.2 Given the serious nature of these allegations, the IGTO announced an independent investigation to address concerns regarding unfairness which may have impact on voluntary compliance and confidence in the administration of the tax system.² In particular, and as a priority, the IGTO sought to investigate particular concerns, set out in the review's terms of reference,³ and allegations that the ATO:

- (a) gave directions to staff to issue *enduring* garnishee notices in every case as a 'cash grab' towards the end of the 2016–17 financial year; and
- (b) set targets for staff and assessed their performance based on the level of debt collected.

1.3 Garnishee notices are the most common form of firmer action used by the ATO to recover tax debt. Such written notices may be issued by the ATO to third parties who are required to pay money they owe to the taxpayer directly to the ATO in satisfaction of the taxpayer's tax debt. Third parties to whom the notices may be issued include employers, financial institutions, trade debtors and certain agents. Point-in-time (PIT) garnishee notices require a one-time payment and *enduring* garnishee notices require recurring payments for certain periods of time (generally 3 months).

1.4 Concerns were also raised in the ABC Four Corners television program regarding the ATO's broader audit and debt collection practices and approaches toward small businesses including remedial actions.

1.5 Subsequent reviews focusing on small business concerns were also announced in response to the broad range of allegations and concerns arising from the ABC Four Corners program and related media, including that undertaken by the Secretary of the Treasury at the request of the Minister.⁴ Through this process a request was also made by the Commissioner of Taxation (Commissioner) to the Australian National Audit

¹ Pursuant to section 260-5 of Schedule 1 to the *Taxation Administration Act 1953*.

² 2GB, 'ATO targeting small business, 'This is a harrowing, horrible experience'', *Money News with Ross Greenwood*, 10 April 2018 <www.2gb.com>; Note also: *Inspector-General of Taxation Act 2003*, s 8(1).

³ See Appendix 1.

⁴ Henry Belot, 'Government launches investigation into Australia Tax Office after allegations of unethical cash grabs', *ABC News* (online), 11 April 2018 <www.abc.net.au>.

Office (ANAO) to conduct an audit⁵ which was undertaken on the scoping terms the ANAO outlined. The IGTO was asked to provide a submission to the Secretary of the Treasury's review, which was provided on 20 April 2018. This IGTO submission was the subject of a freedom of information (FOI) request and published on the IGTO's FOI disclosure log via the IGTO website as required by legislation. The IGTO had previously conducted reviews of the ATO's small business audit and debt collection practices, for example *Debt Collection*.⁶

1.6 The IGTO investigation team also analysed over 130 small business garnishee complaint cases lodged with the IGTO since its complaints handling service started in May 2015 and through which the IGTO had assisted those small businesses with their concerns with ATO garnishee actions.

1.7 The IGTO investigation was targeted towards the serious concerns that were raised by the two central allegations made at that time by ATO staff (current and former),⁷ as the broader small business taxpayer concerns were subject to consideration in the other reviews and the audit noted above. Other matters were considered, but only to the extent required to contextualise garnishee notice actions and related performance assessments. The IGTO approach also minimised potential review or audit scoping overlap in line with assurances previously given to the Parliament by the Auditor-General, former Inspector-General of Taxation and Commonwealth Ombudsman.⁸

1.8 In conducting the review, the IGTO investigation team attended meetings with all relevant stakeholders, which includes ATO staff. The team also obtained and verified information on the ATO systems through direct independent access to such systems from its own office. The IGTO team also physically visited four main ATO locations that issue garnishee notices or conduct related actions, interviewed the full range of officers in the Debt business line (DBL) at all levels from local site frontline staff through to senior management.

1.9 The IGTO also ensured that former ATO officers were invited to contribute to the review and opportunity was afforded to provide information, including by way of discussion or interview.

1.10 To ensure integrity and completeness of the investigative process, the IGTO requested specific invitation be provided by the Commissioner to ATO staff which gave assurance that they could independently provide assistance or information to the IGTO review and do so by directly contacting a specific independent IGTO officer whose contact details were provided. This also provided ATO staff with opportunity to make disclosure anonymously where they may have been concerned with being

⁵ Commonwealth, *Parliamentary Debates*, Economics Legislation Committee, Senate, 30 May 2018, p 12 (Chris Jordan); ANAO, *Management of small business tax debt arising from compliance activities* (undated) <<https://www.anao.gov.au/>>.

⁶ IGTO, *Debt Collection* (2015); also see, for example, IGTO, *Review into the ATO's employer obligations compliance activities* (2017).

⁷ See Appendix 1.

⁸ House of Representatives Standing Committee on Tax and Revenue, Parliament of Australia, *External scrutiny of the ATO* (2016) Appendix E; Australian Government response to the House of Representatives Standing Committee on Tax and Revenue report, *External scrutiny of the ATO*, March 2017.

personally identified in the review process. The IGTO also took care to ensure that ATO staff (current and former) were made aware of their relevant rights, protections and obligations which may arise in relation to such independent disclosures.⁹ This approach was effective as the IGTO received independent contributions from ATO staff (current and former) that provided a fulsome opportunity to appreciate their concerns and insights regarding potential improvements.

1.11 Submissions to the review were also publicly called for and received. The IGTO greatly appreciates the contribution of individuals, small businesses, academics, tax practitioners and their representative bodies as well as ATO officers (current and former) who provided valuable insight and assistance to the IGTO investigation team.

1.12 Importantly, submissions identified an area of concern directed at the policy of taxation administration and related law design regarding garnishee notices in the context of insolvency. IGTO complaints analysis also revealed tax administration policy concern regarding repayment of garnished monies. Given the serious nature of the allegations and the need to provide a considered and prompt response, an innovation was adopted to better support public transparency and timely awareness. The IGTO will publish this report as a separate report on the tax administration management issues that were examined in the review as this will ensure transparent and expedited publication of the IGTO's observations and recommendations regarding the allegations and events of the 2016–17 financial year.¹⁰ A subsequent report on the above areas of tax administration policy and related law design will be separately released pursuant to the required ministerial release process.¹¹ Reporting in this manner is considered on a case-by-case basis as it is generally appropriate to provide a single report where administrative management and related policy issues are intertwined.

1.13 This review also considered the allegations in a holistic sense. It had regard to the impact on small business taxpayers who may have had unfortunate experiences or been subject to unfair outcomes, as noted in submissions to the review and IGTO complaint investigations. It also considered how such experiences and outcomes may be prevented and promptly remedied in future. In doing so, the report outlines the support which is available to small business taxpayers in real time, such that a 'prevention over cure' approach might be better understood and fostered where matters are not resolved to small businesses' satisfaction with the ATO at first instance.

1.14 While this report provides a detailed description of the administrative experience of the events in the 2016–17 financial year and statistics, it must be kept in mind that individual ATO garnishee actions can have direct impact on the financial, emotional and reputational well-being of real people, both in their capacity as taxpayer and business owner, as well as indirect impact on those related to and associated with such people, for example tax practitioner representatives, employees, sub contractors,

⁹ Appendix 14 outlines the IGTO approach taken to inform ATO staff of the rights, obligations and protections prior to making any such disclosures to ensure they make fully informed decisions and are appropriately preserved as to their personal rights in particular.

¹⁰ *Inspector-General of Taxation Act 2003*, para 15(i) provides authority for the IGTO to publicly release reports where there is no recommendation to Government.

¹¹ *Inspector-General of Taxation Act 2003*, s 18.

family and friends. Repayment of an uncontested or undisputed tax debt is a policy and legislative requirement. However, where the garnishee action taken is disproportionate in the circumstances, disaffected people need prompt and effective assistance without being perceived or treated as a marginalised case—the impact on their situation needs to be acknowledged and cared for appropriately.

1.15 Lastly, although the report primarily focuses on garnishee notices through a small business prism, such notices may also be issued to individuals with significant tax debts.

CHAPTER 2: REVIEW INVESTIGATION FINDINGS, OBSERVATIONS AND RECOMMENDATIONS

BACKGROUND

2.1 The serious nature of the allegations demands careful consideration of the facts and evidence regarding the relevant administrative actions and inactions for the given period. The report sets out these facts and evidence in some detail as it was considered necessary to provide insight and transparency regarding the specific events relating to the allegations as well as the relevant context and time periods. An appreciation of all the evidence and analysis is vital to fully appreciate the general and specific conclusions.

2.2 This chapter sets out the ATO information, including the facts and evidence obtained through the IGTO's investigation process outlined in Chapter 1. The IGTO's observations and recommendations follow. The ATO information is set out in two separate categories:

- ATO information regarding ATO senior management objectives, including those endorsed by the ATO Executive; and
- ATO information regarding specific ATO operational actions that relate to garnishee notices, including relevant actions taken by ATO staff in their respective local sites for the specific periods as well as relevant communications by management at all levels, for example local team leader, site management and senior executive management.

2.3 The reason for taking this approach is to ensure the review properly assesses the nature of the two key allegations identified in the terms of reference regarding management directives to plan or set personal performance targets and those aimed at extracting or 'grabbing' payment from small businesses. A fulsome consideration of management planning and directives at each level and the relative impact on local sites was also investigated.

2.4 In taking this approach, the IGTO was also able to consider information received in submissions and prior complaints to identify a way forward that provides potential remedies or constructive assistance to small business taxpayers where they may have experienced unfortunate or unfair outcomes, irrespective of the sustention of the allegations as tested through this investigation process.

2.5 This overall approach ensures both a top-down and bottom-up approach is taken to engender confidence that the review sought to address the full range of issues and perspectives in arriving at its conclusions, both for the ATO and also for affected small business taxpayers, and their representatives, as well as the tax system more generally.

2.6 Lastly, reviews, such as this, provide important opportunity for the IGTO office to make considered recommendations to improve the administration of the tax system.

ATO INFORMATION—ATO SENIOR MANAGEMENT OBJECTIVES

2.7 The ATO's principal purpose is to collect the vast majority of the Federal Government's revenue,¹² as well as Goods and Services Tax (GST) revenue that is distributed to the states.¹³ Such collection involves establishing and maintaining systems to receive payments as well as taking action to prevent debts from arising—for example, encouraging payment of overdue tax liabilities and taking 'stronger measures' to recover unpaid debts. However, it is not the only objective of the ATO. It is tasked with a range of other responsibilities including the administration of the GST and the governance of programs which result in transfers and benefits back to the community as well as administration of major aspects of Australia's superannuation system and custodianship of the Australian Business Register.¹⁴

2.8 In the 2016–17 financial year, taxpayers made approximately 20 million payments to the ATO in relation to \$455 billion of tax liabilities. Of this total amount, approximately 88 per cent (\$416 billion in 15.8 million payments) was paid by the due date for payment. An additional 7 per cent (\$33.4 billion in 3.6 million payments) was paid within 90 days after the due date. A further 1.3 per cent (\$6.1 billion in 0.8 million payments) was paid within a year after the due date. However, \$15 billion, relating to 1.5 million potential payments, was not paid within these timeframes.¹⁵

2.9 A proportion of these unpaid amounts are subject to taxpayer dispute regarding the tax assessments which gave rise to the debts ('disputed debts'). Also, some of the unpaid amounts are irrecoverable at law due to events such as insolvency ('irrecoverable at law debts').

2.10 The remaining amounts are categorised as undisputed or 'collectable debts'. Such debts are also often referred to as uncontested debts as taxpayers have not sought to contest the nature or quantum of the assessment from which the debt arises. At the end of the 2016–17 financial year, the total of undisputed collectable tax debt was \$20.9 billion arising from more than 1.3 million accounts.¹⁶

2.11 Of the total undisputed collectable debt, 76 per cent is owed by individuals and small businesses. Approximately 19 per cent of the total value of individuals' tax liabilities (approximately \$0.6 billion) and 13 per cent of the total value of small businesses' tax liabilities (approximately \$4.1 billion) remain unpaid after 90 days of the due date.¹⁷

¹² Commissioner of Taxation, *Annual Report 2017–18* (2018) p 74.

¹³ Council of Australian Governments, *Intergovernmental Agreement on Federal Financial Relations* (July 1999) Schedule A, clause A18.

¹⁴ Above n 12, p 2.

¹⁵ ATO, 'Debt: Our Approach' (Internal ATO Document, 26 August 2017).

¹⁶ Ibid.

¹⁷ ATO, 'Payment & Debt' (Internal ATO document, 14 September 2017) reproduced as Figure A2.5 in Appendix 2.

ATO accounting for the consolidated revenue fund recognition

2.12 The ATO is required for accounting purposes to recognise tax revenue collections on behalf of the Government only where:

- there is a basis that establishes the ATO's right to receive the revenue;
- it is probable that the relevant revenue in the future will be received by the ATO; and
- the amount of revenue can be reliably measured.¹⁸

2.13 For example, the ATO will recognise an amount as tax revenue at the time it issues a Notice of Assessment that sets out a taxpayer's liability to pay tax,¹⁹ and not at the time when the tax is required to be paid by the taxpayer. Further information about tax assessments, liabilities and debts may be found in the IGTO's *Debt Collection* report.²⁰ This method of recognising revenue is often referred to as an 'accruals' type approach which is to distinguish it from a straight 'cash' basis for recognition purposes.

2.14 The ATO accounts for tax revenue as 'administered income' for statement of comprehensive income purposes and as an 'administered asset' (or taxation receivable) for statement of financial position purposes. Not all tax revenue is able to be collected by the ATO. Such collection difficulties are reflected as 'administered expenses' for statement of comprehensive income purposes and as 'impairments on tax receivables' for statement of financial position purposes. The latter impairment is determined by a range of factors, including taxpayer compliance and lodgment history, taxpayer disputes and taxpayer capacity to pay.²¹

Federal Budget tax receipts forecast

2.15 The Federal Budget uses 'tax receipts' as part of a range of macroeconomic and fiscal forecasts to calculate the amount of appropriation from the Consolidated Revenue Fund (CRF) to fund implementation of the Government's policies.²² The calculation of tax receipts involves the use of either taxation revenue that the ATO has accounted for as administered income or taxation receivables that the ATO has accounted for as administered assets. However, tax receipts are generally estimated using a 'base plus growth' methodology—i.e. the last known taxation revenue/receivable outcome is used as a base amount against which estimated growth rates are applied. For example, the 2016–17 financial year outcome is used as the base to estimate tax receipts for the 2018–19 Federal Budget. Importantly, medium and longer term tax receipt projections are expected to be driven by longer-term economic

¹⁸ Above n 12, pp 135 and 140.

¹⁹ See *Taxation Administration Act 1953*, s 250–05.

²⁰ IGTO, *Debt Collection* (2015).

²¹ Above n 12, pp 105, 135–136 and 140.

²² The Treasury, *Statement 8: Forecasting Performance and Scenario Analysis* (2018) Budget 2018–19 <www.budget.gov.au>; The Treasury, *Budget Paper 4: Agency Resourcing* (2018) Budget 2018–19 <<https://budget.gov.au>> p 27.

trends and tax policy settings as well as external structural pressures and systemic design factors in Australia's tax system.²³

2.16 These estimates of tax receipts also incorporate recent trends in tax collections.²⁴ The Australian Government forecasts expected revenue collections on an annual basis, as published in the Federal Budget documents, and the ATO has reported revenue collections against these collection forecasts (see Table A3.1 in Appendix 3). The ATO has reported that most of the variance between these two figures can be explained by changes in external factors in the economy.²⁵ Also, over the past nine years, on average, 88.8 per cent of taxation revenue is collected by the due date (see 'on-time proportion payment KPI' in Table A3.1 in Appendix 3).

2.17 Some of the remaining taxation revenue is not collected, for example due to insolvency or disputation, and the ATO aims to maintain the amount of undisputed collectable tax debt to an acceptable percentage of net tax collections. The ATO calculates this percentage on a monthly basis and reports its performance against the rolling monthly average for the financial year (the 'collectable debt ratio KPI'). The average of reported ratio over the last nine years, from 1 July 2009 to 30 June 2018, is approximately 5.6 per cent (see Table A3.2 in Appendix 3).

ATO expectations, key performance indicators, debt resource and work planning

2.18 The Government expects the ATO, as a primary outcome, to achieve confidence in the administration of aspects of the tax and superannuation systems. To fund the ATO's strategies to deliver this primary outcome, Parliament authorises the ATO to appropriate monies from the CRF each year through the Federal Budget process.²⁶ The appropriation allocated to the ATO is more commonly called the ATO's 'operating expenditure'. The ATO's appropriation for the three financial years over the 1 July 2015 to 30 June 2018 period was approximately \$3.190 billion, \$3.198 billion and \$3.199 billion, respectively.²⁷

2.19 The ATO internally allocates operating expenditure to fund the activities needed to achieve strategic objectives, set out in the ATO's corporate plan,²⁸ which change over the years. The ATO internal allocation of operating expenditure to the DBL for the three financial years over the 1 July 2015 to 30 June 2018 period was approximately \$133 million (4.2% of the total annual appropriation), \$124 million (3.9%) and \$145 million (4.5%), respectively.²⁹

²³ The Treasury, 'Statement 8', above n 22.

²⁴ Ibid.

²⁵ Commissioner of Taxation, *Annual Report 2016–17* (2017), p 103.

²⁶ The Treasury, *Portfolio Budget Statements 2018–19* (2018) pp 169 and 177 <<https://treasury.gov.au/treasury-portfolio-budget-papers/>>.

²⁷ Above n 25, p 179; above n 12, p 120.

²⁸ Commissioner of Taxation, *Corporate Plan 2018–19* (2018).

²⁹ ATO communication to the IGTO, 27 July 2018.

2.20 For the 2016–17 financial year, the ATO’s strategic objectives which closely relate to tax collections and debt recovery were to achieve:

[an] increase in clients meeting their obligations by ensuring correct and timely...payments[;]

[an] increase in clients paying the right amount of tax at the right time by undertaking activities to ensure appropriate collection of revenue for government to support and fund services for the community[; and]

[a] decrease [in] administrative costs by improving efficiency, productivity and performance’.³⁰

2.21 The ATO measures its performance in achieving these strategic objectives by using key performance indicators (KPIs). KPIs may also change over the years. For the 2016–17 financial year, the relevant KPIs were:

- Proportion of liabilities paid on time by value (‘on-time payment proportion KPI’);
- Ratio of collectable debt to net tax collections (‘collectable debt ratio KPI’);
- Proportion of revenue collected compared with forecast (‘variance of revenue collected against forecast KPI’); and
- ATO manages its operating budget to balance (‘operating budget KPI’).³¹

2.22 The ATO’s targets and performance with respect to these KPIs from 1 July 2009 to 30 June 2018 is presented in Table A3.1 in Appendix 3.

2.23 The DBL strategies have an impact on the ATO’s performance against the abovementioned KPIs.³² The amount of operating expenditure that is allocated to the DBL is based on the predicted expenditure and revenue outcomes of the strategies the DBL plans to undertake in the financial year. These predicted expenditures and outcomes are calculated by reference to those from the prior year and the use of modelling,³³ as adjusted for expected efficiencies and significant events. For example, these calculations will outline expected expenditure for the type and quantum of particular debt work (e.g. sending preventative SMSs, using external debt collection agencies and legal recovery work) as well as the expected collection outcomes which can be used to estimate the year-end collectable debt ratio.³⁴ The DBL bases its annual operational plan on these strategies.

2.24 Figure 2.1 below shows the DBL’s total expenditure, resulting total collectable debt and collectable debt ratio KPI for the 1 July 2012 to 31 June 2017 period.

³⁰ Commissioner of Taxation, *Corporate Plan 2016–17* (2016) pp 19–20.

³¹ Ibid.

³² ATO, ‘Service Delivery (Debt) plan 2016–17 – overview’ (Internal ATO document, November 2016).

³³ ATO Debt resource and work planning area, IGTO review team interview, 5 July 2018.

³⁴ ATO, ‘Debt Funding Proposal’ (Internal ATO document, 18 September 2017).

Figure 2.1: Total collectable debt from 1 July 2012 to 30 June 2017, by financial year

Source: IGTO analysis of ATO information.³⁵

2.25 The above figure shows that from 1 July 2012 to 30 June 2017, the DBL had progressively reduced its expenditure, from \$188 million in the 2012-13 financial year to \$132 million in the 2016-17 financial year. Over the same period, undisputed collectable debt and net tax collections had increased from \$17.7 billion to \$20.9 billion and \$311.8 billion to \$359.3 billion respectively. The collectable debt ratio KPI, however, fluctuated over this period. It was at its highest in the 2013-14 financial year at 5.8 per cent, before decreasing to 5.7 per cent in the 2014-15 financial year and 5.3 per cent in the 2015-16 financial year. The collectable debt ratio KPI then increased to 5.6 per cent in the 2016-17 financial year, which is also when the DBL's expenditure was at its lowest over this five year period.

2.26 On cursory observation, it may appear that the trend of an increasing amount of collectable debt is similar to the trend of increasing net tax collections and inverse to the trend of decreasing total DBL expenditure. However, the collectable debt ratio KPI fluctuates around the 5.6-5.8 per cent range. Also, the lower 5.3 per cent ratio occurred in the same year that the amount of collectable debt was maintained from the prior year. This suggests that the DBL's expenditure may not be the most significant predictor for the ratio of collectable tax debt to net tax collections.

2.27 The DBL takes a risk-based approach in allocating resources to manage the millions of debt accounts that arise throughout the year. For example, in the 2016-17 financial year, the ATO managed 4.3 million debt accounts, 1.9 million of which are outstanding at year end.³⁶ The highest risk cases, those with debt values of more than

³⁵ Ibid pp 9-10; above n 25, pp 80 and 82; Commissioner of Taxation, *Annual Report 2012-13* (2013) pp 37 and 39.

³⁶ ATO communication to the IGTO, 6 March 2019.

\$10 million, are case managed by the DBL's Significant Debt Management (SDM) unit (see Appendix 4 for detail on the DBL's organisational structure). The lower risk cases, those debts valued less than \$10 million, may be actioned by the DBL's Early Intervention (EI) unit.³⁷ Lower risk cases comprise the vast majority of total collectable debt cases. Such cases are allocated to staff for specific activities as determined by the ATO's case flow and case selection methodologies. Following the completion of these activities, the EI unit staff member is unlikely to have any further involvement in the case. This approach requires staff to keep accurate notes on the case file to assist the taxpayer and DBL staff in future interactions. Further details about the DBL's management of debt work are contained in the IGTO's *Debt Collection* report.³⁸

2.28 The DBL's strategies involve the execution of interrelated types of debt work. The debt work types aim to respond to taxpayers' behaviours and can involve a series of collection actions that escalate in intensity. For lower risk cases, when a liability first becomes a tax debt, the DBL aims to select the most appropriate first collection action based on the taxpayer's payment behaviours amongst other factors. More recently, the DBL has automated this selection process for particular debts via its Purposeful First Action or PFA analytical modelling.³⁹

2.29 Where the debt remains unpaid after this first collection action, the ATO's systems will determine what type of further action (and its timing) is taken. This may depend on the availability of appropriately skilled resources and competing priorities. The ATO has aimed to improve this automated selection process through improved analytics, for example the 'Debt Right Now' approach (see the IGTO's *Debt Collection* report⁴⁰) and most recently, the 'Next Best Action' (NBA) approach.⁴¹ As a result, the type, quantum and timing of particular debt work is fluid and must be continually adjusted. This process is supported by involving analytical modelling and a multi-skilled workforce as well as a capability to responsively redeploy its workforce and reschedule debt activities.

2.30 The DBL's national Strategy and Implementation (S&I) unit has national responsibility for designing, implementing and monitoring strategies and tactics. Such strategies and tactics aim to involve an efficient allocation of resources and 'tailor a taxpayer's experience to make it easy to pay'.⁴² The national S&I unit also contributes to the DBL's annual operational plan by forecasting the number and type of debt work activities needing to be completed. In doing so, a focus is kept on the objectives and KPIs in the ATO's corporate plan as well as the availability of skilled resources and the available budget allocation.⁴³

³⁷ During August 2016, the threshold for cases referred to the SDM unit was increased from \$1 million to \$10 million: ATO, 'Copy of broadcast about high value debt escalations' (Internal ATO document, 22 August 2016).

³⁸ Above n 20.

³⁹ ATO, 'Debt Executive Meeting Agenda 1 May 2018' (Internal ATO document, 1 May 2018); see also Figure A2.3 in Appendix 2.

⁴⁰ Above n 20.

⁴¹ ATO, 'Next Best Action (including PFA) Strategic Direction' (Internal ATO document, 18 January 2018).

⁴² Above n 15.

⁴³ Above n 33.

2.31 The Enterprise Workforce Management (EWM) unit is located in the Client Account Services business line. It is not located within the DBL. However, it prepares work activity schedules that allocate available skilled staff to undertake the Service Delivery (SD) Group's work, including that of the DBL.⁴⁴ Generally, these schedules are for six week periods at a time. For DBL work, the EWM unit relies on numbers of work activities set by the national S&I unit as well as any changes that are made to that work demand. If there is a shortfall in the numbers of skilled staff that are required to meet the demand, the EWM unit approaches the national S&I unit who determines if staff are to be trained.⁴⁵

2.32 DBL staff receive their allocated work primarily through two different systems. The Intelligent Workload Distribution (IWD) system automatically allocates income tax debt work according to pre-determined criteria. The Receivables Management System (RMS) contains debt accounts relating to taxpayers' activity statements, which DBL staff manually access for types of garnishee work amongst others. Once work types are allocated to staff, they can log into the Workforce Management (WFM) system to check what work type they will be conducting that day. The IWD and RMS systems are the systems that allocate the work activities to staff to complete.⁴⁶

ATO INFORMATION—SPECIFIC OPERATIONAL & STAFF ACTIONS

2.33 The 2016–17 financial year was an unusual year for the ATO and an extremely challenging one. As stated in the recent report released by the House of Representative Standings Committee on Tax and Revenue (HRSCTR) in its 'Inquiry into the 2017 Annual Report of the ATO', the 2016–17 financial year was 'annus horribilis' for the ATO.⁴⁷

2.34 With respect to the ATO's use of garnishee notices, key events that arose in this period had a significant impact on the planned and actual deployment of ATO resources.

Key events affecting the DBL's 2016–17 operational plan

The DBL's operational plan

2.35 The DBL's 2016–17 operational plan estimated that if the DBL was allocated the same amount of the ATO's operating expenditure as in the prior year (\$135 million), the total amount of collectable debt would amount to approximately \$20.9 billion⁴⁸ by the end of the financial year based on the forecasted net tax collections of \$363.5 billion.⁴⁹ On this basis, the proportion of the estimated \$20.9 billion

⁴⁴ ATO, 'Debt Budget and Planning Team Plan 2017/18' (Internal ATO document, 4 January 2018).

⁴⁵ ATO Debt workforce planning area, IGTG review team interview, 11 July 2018.

⁴⁶ Ibid.

⁴⁷ House of Representatives Standing Committee on Tax and Revenue, 'ATO's 'annus horribilis' – 2017 performance report' (Media Release, 21 February 2019).

⁴⁸ ATO, '2016/17 Debt Strategic Plan Revision' (Internal ATO document, 16 June 2016).

⁴⁹ Above n 25, p 82.

collectable debt at year end would amount to approximately 5.75 per cent of the forecasted net tax collections. The ATO had previously set a target for its collectable debt ratio KPI at 5.6 per cent. The DBL estimated that if it received additional allocation, it could reduce the total amount of collectable debt to between \$17.8 and \$18.8 billion which would likely satisfy that target.⁵⁰

DBL operational plan review and financial and collection systems changes

2.36 By 16 June 2016, however, the DBL was advised that it would receive a similar internal budget allocation as it did in the 2015–16 financial year. As a result, the DBL reviewed its operational plan for 2016–17 ‘to realign outcomes for 2016/17 based on 2015/16 resourcing’ – i.e. reduce total collectable debt to below \$18.8 billion with \$135 million of expenditure. Following its review, the DBL settled on a plan to achieve this aim on the basis of ‘optimised outcomes and resource allocation’ which flowed from a number of measures including the deployment of the following financial and collection systems changes:⁵¹

- the Activity Statement Financial Processing (ASFP) system in November 2016 – this system would allow the ATO to manage both activity statement accounts (or ATO Integrated System (AIS) accounts managed in the RMS) and income tax accounts (or Integrated Core Processing (ICP) accounts managed in the Siebel case system) in one system and would include the conversion of 760,000 activity statement account cases (valued at \$13.11 billion) in the RMS to the Siebel case system;⁵²
- the Director Penalty Regime (DPR) system – it would free up staff to focus on other work as it would reduce the number of full time equivalent (FTE) staff needed to produce Director Penalty Notices (DPNs) and maintain transactions within the ICP system;⁵³
- the Firmer Action Warning Letter (FAWL) model in January 2017 – it would free up staff to focus on other work from 5 December 2016 as it would automate the FAWL-issuing process;⁵⁴
- the first stage of the PFA analytics model in August 2016 – it would identify the best initial debt collection action treatment for taxpayers with activity statement debts⁵⁵ based on their compliance history, behaviour and engagement with the ATO;⁵⁶

⁵⁰ Above n 48.

⁵¹ Ibid.

⁵² ATO, ‘ASFP Debt readiness strategy’ (Internal ATO document, undated).

⁵³ Ibid; above n 48.

⁵⁴ Above n 48.

⁵⁵ Ibid.

⁵⁶ ATO, ‘Debt Executive Agenda 3 May 2017’ (Internal ATO document, 28 April 2017).

- Analytical Modelling changes (Smarter Data ADS analytical models⁵⁷) on January 2017 – they were expected to improve case selection for certain types of debt activities, including PIT garnishee notices (which depended, to some extent, on the FAWL model⁵⁸) as well as *enduring* garnishee notices and DPNs;⁵⁹
- the NBA Transitional model in mid-February 2017 – this model would create NBA transition pathways and include the PFA case creation and business models.⁶⁰

2.37 Importantly, the Analytical Modelling changes were needed for *enduring* garnishee work as:

...current case flow for these discrete work types is ineffective, with a significant number of cases requiring review (and rejection) before finding a case appropriate for these actions. Given our limited resources, we are recommending not undertaking these discrete work types until the analytical models are available.⁶¹

2.38 The deployment of the FAWL model and the Analytical Modelling changes were also expected to create significant efficiencies for the EI unit. In particular, they were anticipated to:

...produce 75% more outcomes than [the] current 2015/16 year with less FTE [staff], the main contributions are from automation of [the] FAWL issue process and... analytical modelling for PIT [garnishee work]...⁶²

2.39 The ASFP system changes would allow the DBL to use the analytical models and business rules for PFA treatment pathways (which include the creation of cases in Siebel) for new debts. As the PFA models would not pick up old debts converted from the AIS to the ICP system, it was necessary to convert/recreate the process of all active activity statement RMS debt cases.⁶³

2.40 The NBA Transitional model contained the code to manage the Siebel Case balance. As a result, cases converted prior to its deployment would not be updated to reflect any new debit periods in the ICP account. This could lead to a mismatch between the Siebel case and ICP systems. To mitigate this issue, only 160,000 (\$5.5 billion) cases which represented higher risk, for example case-owned active cases, were to be converted. The remaining RMS cases would be recreated and reinstated into specific NBA Transitional pathways after 13 February 2017, including sufficient numbers of larger value non-individual debts to deliver planned numbers of work activities for PIT and *enduring* garnishee work.⁶⁴

⁵⁷ ATO, 'DL6 Rapid Response Report' (Internal ATO document, 19 March 2017).

⁵⁸ Above n 48.

⁵⁹ Ibid.

⁶⁰ Above n 52.

⁶¹ Above n 48.

⁶² Ibid.

⁶³ Above n 52.

⁶⁴ Ibid.

2.41 As a result, the DBL planned to cease the following work types over the following periods:⁶⁵

- activity statement PIT garnishee cases in the RMS from 12 December 2016 until 6 February 2017 (8 weeks);
- activity statement *enduring* garnishee cases in the RMS from 29 August 2016 until 6 February 2017 (23 weeks);
- income tax PIT garnishee cases in the ICP system from 12 December 2016 until 9 January 2017 (19 weeks); and
- income tax *enduring* garnishee cases in the ICP system from 29 August 2016 until 9 January 2017 (19 weeks).

2.42 As DBL staff would not be needed to conduct the above activities, they were redeployed to maximise income tax and superannuation debt collection activities during the August 2016 to February 2017 period. General activity statement debt collection was not planned to occur until February 2017 which was when such debt cases were expected to become available. The DBL then planned to preference collection activities on activity statement debts from February 2017 to balance out the earlier income tax focus. One reason for this was that there would be a pool of cases available for staff to action should the ATO experience any post deployment issues that affected the ability to work on activity statement debt cases.⁶⁶

2.43 On this basis, the DBL predicted that it would issue a total of 40,289 garnishee notices in the 2016–17 financial year, comprising 36,796 PIT garnishee and 3,493 *enduring* garnishee notices.⁶⁷ It estimated that it would need to allocate a total of 84,611 garnishee work activities to staff for action, comprising 61,326 PIT garnishee and 23,285 *enduring* garnishee work activities. Whilst the predicted number of issued garnishee notices issued would be slightly less than that issued in the prior year (which was 40,406), the number of work activities allocated would be less than half than that conducted in the prior year (which was 206,246) due to the anticipated efficiencies flowing from the financial and collection systems changes.⁶⁸

2.44 With the operational plan settled, debt work commenced in July 2016 (i.e. from 'week 1' of the financial year) and continued as planned, including the cessation of *enduring* garnishee work activities from 29 August 2016 (week 9).

2.45 By 12 October 2016 (week 15), an increase in the total amount of debt cases in which taxpayers had undisputed collectable debts of more than \$100,000 (Debt Level 6 or DL6 cases) was noticed. Although some PIT garnishee work had been scheduled, there were less PIT garnishee notices issued than expected. This was due to staff having multiple skills and the IWD system prioritising the allocation of other work to

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ ATO, '2016/17 Debt Strategic Demand Plan' (Internal ATO document, 16 June 2016).

⁶⁸ ATO, 'Debt business process review 2018 – Outcomes Report' (Internal ATO document, 20 July 2018) p 9.

them ahead of PIT garnishee work. PIT garnishee work was scheduled for overtime work to address this increase.⁶⁹

Financial and collection systems changes postponed and DBL operational plan revision

2.46 On 9 November 2016 (week 19), the ATO decided to postpone the deployment of the ASFP system⁷⁰ due to:⁷¹

1. Concerns about introducing further change for the community and the ATO's reinvention program at a time where we still have to "bed down" key initiatives, such as [IT changes that were intended to improve] new digital services for tax agents.
2. The risk of introducing this further change without being confident that we fully understand the impacts of ASFP... on key client groups, such as tax agents....
3. High risk of data conversion - scale and scope.
4. Readiness of the release, in particular system testing was not complete.

2.47 On 29 November 2016 (week 22), the national S&I unit revised the DBL's 2016-17 operational plan. In doing so it considered a number of factors such as '1) Where we want to end at 30 June based on legal budget; 2) Some ramp up to catch up shortfalls in outcomes due to ASFP; 3) PFA treatment initial pathways have been incorporated - need to understand implications of NBA'. The national S&I unit noted that there would be a number of challenges with its revised plan as it assumed that 'staff are fully capable of the work - so if we are tracking behind plan one of the factors could be staff not up to speed due to consolidation of new skills etc'. It considered that 'Debt outcomes may not be met due to numerous factors - supply gaps and skill sets. Focus of the business areas is to ensure staff are trained, flexible to change work types based on stock on hand and promote maximum productivity.'⁷²

2.48 The revised plan detailed that it planned to allocate 17,993 *enduring* garnishee work activities to staff from 6 March 2017 and 63,090 PIT garnishee work activities from 5 December 2016.⁷³

First major ATO IT systems outage

2.49 On 12 December 2016 (week 24), another unexpected event occurred when the ATO experienced the first outage of its Storage Area Network (SAN) system (major

⁶⁹ ATO, 'S&I weekly debt case update issued on 23 August 2016' (Internal ATO document, 23 August 2016).

⁷⁰ ATO, 'Copy of email about ASFP and DPR release postponed' (Internal ATO document, 9 November 2017).

⁷¹ ATO, 'Corporate Project Closure Report' (Internal ATO document, 16 July 2018).

⁷² ATO, 'Copy of email with updated debt plan' (Internal ATO document, 29 November 2016).

⁷³ ATO, 'Debt Plan Demand after ASFP postponement' (Internal ATO document, 29 November 2016).

ATO IT systems outage).⁷⁴ Amongst other things, this outage impacted a range of planned debt activities. For example, it resulted in:⁷⁵

- the inability to issue debt letters notifying taxpayers and their representatives of unpaid debt amounts;
- the inability of taxpayers and their representatives to access telephone and online self-help channels to enter into payment arrangements for debts less than \$100,000;
- an increased number of telephone calls to ATO call centres (an estimated additional 900 calls per day⁷⁶) that required additional DBL staff and external labour hire contractors to address the calls; and
- the postponement of issuing income tax debt letters as the majority of these letters would refer taxpayers to self-help options that were unavailable.

2.50 By 10 January 2017, some of the ATO's payment processing, accounts and debt systems were back online. The DBL decided to slowly ramp up its debt recovery work over January 2017.⁷⁷ However, some staff who could conduct garnishee and other recovery work were re-allocated to correspondence and telephony work to help address the backlog of debt work that arose from the major ATO IT systems outage. This latter work was a priority⁷⁸ and would ensure that information was up-to-date before taking more intensive debt collection actions on cases.

2.51 On 16 January 2017, the DBL Executive noted a 'potential overspend for SD'. In response, a number of actions were taken. These actions included, reducing weekend telephony work, ceasing overtime in all but exceptional cases and aiming to increase internal staff productivity. It was also decided to reduce reliance on the external workforce by, for example, turning off the 'telephony surge capacity' and accepting the impact on the taxpayer experience.⁷⁹

2.52 The DBL Executive had also observed a deviation in both expected activity statement and income tax debt levels. It began work to understand the causes and develop remedial strategies. In particular, it requested an assessment of DL6 cases that had arisen from activity statements.⁸⁰

⁷⁴ Commissioner of Taxation, 'ATO systems update' (8 February 2017) ATO < www.ato.gov.au >.

⁷⁵ ATO, 'Email of Debt Plan - Impacts of Systems outage and proposed ramp up plan' (Internal ATO document, 11 January 2017).

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ ATO, 'Debt Plan 2016-17' (Internal ATO document, undated).

⁷⁹ ATO, 'Leadership meeting minutes', (Internal ATO document, 18 January 2017).

⁸⁰ Ibid.

Second major ATO IT systems outage

2.53 The DBL then experienced a further unexpected event when the ATO suffered another major ATO IT systems outage on 2 February 2017 (week 31).⁸¹ The ATO's IT systems would not be available for staff use until 8 February 2017.⁸²

2.54 On 8 February 2017, the DBL Executive met to discuss the growth in DL6 cases⁸³ as analysis had identified a number of contributing factors to that growth, including:

- \$417.7 million that was expected to have been recovered from 242,875 collection actions that were unable to be carried out at this time due to the major ATO IT systems outages;
- \$300 million (\$270 million in activity statement debt and \$30 million in income tax debt) which was scheduled to have been removed from the total collectable debt amount as they were uneconomical to pursue, however, the major ATO IT systems outages had delayed this work;
- \$120 million which was estimated to have been recovered by this time as a result of the expected efficiencies flowing from the planned financial and collection changes such as the ASFP system and Analytical Modelling changes,⁸⁴ however, those changes were not deployed;
- a \$1.607 billion increase in audit raised-liabilities compared to the same time last year — however, anticipated disputes with income tax assessments were expected to reduce any resulting collectable debt amount by \$491 million,⁸⁵ as disputed debt amounts are not included in total collectable debt figures;
- the reduced number of particular debt work activities due to preparation needed for the financial and collection systems changes—for example, not allocating staff to action *enduring* garnishee work (apart from a specific project) and DPNs for the first seven months of the 2016–17 financial year; and
- a reduced number of resources available to conduct debt collection work due to the peak income tax lodgment period ('tax time'), recruitment caps and a restriction on paying for overtime work.⁸⁶

2.55 The DBL Executive also identified the impact that the major ATO IT systems outages could have in compounding the effect of the reduced level of debt collection work that had been conducted in the first seven months of the 2016–17 financial year. It considered that the recommencement of *enduring* garnishee work, amongst others, was necessary and would need to be supported by additional case selection processes to

⁸¹ ATO, 'ATO systems report' (21 December 2017) <www.ato.gov.au>.

⁸² ATO, 'Copy of email to communicate resuming debt collection to staff' (Internal ATO document, 8 February 2017).

⁸³ ATO, 'Understanding our debt book – A look at Debt Level 6' (Internal ATO document, 3 February 2017).

⁸⁴ ATO, 'Collectable debt holdings office minutes' (Internal ATO document, 17 February 2017).

⁸⁵ The audit raised liabilities from week 19 (\$261m), week 22 (\$171m), and week 29 (\$294m) are expected to be disputed by the taxpayers and total \$491m; above n 83.

⁸⁶ Above n 83.

drive efficiencies into the process, such as using information from the ATO's data holdings.⁸⁷

2.56 The DBL Executive noted that, overall, 'it will be a difficult year & we need to concentrate on the basics'. A range of actions were decided upon at the meeting, including that staff:

- undertake further work to identify what was contributing to the increase in DL6 cases and compare it to the prior year—for example, to understand why 28 per cent of Debt Level 1 to 5 cases had escalated to DL6 and compare it to the percentage for the prior year;
- quantify legal recovery action that did not occur due to the postponement of the ASFP system's deployment;
- understand the EI unit's resource capacity to undertake DL6 collection work; and
- work on resource prioritisation including the consideration of '... key parameters i.e. stock on hand & the result we want, planning inputs – same budget, budget reduced by 5% etc'.⁸⁸

2.57 On 17 February 2017, the DBL Executive advised the SD Group Executive that there was \$18.22 billion in total collectable tax debt and that this figure was 13.33 per cent more than the same time last year (approximately \$16.08 billion). Income tax and activity statement collectable debt was \$917 million (14.38 per cent) and \$1.056 billion (11.66 per cent) more than this time last year, respectively. These increases were mainly attributable to an increase of DL6 debt cases, including a 24 per cent increase in collectable activity statement debt cases. The DBL Executive also noted the impact of the major ATO IT systems outages on collection activities for a significant portion of January 2017 as well as the previously planned financial and collection systems changes that had required the 'ramp down' of certain debt activities but which had not been deployed as scheduled. Additional contributors, as referred to in the 8 February 2017 analysis above, were also noted.⁸⁹

2.58 The DBL Executive also advised that a series of strategies were aimed to address the above increases. These strategies included development of an improved approach to *enduring* garnishee work that would generate cases for staff action by 6 March 2017. This strategy, however, would depend on staff availability and their skill sets.⁹⁰

⁸⁷ Ibid.

⁸⁸ ATO, 'Copy of email to ATO debt executives following debt executive meeting on 8 February 2017' (Internal ATO document, 13 February 2017).

⁸⁹ Above n 84.

⁹⁰ Ibid.

February 2017 — strategy recalibration

2.59 From 21 February 2017, the national S&I unit met with DBL Senior Executive Service (SES) staff to share its analysis and discuss options to address the increase in the total collectable debt of DL6 cases. Weekly discussions were held with these staff until the remainder of the financial year and captured in a 'DL6 Rapid Response Report.' The national S&I unit also continued its analysis and development of strategies on particular risks. This included work to:⁹¹

- ensure that the DBL's systems had appropriate delivery rules for cases to reduce the number of DL6 cases sitting for long periods of time un-actioned;
- implement rules to move cases from the PIT garnishee candidate pool into the *enduring* garnishee candidate pool where there was no available financial institution (bank) account details and to progress action; and
- identify and alter delivery rules where DL6 cases were currently not being delivered for action.

2.60 The national S&I unit also worked closely with the EWM unit regarding volume of work activities on hand as well as the forecasts on a weekly basis.⁹² The Rapid Response Report itself compared the number of FTE staff needed, for example, to conduct the planned number of *enduring* garnishee work activities, against the number of FTE staff that were actually scheduled for the work. Action to address scheduling shortfalls was also identified in these reports. The candidate pool was also checked to ensure that all *enduring* garnishee cases had been sent a FAWL recently.⁹³

February–March 2017 — increase available resources

2.61 The DBL also began work to increase the pool of trained staff to conduct stronger recovery work, including PIT and *enduring* garnishee work. The national S&I and EWM units worked with the EI units to identify staff availability and their relevant skill sets. The EWM unit compiled a list of staff in the local EI unit sites including those in the Dandenong, Albury, Adelaide, Melbourne, and Upper Mount Gravatt (UMG) sites who could be scheduled for garnishee work.⁹⁴

2.62 The DBL began training local EI unit teams to conduct PIT and *enduring* garnishee work, for example, teams in the Albury and Penrith sites over 6 to 10 March 2017.⁹⁵ Refresher training on *enduring* garnishee work was also conducted for local EI unit teams in the Adelaide site on 1 March 2017.⁹⁶ The Adelaide teams had not conducted much *enduring* garnishee work since a block of work that was allocated to them soon after the teams had received their initial training for such work in 2012. At that time, in 2012, the strongest recovery action that the Adelaide teams could take

⁹¹ ATO, 'DL6 Rapid Response Report' (Internal ATO document, February 2017).

⁹² Above n 57.

⁹³ Above n 91.

⁹⁴ ATO, 'Copy of email for scheduled debt staff training' (Internal ATO document, February to March 2017).

⁹⁵ ATO, 'Copy of email for scheduling EI garnishee work' (Internal ATO document, 1 March 2017).

⁹⁶ Above n 94.

were to issue PIT garnishee notices.⁹⁷ Given the need for additional training, it was unknown at this stage how long it would take staff to undertake *enduring* garnishee work after receiving the training.⁹⁸

2.63 By 5 March 2017, there were 101 staff with the *enduring* garnishee skillset.⁹⁹ Planned *enduring* garnishee work activities for RMS cases were delivered for action via the WFM system from 6 March 2017.¹⁰⁰ A number of FAWLs were issued for cases within the DL6 *enduring* garnishee candidate pool (a ‘bulk FAWL process’) on 7 March 2017 to provide debtors with a warning that stronger recovery action may be taken to recover the debts if arrangements were not made for payment.¹⁰¹

2.64 By 8 March 2017 (week 36), the DBL Executive was advised that there was \$2 billion of collectable debt more compared to the same time in the previous year. Collectable activity statement debt was recorded at \$12.3 billion, which was \$1.4 billion more than at this time in the previous year. Collectable income tax debt was recorded at \$6.8 billion, which was \$0.6 billion more than in the prior year. The total amount of collectable DL6 case debt was recorded at \$5.3 billion, which was \$0.97 billion more than at this time in the prior year.¹⁰²

March–April 2017 — improve supply of resources for garnishee work

2.65 Over the March–April 2017 period, however, less garnishee work activities were conducted than planned and the backlog of DL6 work started to increase.¹⁰³ This was due to the fact that only ‘permanent’ DBL staff were authorised to undertake stronger recovery actions such as issuing *enduring* garnishee notices¹⁰⁴ and a number of these staff were scheduled for priority telephony and correspondence work. This continued until 90 SD staff became available from 10 April 2017¹⁰⁵ to do such work and free up staff who were skilled to conduct stronger recovery actions.

2.66 There were also problems with the WFM system and prioritisation of PIT garnishee work for DL6 cases in the IWD system¹⁰⁶ – problems which began to be resolved from 21 March 2017.¹⁰⁷ Approximately 200,000 accounts (approximately \$2 billion in collectable debt) were also quarantined from collection action for three months from late March until 1 June 2017 (weeks 39 to 48) due to the impact of Cyclone Debbie in South East Queensland and Northern New South Wales.¹⁰⁸ From

⁹⁷ ATO local Adelaide EI unit site team, IGTTO review team interview, 28 June 2018.

⁹⁸ Above n 94.

⁹⁹ ATO, ‘DL6 Rapid Response Report’ (Internal ATO document, 9 March 2017).

¹⁰⁰ Above n 91.

¹⁰¹ ATO, ‘DL6 Rapid Response Report’, (Internal ATO document, 26 March 2017).

¹⁰² ATO, ‘Email to Debt executives with weekly debt update’, (Internal ATO document, 5 March 2017).

¹⁰³ ATO, ‘DL6 Rapid Response Report’, (Internal ATO document, 12 March 2017).

¹⁰⁴ Above n 57.

¹⁰⁵ ATO, ‘DL6 Rapid Response Report’ (Internal ATO document, 2 April 2017); see also ATO, ‘Rapid Response EOFY Clean-up Report’ (Internal ATO document, 7 May 2017).

¹⁰⁶ Above n 101.

¹⁰⁷ See, for example, ATO, ‘DL6 Rapid Response Report’ (Internal ATO document, 19 March 2017); above n 99; above n 103.

¹⁰⁸ ATO, ‘DL6 Rapid Response Report’ (Internal ATO document, 9 April 2017).

8 April 2017, overtime was also offered for a number of debt work types including PIT and *enduring* garnishee work¹⁰⁹ on DL6 collectable debt cases. However, not enough skilled staff participated on the first two dates, 8 and 22 April 2017.¹¹⁰

2.67 By 16 April 2017 (week 42), the level of total collectable debt was decreasing. Of this total, collectable activity statement debt was approximately \$0.9 billion more than at this time in the prior year. The DBL was addressing the inflow of new debt work, however, it was continuing to experience a shortfall in available resources that it could schedule to address the backlog of work that had flowed from the major ATO IT systems outages amongst other things. The Easter holidays and power outages at a couple of ATO sites had also impacted the availability of staff.¹¹¹

5 May 2017 — supply of planned resources

2.68 On 5 May 2017, the national S&I unit recalculated the number of staff that were required each week, until the end of the financial year, for each debt work type in order to 'achieve the numbers' of activities set out in the DBL's 29 November 2016 revised 2016–17 operational plan. The focus was on high value debts for particular work types, including PIT garnishee and *enduring* garnishee work.¹¹²

2.69 Following a meeting with the EWM unit on 5 May 2017, the number of staff allocated to FAWL, PIT and *enduring* garnishee work would be what was needed, according to the DBL's priority focus for the end of financial year. This resulted in 12 staff in the local Adelaide EI unit site being re-allocated to garnishee work, 35 in the local Townsville site being scheduled for refresher training and 24 staff in local UMG site scheduled for PIT and *enduring* garnishee training.¹¹³ By 11 May 2017, approximately 220 staff were skilled in conducting *enduring* garnishee work¹¹⁴ in 33 teams across nine sites.¹¹⁵

2.70 Such work, amongst other stronger recovery actions, was scheduled in priority of other debt work activities.¹¹⁶ In particular, the EWM unit had planned to address any undersupply of staff allocated to *enduring* garnishee work over this period by utilising staff that had been allocated to PIT garnishee work as those staff had skills to do both work types.¹¹⁷

2.71 A total of 44 SDM unit staff in the Brisbane, Parramatta and Melbourne local sites¹¹⁸ were also made available to the assist the EI unit with its *enduring* garnishee

¹⁰⁹ ATO, 'DL6 Rapid Response Report' (Internal ATO document, 2 April 2017).

¹¹⁰ Above n 108; ATO, 'DL6 Rapid Response Report' (Internal ATO documents, 23 and 30 April 2017); ATO, 'Rapid Response EOFY Clean-up Report' (Internal ATO document, 7 May 2017).

¹¹¹ ATO, 'DL6 Rapid Response Report' (Internal ATO document, 16 April 2017).

¹¹² ATO, 'Copy of email about how SDM can assist Plan to address stronger action backlog between now and end of financial year' (Internal ATO document, 5 May 2017).

¹¹³ ATO, 'Rapid Response EOFY Clean-up Report' (Internal ATO documents, 7 and 21 May 2017).

¹¹⁴ ATO, 'ATO debt staff skill details' (Internal ATO document, 14 March 2017).

¹¹⁵ ATO, 'Copy of email to EI national EL1 leadership group with information for staff with the enduring garnishee skill' (Internal ATO document, 11 May 2017).

¹¹⁶ ATO, 'Rapid Response EOFY Clean-up Report' (Internal ATO document, 7 May 2017).

¹¹⁷ ATO, 'Rapid Response EOFY Clean-up Report' (Internal ATO document, 14 May 2017).

¹¹⁸ Above n 116.

work from 15 May 2017 until the end of the 2016–17 financial year.¹¹⁹ The SDM unit estimated that each of these staff could, on average, ‘complete 2 Garnishees per day’ in addition to their usual SDM work.¹²⁰ Approximately 2,800 *enduring* garnishee cases would be ‘actioned’ by the SDM unit over the next seven weeks of the financial year.¹²¹

2.72 The EWM and national S&I units also updated the planned activities until the end of the financial year to direct all internal resources towards DL6 workloads until 30 June (the priority focus plan for the end of financial years).¹²² For garnishee work, 2,000 PIT and 2,900 *enduring* garnishee work activities were planned to be allocated to the EI unit each week over the remaining 7 weeks of the financial year, with the exception of the week of 12 June 2017 in which 1,600 PIT and 2,320 *enduring* garnishee work activities were planned to be allocated.¹²³ From these work activities, 800 PIT garnishee and 696 *enduring* garnishee notices were predicted to issue.¹²⁴

Position as at 30 June 2017

2.73 As at 30 June 2017, the total amount of collectable debt was \$20.9 billion. The ATO reported its performance against its collectable debt ratio KPI as 5.6 per cent for the 2016–17 financial year.¹²⁵

2.74 The DBL had issued a total of 23,712 garnishee notices in the 2016–17 financial year. It had originally predicted that 40,289 of such notices would need to be issued, amongst other collection action, to maintain the level of collectable debt to below 5.5 per cent of net tax collections.

2.75 Table 2.1 below sets out the total numbers of garnishee work activities allocated and garnishee notices issued during the 2016–17 financial year. It also summarises the planned numbers of work activities and notices the DBL had predicted, according to its original operational plan and subsequent updates to that plan.

¹¹⁹ ATO, ‘Rapid Response EOFY Clean-up Report’ (Internal ATO document, 11 June 2017).

¹²⁰ Above n 116; ATO, ‘Rapid Response EOFY Clean-up Report’ (Internal ATO document, 21 May 2017).

¹²¹ As predicted at 11 June 2017: above n 119.

¹²² Ibid.

¹²³ ATO, ‘Rapid Response EOFY Clean-up Report’ (Internal ATO document, 21 May 2017).

¹²⁴ Above n 73.

¹²⁵ Above n 25, p 80.

Table 2.1: Numbers of ATO garnishee work activities and notices during the 2016–17 financial year, as planned, predicted and actual

Date	Debt operational plan	Enduring garnishees		PIT garnishees		Total garnishees	
		Planned work activities	Predicted notices	Planned work activities	Predicted notices	Planned work activities	Predicted notices
16/06/16	Debt Plan	23,285	3,493	61,326	36,796	84,611	40,289
29/11/16	Revised Debt Plan	17,993 (Note 1)	2,699	91,431 (Note 2)	35,476	109,424	38,175
15/05/17 (Note 3)	Priority Focus Plan for the EOFY	30,304	4,546	86,499	33,504	116,803	38,050
30/06/17	Actual (Note 4)		5,445		18,267		23,712

Source: IGTO analysis of ATO information.¹²⁶

Note 1: Number of allocated *enduring* garnishee work activities are based on *enduring* garnishee work activities being allocated from 6 March 2017.

Note 2: Number of allocated PIT garnishee work activities from 29 November 2016 was 63,090, and is based on PIT garnishees being allocated from 5 December 2016 onwards.

Note 3: The last 7 weeks of the planned numbers of both allocated and issued *enduring* and PIT garnishee work activities and notices were replaced in the revised debt operational plan dated 29 November 2016 were replaced with figures from the ATO's Rapid Response reports as of 15 May 2017.

Note 4: The ATO could not identify the actual number of *enduring* garnishee work activities allocated to staff due to systems limitations during the 2016–17 financial year (see paragraph 2.78).¹²⁷

2.76 The above table shows that on 16 June 2016 the DBL had planned to allocate 23,285 *enduring* and 61,326 PIT garnishee work activities (84,611 in total) to staff for action during the 2016–17 financial year. From these work activities, the DBL predicted 3,493 *enduring* and 36,796 PIT garnishee notices would issue (40,289 in total). On 29 November 2016, after the deployment of the AFSP system was postponed, the DBL reduced the planned number of allocated *enduring* garnishee work activities to 17,993 and increased the planned number of PIT garnishee work activities to 91,431 (109,424 in total). From these work activities, the DBL predicted 2,699 *enduring* and 35,476 PIT garnishee notices would issue (38,175 in total).

2.77 A further revision was made by the DBL on 15 May 2017. As a result, the planned number of PIT garnishee work activities was decreased to 86,499 and the planned number of allocated *enduring* garnishee work activities was increased to 30,304 (116,803 in total). It was predicted that 4,546 *enduring* and 33,504 PIT garnishee notices would issue (38,050 in total).

2.78 By the end of the 2016–17 financial year, the DBL had, in fact, issued 5,445 *enduring* and 18,267 PIT garnishee notices (23,712 in total). When compared to the DBL's operational plan on 16 June 2016, the ATO had issued approximately half of the PIT garnishee notices it had predicted would issue (i.e. 18,267 issued compared to the 36,796 predicted) and approximately one and a half times more *enduring* garnishee notices it had predicted would issue (i.e. 5,445 issued compared to 3,493 predicted). The ATO has provided management representation that, in the 2016–17 financial year,

¹²⁶ ATO, 'Debt Plan Outcome after ASFP postponement' (Internal ATO document, 29 November 2016; above n 48; above n 68, p 9.

¹²⁷ Above n 123.

the DBL did not report on actual PIT and *enduring* garnishee work activities that were allocated for staff action and to re-engineer the methodology to replicate the 2016–17 financial year would be unreliable and costly. This level of reporting, however, was introduced in the 2018–19 year.¹²⁸

2.79 In relation to small businesses, who collectively owe 66 per cent of the total collectable debt, the ATO has publically reported that it had issued approximately 14,000 garnishee notices to small businesses.¹²⁹ This is approximately 60 per cent of all garnishee notices issued in the 2016–17 financial year.

2.80 Table 2.2 below shows the total amount of debt that was reduced within seven days after garnishee notices were issued in the 2016–17 financial year, as well as the average reduction following the issuance of PIT and *enduring* garnishee notices.

Table 2.2: Total number of garnishee notices issued for the 2016–17 financial year and seven day balance reduction

Garnishee notice	No. issued	7 day Bal. reduction (\$m)	Average 7 day Bal. reduction per notice (\$)
PIT garnishees	18,268	42.6	2,333
Enduring garnishees	5,445	30.6	5,617
TOTAL	23,713	73.2	

Source: ATO data¹³⁰ and IGTO analysis.

2.81 The above table shows that during the 2016–17 financial year, taxpayers' debt reduced by \$2,333, on average, within seven days of receiving a PIT garnishee notice and \$5,617 within seven days of receiving an *enduring* garnishee notice.

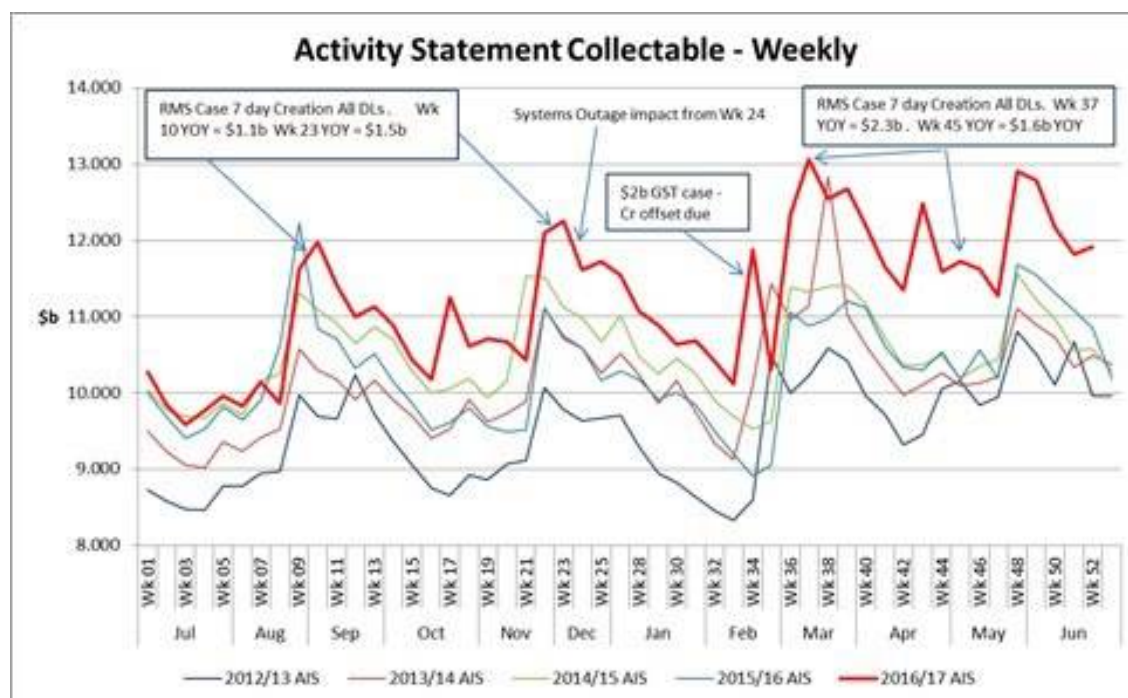
2.82 Figures 2.2 and 2.3 below shows the ATO's weekly collectable debt holdings over the 1 July 2012 to 30 June 2017 period for activity statement and income tax debts, respectively.

¹²⁸ ATO, 'Email communication by ATO in relation to garnishee cases delivered to staff in 2016–17 financial year' (Internal ATO document, 20 December 2018); above n 36.

¹²⁹ Four Corners, *Mongrel bunch of bastards* (9 April 2018) < www.abc.net.au >.

¹³⁰ ATO, 'Email communication by the ATO in relation to ATO debt data' (Internal ATO document, 12 July 2018).

Figure 2.2: Total collectable activity statement debt over 1 July 2012 to 30 June 2017, by week



Source: ATO.¹³¹

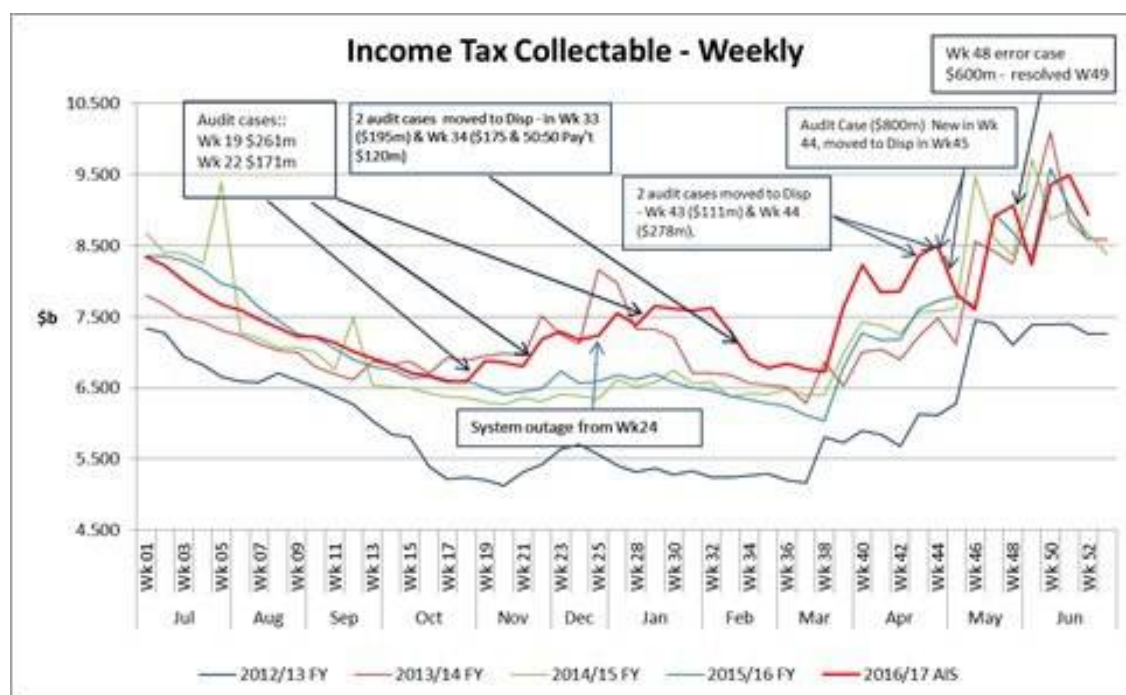
2.83 Figure 2.2 shows that for the total collectable activity statement debt in each financial year, there are four main peaks reached at the end of August, November, February and May, with troughs occurring approximately 8–9, 11–12, 5–6 and 7 weeks after each peak, respectively. These peaks appear to correspond with the quarterly lodgment cycle for activity statements and the date due for associated payments.¹³² The figure also shows that the total amount of collectable activity statement debt at the beginning of each financial year was more than that at the beginning of the preceding year. The 2015–16 financial year is the exception to this as it began the year with approximately the same total collectable activity statement debt as the previous year. The amount of this increase between years, however, diminished from an approximate \$0.75 billion gap between the start of 2012–13 and 2013–14 to an approximate \$0.25 billion gap between the start of 2015–16 and 2016–17 financial years.

2.84 There are two key differences for the pattern of collectable activity statement debt in the 2016–17 financial year when compared to the pattern in the other years. These are that the total collectable activity statement debt had increased approximately \$0.5 billion more in week 17 (mid-late October 2016) and \$1 billion more over week 35 to week 37 (late February to early March 2017) than in the other financial years. These increases do not appear to have been reversed over the remainder of that year as the year-end was approximately \$1.5 billion more than the year-end amount for the preceding years.

¹³¹ ATO, 'Weekly Debt Update Wk 52' (Internal ATO document, 28 June 2017).

¹³² ATO, *Due dates for lodging and paying your BAS*, <<https://www.ato.gov.au/>>

Figure 2.3: Total collectable income tax debt over 1 July 2012 to 30 June 2017, by week



Source: ATO.¹³³

2.85 Figure 2.3 shows that for each financial year over the 1 July 2012 to 30 June 2017 period, the changes to the amounts of collectable income tax debt follow a similar pattern to each other. The total collectable income tax generally decreased for all financial years from the start of the financial year until it began increasing again after week 16 (mid-October) for the 2013–14 and 2016–17 financial years and week 20 (mid-November) for the remaining financial years. The total amounts begin to decrease from weeks 24 and 25 (late December) for 2012–13 and 2013–14, weeks 30–31 (later January) in 2014–15 and 2015–16, and week 33 (early-mid February) in 2016–17. Generally, for all financial years, the total collectable income tax debt steeply increases from weeks 38–39 (mid-late March) before decreasing again from weeks 49–50 (early June), with the exception of the 2012–13 financial year which began gradually decreasing after week 46 (mid May).

2.86 The main differences in the pattern of collectable income tax debt amounts in the 2016–17 financial year compared to the other financial years is that from week 18 (late October), generally, the total amount increased at a greater rate than in other years and that this increased amount (of up to approximately \$1 billion) was sustained until week 44 (later May). From week 44, the total collectable income tax debt steeply decreased over the next 1–2 weeks to return to similar amounts reached at that time for the previous three financial years. The amount in the 2016–17 financial year then continues to increase until the end of the year, following a similar pattern as in the other years.

¹³³ Above n 131.

2.87 Table 2.3 provides the total number of garnishee notices issued over the 1 July 2014 to 30 June 2018 period as well as the percentage of *enduring* garnishee notices.

Table 2.3: Total number and percentage of garnishee notices issued and percentage *enduring* garnishee notices, from 1 July 2014 to 30 June 2018, by financial year

Financial year	Total <i>enduring</i> garnishee notices issued	Total PIT garnishee notices issued	Total number of garnishee notices issued	Percentage of <i>enduring</i> garnishee notices
2014–15	7,910	47,831	55,741	14.2%
2015–16	7,015	33,391	40,406	17.4%
2016–17	5,445	18,267	23,712	23.0%
2017–18	8,778	42,294	51,072	17.2%
TOTAL	29,148	141,783	170,931	17.1%

Source: ATO data.¹³⁴

2.88 The above table shows that the total number of garnishee notices issued by the ATO decreased from 55,741 in the 2014–15 financial year to 40,406 in 2015–16 and to 23,712 in 2016–17. This total number then increased to 51,072 in the 2017–18 financial year. The lowest number of garnishee notices issued was in the 2016–17 financial year, amounting to between 43 per cent and 58 per cent of the total issued in the other three financial years.

2.89 The above table also shows that the percentage of *enduring* garnishee notices that had issued had increased from 14.2 per cent in the 2014–15 financial year to 17.4 per cent in 2015–16 and to 23.0 per cent in 2016–17. The percentage then decreased to 17.2 per cent in the 2017–18 financial year. The highest percentage of such notices issued was in the 2016–17 financial year, between a 5.6 and 8.8 percentage point difference to the other three financial years.

2.90 In the IGTO's *Debt Collection* report, it was observed that 86 per cent of garnishee notices issued over the three financial years, 2011–12 to 2013–14, were issued to small business.

IGTO OBSERVATIONS

2.91 It is important to understand how tax revenue and collections are used in determining the Federal Budget and the links with the ATO's KPIs and the DBL's annual operational plan before discussing the particular events of 2016–17 and the year more broadly.

Tax revenue and ATO accounting

2.92 'Tax revenue' is accounted for as administered income. It is effectively accounted for on an 'accruals' basis as it is recognised only when the ATO has a right to receive the revenue (for example, the taxpayer has a liability to pay an amount of

¹³⁴ Above n 68.

tax), not when the revenue has been collected (for example, when the taxpayer has paid that tax).

2.93 Accordingly, collecting more amounts of repayments towards a pre-existing liability will not ‘raise’ any further revenue for Government. Such revenues are raised through tax assessments—for example, Notices of Assessment—which establish the liabilities to pay.

2.94 Unpaid tax debts are recognised as administered assets. Impairments to these amounts are recognised where there are uncertainties regarding the liability for assessed taxes (such as liabilities that are the subject of dispute, for example through the objection process) and uncertainties regarding collection (such as undisputed liabilities that are irrecoverable at law, for example due to insolvency).

2.95 In forecasting tax receipts, the Federal Budget process uses administered income, administered assets and trends in tax collection as factors in its calculations, amongst others. The amount of tax revenue generated each year largely depends on economic conditions and the ATO forecasts its tax revenue collections each year. The annual proportion of net tax collections that is collectable debt, as well as the percentage of tax liabilities that are paid by the due date, can also provide tax collection trend data.

2.96 The nine-year average¹³⁵ of total collectable debt as a proportion of net tax collections is approximately 5.6 per cent (see Table A3.2 in Appendix 3). A portion of this level of collectable debt reflects tax debts that are paid late without any ATO interaction—for example, 7 per cent of collectable debt in the 2016–17 financial year was paid within 90 days after the due date for payment. However, a significant amount of collectable debt, approximately \$15 billion in the 2016–17 financial year, requires ATO collection action as it may remain outstanding for over a year.¹³⁶

2.97 For a small business, non-payment of their tax debt over such a period of time provides an unfair competitive advantage over small businesses who pay their tax liabilities on time. Such a debt represents an unsecured source of credit which can be used to fund growth. It represents a form of credit that is likely to be less expensive and provided on more favourable terms than credit which would be obtained from a financial institution. This issue has been discussed in more detail in the IGTO’s 2015 *Debt Collection*¹³⁷ and 2005 *Small Business Debt Collection Practices* reports.¹³⁸

2.98 The ATO, however, cannot practically recover all undisputed collectable tax debt due to the costs that would be incurred in pursuing the more than 1.9 million overdue accounts. Instead, it aims to maintain the total undisputed collectable tax debt to an acceptable percentage of net tax collections. In the 2016–17 financial year, the ATO’s collectable debt ratio KPI target was a rolling monthly average of below 5.5 per

¹³⁵ Calculated as at the end of the 2017–18 financial year, for the preceding nine-year period which comprised the post global financial crisis period.

¹³⁶ See Figure A2.4 in Appendix 2.

¹³⁷ Above n 20.

¹³⁸ IGTO, *Small Business Debt Collection Practices* (2005).

cent. At year end, the ATO had achieved a rolling monthly average of 5.6 per cent. Although, the ATO did not reach its target, the result is consistent with the average ratio over the past nine years (see Table A3.2 in Appendix 3).¹³⁹

Annual debt workforce planning and collectable debt ratio KPI

2.99 Every year, the ATO internally allocates its annual federal budget appropriation to various functions in a similar way to most other government departments. Each area within the ATO estimates the expenditures needed to execute the strategies and reach the KPI targets set out in the ATO's corporate plan. The ATO's performance against these targets is publicly reported each year. The Parliament uses this information in assessing the ATO's performance with respect to the appropriation of monies that Parliament had provided to the ATO.

2.100 Different business lines and corporate units have competing demands on the total appropriation allocated to the ATO by Parliament. Each year such demands are resolved as part of the ATO's annual process in which each area settles its respective operational plan for the coming year based on the allocation that has been provided. For example, the operational plans regarding payment and recovery of tax liabilities are separate from the operational plans regarding compliance assurance of taxpayers' assessments and related audit activity. Each area then tracks its performance against that operational plan on an ongoing basis and adjustments to planned activities are made as the year progresses.

2.101 Such processes are intended to promote good public administration and assist agencies to comply with their obligations under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) to deal with public monies and property in an appropriate and accountable manner. The PGPA Act also mandates that a risk-based approach be taken in the allocation of resources as circumstances require and in a manner that is responsive to the risks which eventuate. This is particularly relevant in this context given the range of relevant unexpected or unanticipated events that occurred in the 2016–17 financial year for the ATO.

2.102 The ATO's annual internal allocation of the appropriation to the DBL is influenced by the predicted expenditure and revenue outcomes of the strategies that the DBL plans to carry out in that financial year. The ATO's performance in executing these strategies is measured against KPI targets.¹⁴⁰ Predicted expenditures and outcomes, themselves, are generally based on the expenditures and outcomes in the prior year and the use of modelling, as adjusted for expected efficiencies and significant events. These planned strategies not only focus on debt recovery actions, but also include the broader range of work that the DBL conducts—for example, investment in technology, debt prevention actions and taxpayer support.¹⁴¹

¹³⁹ Above n 135.

¹⁴⁰ Above n 32.

¹⁴¹ Above n 34, p 9.

2.103 The particular types of debt collection work that the DBL carries out are interrelated as they aim to respond to taxpayers' (non) payment behaviours. Due to the large number of overdue tax debt accounts, the DBL takes a risk-based approach in how it manages these accounts. Higher risk and larger amounts, for example accounts with more than \$10 million in debt, are case managed by staff in the SDM unit. Lower risk accounts are generally managed on an activity-by-activity basis through automated ATO actions, such as reminder letters, and staff in the EI unit. The type of collection actions taken in any particular case depends on the taxpayer's response to their debt and the DBL's communications. Therefore, the number, type and timing of particular EI unit debt work is fluid. This approach to high-volume activity-based work requires a multi-skilled workforce to undertake a variety of collection actions, sophisticated analytics to select appropriate cases for action and a capability to reschedule the workforce to different activities on a daily basis. Accordingly, it is a necessity for the DBL's annual operational plan to be regularly updated and its working activities re-focused on a periodic basis, depending on taxpayer responses and how the DBL is tracking towards the KPI targets.

2.104 The effectiveness of such an activity-based approach relies on identifying those accounts which require greater attention as well as facilitating an efficient process so that the most appropriate collection actions may be taken in a large number of accounts. As a result, a lower risk overdue account can involve a number of different types of collection actions which are performed by different DBL staff (see Table A4.1 in Appendix 4).

2.105 As the EI unit relies on analytical modelling to select cases for the debt work that is allocated to staff, the effectiveness of such work relies on the accuracy of this modelling to identify the particular collection actions that are most likely to influence the taxpayer to pay the debts in the circumstances. Such analytical modelling is not accurate enough to identify all cases in which a garnishee notice should be issued automatically—a DBL staff member must first confirm whether it is appropriate to do so in the circumstances.

Events of the 2016–17 financial year

2.106 The DBL planned its work for the 2016–17 financial year in line with its usual process. It had forecasted work and outcomes for the coming year on the basis of the expenditure that was incurred in the previous year to execute its strategies and generate outcomes. For the 2016–17 financial year, the DBL aimed to achieve a better collectable debt outcome than was reached in the prior year—i.e. total collectable amounting to less than \$18.8 billion by year end, based on the expected net tax collections for the coming year (\$363.5 billion).¹⁴² Based on the prior year's experience, it forecasted the type and amount of work needed to approximate this outcome. Other outcomes, such as the proportion of liabilities paid on time and operating its budget to balance were also key aims.

¹⁴² Above n 12, p 84.

2.107 The 2016–17 financial year, however, presented the DBL with a number of substantial challenges (summarised below) that required the re-allocation of a substantial number of staff to different areas of priority work.

2.108 First, the DBL had not conducted as many garnishee work activities during 18 weeks of the first half of the financial year due to the anticipated deployment of financial and collection changes. These changes were anticipated to provide staff in the second half of the financial year a more efficient and effective process for *enduring* garnishee work amongst other work types. This change from the prior year had raised a risk regarding the DBL's performance if such efficiencies did not eventuate. However, as part of its risk mitigation measures, the DBL re-allocated income tax debt collection work to staff who would be usually scheduled to carry out *enduring* garnishee work on activity statement debts over this period.

2.109 Second, in October 2016, an increase in the collectable debt owed by DL6 cases was noticed. Although PIT garnishee work to collect activity statement debt had been scheduled, there was lower output than expected due to the system's prioritisation of allocating work to EI unit staff with multiple skill sets. As a result, staff were scheduled to conduct PIT garnishee work in overtime to address this issue.

2.110 Third, the ATO Executive decided in November 2016 to postpone the deployment of its financial and collection systems changes, including the ASFP system, FAWL model and Analytical Modelling. As a result, more efficient processes that were expected to flow from these changes would not be available to DBL staff. Staff would now need more time to conduct their work. For *enduring* garnishee work, more time would be needed to complete tasks and a larger number of cases would need to be reviewed before a suitable case for garnishment was identified.

2.111 Fourth, two major unexpected ATO IT systems outages took place over the December 2016–February 2017 period. Although these systems outages themselves lasted only five weeks, they compounded existing risks by creating large backlogs of collection work (for example, 242,875 collection items were unable to be conducted over the December–February period) and client facing work as well as substantial delays in deploying more efficient systems. Operational costs were also impacted. This placed expenditure restrictions on overtime and external labour hire which could have assisted with alleviating the backlog.

2.112 Fifth, by 8 March 2017, the amount of collectable debt was substantially more than the DBL had, in its original plan, forecast for this date. Garnishee work was able to be recommenced, however, the initial priority was to re-allocate DBL staff to assist in addressing the backlog of taxpayer debt correspondence and calls following the major ATO IT systems outages. Once more SD resources were re-allocated to reduce the backlog, skilled DBL staff were then allocated to work which would likely assist the DBL to carry out the numbers of work activities it had planned, including the recovery of larger amounts of undisputed collectable debt—for example, the EI unit's focus on DL6 collectable debt cases. As the DBL had less time in which to conduct the planned number of activities, additional resources were required. As a result, staff in a number of local EI unit sites were trained to conduct PIT and *enduring* garnishee work for the first time as well as some staff receiving refresher training.

2.113 Sixth, the DBL's expectations were not entirely met regarding scheduling of work and real-time deployment of EI unit staff over the March–April 2017 period. The DBL was also aware that there was a need to improve the candidate pool for garnishee work. From March 2017, efforts were made to mitigate the problems, for example, introducing manual workarounds that aimed to create some of the efficiencies that had been anticipated from the now-postponed financial and collection systems changes. A 'Rapid Response' approach was undertaken to bring the various DBL units together and monitor progress of efforts on a weekly basis. Although problems concerning the efficiencies of processes and scheduling of enough staff for work had persisted, staff efforts began to impact on the amount of collectable debt from March 2017. Overtime was re-introduced in April 2017 to help conduct the number of activities that the DBL had planned which was based on its historical experience. By mid-April 2017, the DBL was addressing the flow of new debt, however, it was continuing to experience resourcing shortfalls that were needed to address the backlog of debt work caused by the major ATO IT systems outages.

2.114 Seventh, in May 2017, the planned numbers of activities was revised and all available skilled officers were scheduled to conduct garnishee work as a priority over May and June 2017 in an effort to address the backlog of work. This included co-opting the contribution of SDM unit staff to assist with garnishee work on a daily basis.

2.115 As a result, at the end of the financial year, the DBL only issued 58.9 per cent (n=23,712) of the garnishee notices that it had originally planned to issue. By comparison to that issued in other financial years (2014–15, 2015–16 and 2017–18), the amount of garnishee notices issued in the 2016–17 financial year was approximately half (approximately 43–59%).

2.116 In the IGTO's view, the strategies the ATO adopted to issue garnishee notices during the 2016–17 financial year were as a result of the DBL responding to challenges that arose during the year. As the above events demonstrate, these challenges required the DBL to re-allocate staff to work activities which were re-prioritised to meet its planned outcomes and overarching objectives.

2.117 In summary, the DBL had initially estimated for its plan that a similar number of garnishee notices would issue as in the prior year, but as a result of a decreased number of garnishee work activities compared to that in the prior year. These estimates were planned to result from anticipated efficiencies from the financial and collection systems changes, in particular, the ASFP system, FAWL model and Analytical Modelling changes. The DBL then revised this plan after the decision was made to postpone deployment of the financial and collection systems changes in November 2016. As a result, it revised its plan to conduct a greater number of garnishee work activities than originally planned. Unexpected major ATO IT systems outages delayed the possibility of any scheduled garnishee work until February 2017. This left a reduced period in which to conduct the remaining number of garnishee work activities according to its revised plan. This may have led to a perception that the ATO was issuing more garnishee notices than usual.

Annual planning and contingency measures for key assumptions

2.118 The financial and collection systems changes were expected to provide substantial efficiencies by reducing staff handling times from the levels experienced in prior years for a number of work activity types, for example through more accurate case selection for *enduring* garnishee work. In particular, the planned deployment of the FAWL system, ASFP system and case candidate selection models for *enduring* garnishee work were anticipated to provide 75 per cent more outcomes than from the pre-existing processes. This prediction of future performance relied heavily on the financial and collection system changes alleviating the amount of time it took for certain work types in delivering outcomes.

2.119 On this basis, the DBL Executive decided not to schedule *enduring* garnishee work for collectable debt for the first seven months of the financial year, until the financial and collection system changes were deployed. EI unit staff could be more productively engaged in other debt work during the period before the deployment of the financial and collection systems changes. In principle, this may have been a justifiable departure from the strategy conducted in the previous year. However, the IGTO has not seen evidence that the DBL had tested the basis for its expected efficiencies in an integrated operational environment, such as that in which EI unit staff work.

2.120 In the IGTO's view, by not rigorously testing this predicted expected efficiency, or discounting it for the execution risk inherent in major IT systems changes, the DBL had substantially increased the risk of not meeting its planned annual outcomes. Without realisation of the expected efficiencies, staff would need to spend more time on tasks. For *enduring* garnishee work, staff would need to undertake review of more taxpayer accounts before finding those in which it would be appropriate to issue such notices. This presented a risk of not having enough staff or time to conduct the numbers of activities needed within the last six months of the year in order to achieve the planned outcome. It also risked an increase in the unfair competitive advantage that small business debtors may have over similar businesses that paid their tax on time.

2.121 The DBL had prepared contingency plans. These plans generally considered potential scenarios that could arise following deployment of the financial and collection systems changes,¹⁴³ for example, poor performance of the ICP system. However, these contingency plans did not address the risk that the relevant financial and collection systems changes would not be deployed or that the resulting efficiencies would not be realised.¹⁴⁴

2.122 Had the DBL's contingency plans considered such risks, it would likely have generated a greater appreciation of the potential impacts if those risks materialised – for example, the increased number of *enduring* garnishee activities that would need to be carried out on the basis of the existing case selection processes, the reduced amount of time in which the DBL would need to carry out such activities and the increased number of trained staff needing to be scheduled to conduct these activities. Such

¹⁴³ ATO, 'Email about ASFP Contingency scenarios 2016' (Internal ATO document, 17 December 2018).

¹⁴⁴ Above n 73.

appreciation would have afforded opportunity to commence staff training at an earlier stage and to gain assurance (by such means, for example, as targeted testing) of the responsiveness of the business continuity measures so that they could be deployed more quickly and be of greater effectiveness.

2.123 As Figures 2.2 and 2.3 above suggest, the delay in scheduling enough trained staff for garnishee work appeared to have contributed to the February–April 2017 delay in addressing the accumulation of total collectable debt.

2.124 In the IGTO's view, where the DBL makes key assumptions, that are untested or unproven, as a significant factor in its annual plan's forecasting of activities and/or resources, senior management should also develop, in parallel, contingency plans to mitigate the impacts that would arise in the event these assumptions do not hold.

2.125 As the ATO intends to deploy the ASFP system¹⁴⁵ in December 2019, a significant IT systems change, it would be prudent for the DBL to carefully assess the risks relating to this deployment, including the potential impacts on collection performance, and develop contingency plans to address those risks and mitigate the potential impacts.

RECOMMENDATION 2.1

The IGTO recommends the ATO Debt business line's annual planning process incorporate:

- (a) contingency plans for assumptions regarding new systems or processes that may materially affect the estimation of internal resource-allocation and collection planning if these assumptions are not realised; and*
- (b) appropriate assurance regarding the effectiveness and responsiveness of related business continuity measures.*

ATO response: Agree

BENCHMARKS FOR DEBT RESOURCE AND WORK PLANNING

2.126 For annual planning purposes, the national S&I unit estimates the number of garnishee work activities to be conducted in a financial year by reference to the percentage of work activities resulting in a garnishee notice being issued (otherwise known as the 'conversion rate' or 'success rate'), average time to conduct such work ('average handling time' or AHT) and the expected number of garnishee notices to be issued in that year.

¹⁴⁵ ATO, 'ASFP 2019 Release – High Level Scope and Business Readiness Timeline' (Internal ATO document, undated).

Basis for the AHT and conversion rate

2.127 In the initial 2016–17 debt demand plan, the national S&I unit had used historical data, from work that had been conducted over the 9 November 2015 to 27 June 2016 period, to calculate the following AHTs and conversion rates:¹⁴⁶

- the AHT for conducting an *enduring* garnishee work activity was 30 minutes;
- the AHT for conducting a PIT garnishee work activity was 22 minutes;
- the number of *enduring* garnishee notices that were issued was 10 per cent of the number of *enduring* garnishee work activities that were allocated (i.e. a 10 per cent conversion rate); and
- the number of PIT garnishee notices that were issued was 30 per cent of the number of PIT garnishee work activities that were allocated (i.e. a 30 per cent conversion rate).

2.128 The conversion rate for PIT garnishees was then increased from 30 per cent to 45 per cent 'due to ISTA [Improved Services Through Analytics] candidate model (half full benefit realisation)'. Also, the conversion rate for *enduring* garnishees was increased from 10 per cent to 15 per cent due to '(half full benefit realisation) as per PIT due [ITSA] candidate model'.¹⁴⁷

2.129 For these increases in percentages, the ATO has not provided documentation setting out the data and calculations used to quantify these increases. The ATO has, however, provided management representation that the ITSA comprised the deployment of particular analytical models that, collectively, were the NBA model. The first of these models to be deployed was the PFA model which focussed on new debt and EI processes up to the issuance of FAWLs and before garnishee notices are considered (see Figure A2.3 in Appendix 2). The PFA model was expected to have had an impact on the overall debt book, requiring the monitoring of progression rates for stronger action, such as garnishee work.¹⁴⁸

2.130 After the decision to postpone the deployment of the ASFP system, the national S&I unit decreased the PIT garnishee conversion rate from 45 per cent to 42 per cent, on 22 September 2016.¹⁴⁹

2.131 For this decrease in percentage, the ATO has not provided documentation setting out the data and calculations used to quantify that decrease. The ATO has, however, provided management representation that the conversion rates "are calculated based on the workload presented at the time and are fluid". Accordingly, these rates "are reviewed and changes are made when appropriate to align with most recent performance".¹⁵⁰

¹⁴⁶ ATO, '2016–17 Debt Demand Forecast (update of 17-03-16)' (Internal ATO document, 17 March 2016)

¹⁴⁷ Ibid.

¹⁴⁸ Above n 36.

¹⁴⁹ ATO, 'Debt Plan Outcome after ASFP postponement' (Internal ATO document, 29 November 2016).

¹⁵⁰ Above n 36.

2.132 Based on this decreased PIT conversion rate of 42 per cent and the 22 minute AHT, it could be estimated that the average number of PIT garnishee notices that staff members would issue per hour would be 0.8.¹⁵¹

2.133 The 15 per cent conversion rate for *enduring* garnishee work activity was used to calculate work which would be conducted by staff from 6 March 2017.¹⁵²

2.134 Based on this 15 per cent conversion rate and the 30 minute AHT, it could be estimated that the average number of *enduring* garnishee notices that staff members would issue per hour would be 0.3.¹⁵³

2.135 The DBL also reviewed the candidate pool for *enduring* garnishee work activities to identify those that did not have a FAWL issued to the taxpayer in the previous 180 days. A 'bulk' process was run to issue FAWLs to those identified cases. Any cases that did not require such letters to be issued were delivered for actioning manually.¹⁵⁴

2.136 By 21 March 2017, communications between staff in the EWM unit indicate that the conversion rate for *enduring* garnishee work activities had been increased to 24 per cent. As a result, the following formula was used to predict the number of *enduring* garnishee notices that would issue from such work activities:

total hours allocated X 0.5 [hours, which represented the average handling time (AHT) for enduring garnishee work activities] x 24% [conversion rate].¹⁵⁵

2.137 For this increase in percentage, the ATO has not provided documentation setting out the data and calculations used to quantify that increase. The ATO has, however, provided management representation that the conversion rates "are calculated based on the workload presented at the time and are fluid". Accordingly, these rates "are reviewed and changes are made when appropriate to align with most recent performance".¹⁵⁶ Also, this particular increase was made in anticipation of an automated process which would analyse all cases and, where applicable, add a note to the case to assist staff with the decision-making process (the bulk note process). The bulk note process was expected to:¹⁵⁷

... reduce the time staff require to search for a relevant source. We also believe this will increase the conversion rate. [The national S&I and EWM units] will monitor and adjust call back support as required.

¹⁵¹ IGT0 calculation using the formula: conversion rate x 60 minutes/AHT (in minutes).

¹⁵² Above n 91.

¹⁵³ Above n 151.

¹⁵⁴ ATO, 'DL6 Rapid Response Report' (Internal ATO document, 5 March 2017).

¹⁵⁵ ATO communication to the IGT0, 12 December 2018.

¹⁵⁶ Above n 36.

¹⁵⁷ Above n 91.

2.138 Based on this 24 per cent conversion rate and the 30 minute AHT, it could be estimated that the average number of *enduring* garnishee notices that staff members would issue per hour would be 0.5.¹⁵⁸

2.139 The actual output of EI unit staff, however, did not exceed an average of 0.2 *enduring* garnishees issued per hour until February 2018 (see Table A5.1 in Appendix 5).

2.140 Based on the actual output of EI unit staff before February 2018, it could be estimated that the conversion rate for *enduring* garnishee work activities for this period was 10 per cent.¹⁵⁹

May–June 2017 — national S&I unit review of cases

2.141 In late May–June 2017, the EWM and national S&I units revised the planned activities until the end of the financial year—i.e. 2,000 PIT and 2,900 *enduring* garnishee work activities would be conducted by the EI unit every week for the remaining seven weeks of the financial year, with the exception of the week of 12 June 2017 in which 1,600 PIT and 2,320 *enduring* garnishees work activities were planned.¹⁶⁰

2.142 The national S&I unit then recorded what activities (or 'reviews') were conducted and how many notices were issued. For the week ending 21 May 2017 (week 42), it recorded the following:

Optimization has considered the AHT to produce the outcome, the success rate to produce the debt outcome and the debt reduction average for each work type

... [the national S&I unit] have advised outcomes for cases reviewed were as follows:

- ... PiT's - 3282 cases reviewed, resulting in 736 PiT's being issued.
- The actual number of reviewed cases for Enduring Garnishee ... is not available due to system limitations, however there was sufficient stock on hand available to staff actioning these work types.
- Figures available for actual outcomes are as follows:

225 Enduring garnishees issued ...

2.143 For the following three weeks reporting was provided in a similar format. However, the numbers of *enduring* garnishee notices issued by the local SDM unit teams in Brisbane, Parramatta, and Melbourne, who were assisting with the *enduring* garnishee work activities, were separately identified.

2.144 For these four weeks mentioned above (weeks 42-45), the relevant PIT garnishee work activities, notices issued and conversion rates are set out in Table 2.4 below.

¹⁵⁸ Above n 151; see also, ATO, 'Adelaide Site Report' (Internal ATO document, November 2017) p 21.

¹⁵⁹ Ibid.

¹⁶⁰ Above n 123.

Table 2.4: Weekly conversion rate of PIT garnishee work activities conducted and notices issued

Week	PIT garnishee activities conducted	PIT garnishee notices issued	PIT garnishee conversion rate (%)
42	3,282	736	22
43	1,670	850	51
44	1,219	573	47
45	2,354	875	37
TOTAL	8,525	3,034	39

Source: ATO.¹⁶¹

2.145 The above table shows that for weeks 42–45 (15 May 2017 to 11 June 2017), the conversion rate for PIT garnishee work activities increased from 22 per cent to 51 per cent, before decreasing to 47 percent and then 37 per cent. On average, the PIT conversion rate was 39 per cent over this four week period.

Table 2.5: Weekly conversion rate of *enduring* garnishee work activities conducted and notices issued nationally

Week	Enduring garnishee activities conducted (Note 1)	Enduring garnishee notices issued	Enduring garnishee notices issued by the EI unit	Enduring garnishee conversion rate (%)	Enduring garnishee conversion rate of EI unit (%)
42	2,900	225	225 (Note 2)	8	8
43	2,900	413	240	14	8
44	2,900	358	230	12	8
45	2,900	352	249	12	9
TOTAL	11,600	1,348	944	12	8

Source: ATO.¹⁶²

Note 1: The ATO could not identify the actual number of *enduring* garnishee work activities allocated to staff due to systems limitations during the 2016–17 financial year (see paragraph 2.78).¹⁶³ Therefore, the number of *enduring* garnishee work activities that were planned to be allocated to the EI unit, according to the 21 May 2017 Rapid Response report, has been used as subsequent Rapid Response reports stated that there was sufficient stock on hand available to staff actioning this work type.

Note 2: EI unit-specific number was not reported. However, all enduring garnishee notices issued in that week are assumed to have been issued by the EI unit.

2.146 The table above shows that over weeks 42–45, the conversion rate for *enduring* garnishee work activities increased from 8 per cent to 14 per cent, before decreasing to 12 per cent for the last two weeks. The four-week average *enduring* garnishee conversion rate, which includes notices issued by the SDM unit, was 12 per cent. The average conversion rate for the EI unit was 8 per cent.

¹⁶¹ Ibid; above n 119; ATO, 'Rapid Response EOFY Clean-up Report' (Internal ATO documents, 28 May 2017 and 4 June 2017).

¹⁶² ATO, 'Rapid Response EOFY Clean-up Report' (Internal ATO documents, 28 May 2017 and 4 June 2017); above n 123; above n 119.

¹⁶³ Above n 123, p 4.

31 August 2017 — analytics deployed for activity statement cases

2.147 Two months later, on 31 August 2017, the analytics and case selection model for activity statement *enduring* garnishee work (part of the NBA model) was deployed into the ATO's systems.¹⁶⁴ This deployment followed a pilot run by one team from each of the local Adelaide and UMG sites from early June 2017.¹⁶⁵

EI unit analysis and EI unit operational efficiency review

2.148 On 16 November 2017, the national S&I unit analysed the EI unit's *enduring* garnishee work that had been conducted over the 1 October to 5 November 2017 period (weeks 14–18 in 2017–18). This analysis indicated that the EI unit was generating *enduring* garnishee notices at approximately a third of the rate expected – 536 *enduring* garnishee notices were issued when 1,506 were expected to have been issued, based on 1,455 scheduled hours for that work, a 30 minute AHT and 24 per cent conversion rate.¹⁶⁶ The analysis, therefore, implied a deviation from either the expected AHT or conversion rate. Either the actual AHT for *enduring* garnishee work activities for the period was approximately 1.75 hours per activity or the actual conversion rate for the period was approximately 8 per cent. The national S&I unit asked the local Adelaide, Albury, Dandenong and UMG EI unit sites to review the figures.¹⁶⁷

2.149 The local site EI unit teams confirmed that the number of scheduled hours and notices issued were correct. They observed that the national average for all EI sites conducting such work in October 2017 was 0.14 *enduring* garnishee notices issued per hour.¹⁶⁸ The EI unit gave feedback to the national S&I unit that the main reasons for the lower conversion rate were that in many cases staff had considered that an *enduring* garnishee notice was not the best action to take after they had reviewed the particular circumstances in that case or that an *enduring* garnishee notice was not able to be issued due to the expiry of a FAWL (i.e. the FAWL was sent more than 6 months prior).¹⁶⁹

2.150 In the IGTG investigation team's interviews, local EI unit staff members referred to 'cases cycling too early' due to the review dates that the system had set for *enduring* garnishee work activities. This meant that the work activities were allocated to staff too soon after a garnishee notice had been previously issued to that taxpayer. The system allocated *enduring* garnishee work activities to DBL staff for review 14 days after a garnishee notice had been issued to that taxpayer. In most cases, funds from financial institutions had not been received within that 14 day period¹⁷⁰ and 28 days for trade debtors,¹⁷¹ which required the staff member to 'recycle' the work activity for

¹⁶⁴ ATO, 'Next Best Action – Update' (Internal ATO document, 31 August 2017).

¹⁶⁵ ATO, 'EI DAN Leadership minutes' (Internal ATO documents, 6, 14 and 20 June 2017).

¹⁶⁶ ATO, 'Copy of email about reviewed enduring garnishees expected and actual output' (Internal ATO document, 16 November 2017).

¹⁶⁷ Ibid; above n 155.

¹⁶⁸ ATO, 'Copy of email about the analysis of enduring garnishee work completed per hour' (Internal ATO document, 28 November 2017).

¹⁶⁹ ATO, 'Copy of email with team leaders feedback about expected and actual enduring garnishee outputs' (Internal ATO document, 30 November 2017).

¹⁷⁰ ATO, 'Debt: Early Intervention Operational Efficiency Review – Final Report' (Internal ATO document, 11 August 2017) p 7 and 21.

¹⁷¹ ATO, 'Garnishee FAQ-Issue #2' (Internal ATO document, March 2018) p 5.

future review. Local EI unit staff also told the IGTO investigation team that whilst the 30 minute AHT may have been the staff experience for *enduring* garnishee notices that were issued to financial institutions, it took substantially longer to issue such notices to trade debtors, averaging 2 hours for some.¹⁷²

2.151 The EI unit's feedback was included in a review of operational efficiency opportunities across the EI unit (the EI operational efficiency review). This review had been underway since June 2017 and 'sought ideas and inspiration from [EI unit] staff and stakeholders at all levels...'¹⁷³

2.152 Amongst other things, the EI operational efficiency review recommended extending the review period for *enduring* garnishee work activities. The RMS routing parameters were later updated in February 2018 to allow the review period to be extended to 60 days.¹⁷⁴ The EI operational efficiency review also resulted in streamlining the PIT and *enduring* garnishee processes in December 2017, including consistency of checks and guidance.¹⁷⁵

2.153 On 6 February 2018, the national S&I unit issued a document to team leaders and managers which included the following statement:¹⁷⁶

One thing that needs to be understood by staff is that the expected "conversion of a case review into [an *enduring* garnishee notice]" is based on historical data and equates to 24%. Also, the AHT of 30mins is based on historical data. Any changes to our process may affect these two expectations. [i.e. 0.5 such notices were expected to be issued per hour]

2.154 In February and March 2018, the national average for EI unit staff *enduring* garnishee work activities was 0.32 and 0.29 notices issued per hour of scheduled work, respectively.¹⁷⁷

IGTO OBSERVATIONS

2.155 It is clear that the national S&I unit had used, for internal planning purposes, conversion rates and AHTs for PIT and *enduring* garnishee work. The conversion rates and AHTs used to develop the DBL's June 2017 operational plan were calculated, first, by the actual AHTs and conversion rates of work that was conducted in the 2015-16 financial year and, second, by increasing those conversion rates by 50 per cent. This increase was made on the basis of expected efficiencies that would flow from the financial and collection systems changes which would include deployment of NBA models.

¹⁷² Above n 97.

¹⁷³ ATO, 'Debt: Early Intervention Operational Efficiency Review - Project Closure Report' (Internal ATO document, 23 March 2018) p 3.

¹⁷⁴ Ibid p 9.

¹⁷⁵ ATO, 'Copy of Adelaide coaches email to all Adelaide EI staff with garnishee frequently asked questions' (Internal ATO document, 12 February 2018).

¹⁷⁶ ATO, 'Manager Talk Sheet - Changes to the standard garnishee process' (Internal ATO document, undated).

¹⁷⁷ ATO, 'Adelaide Site Report' (Internal ATO documents, February and March 2018).

2.156 These 50 per cent increases were not reversed, however, when the deployment of the financial and collection systems changes were postponed. This was despite the increases having been applied on the basis of expected efficiencies that would flow from these changes.

2.157 In March 2017, following two major ATO IT systems outages, the conversion rate for PIT garnishee work was decreased by approximately 7 per cent (from 45% to 42%). However, the *enduring* garnishee conversion rate was increased by a further 60 per cent – from a 15 per cent to 24 per cent conversion rate.

2.158 No documents have been provided by the ATO to evidence the calculations and source data that supports these variances in conversion rates. ATO management representation was provided, however, that the *enduring* garnishee conversion rate was increased due to an expectation that a bulk FAWL process and WFM system prioritisation changes in March 2017 would improve case selection. These changes were processes that would ensure a FAWL was issued and a source for garnishment was identified before a case was allocated to EI unit staff for action. ATO management representation regarding the PIT garnishee conversion rate indicates that the decrease was due to “the workload that was presented at the time and are fluid”. This is because the conversion rates “are reviewed and changes are made when appropriate to align with most recent performance.”

2.159 These new conversion rates—42 per cent for PIT and 24 per cent for *enduring* garnishee work—continued to be used for internal planning purposes over the March 2017–February 2018 period to estimate the amount of PIT and *enduring* garnishee work activities to be conducted by operational staff.

2.160 For the EI unit operational staff, they experienced a much lower conversion rate as they conducted *enduring* garnishee work during in the 2016–17 financial year—approximately 8–10 per cent, which was corroborated against available ATO data in the May–June 2017 Rapid Response reports and the local Adelaide EI unit monthly site reports that recounted the average of all EI unit teams in the DBL in the last weeks of that year.

2.161 As a result, the national S&I unit observed large shortfalls against expectations and the planning process had generated numbers of work activities that were significantly below those needed to generate the expected output during the 2016–17 financial year.¹⁷⁸

2.162 In late August 2017, a tested NBA model was deployed and aimed to improve the case selection of activity statement *enduring* garnishee work. However, it did not appear to improve staff output as the national average conversion rate did not materially improve from that used for internal planning purposes. It was not until staff feedback was sought in November–December 2017 on the reasons for these average conversion rates and then incorporated into the EI operational efficiency review that improvements began to be made. As a result, the national average for February and March 2018 increased to 0.29 and 0.32 *enduring* garnishee notices issued per hour of scheduled time for that work activity, respectively.

¹⁷⁸ See, for example, the ATO's Rapid Response Reports.

2.163 In the IGTO's view, the evidence for the assumptions underpinning the *enduring* garnishee conversion rates (along with AHTs) that were used for internal planning purposes were untested and they proved overly optimistic in estimation.

2.164 The above events also highlight a risk that the DBL's planning and scheduling processes may use assumptions which overlook, and potentially disregard, the possibility that such assumptions may no longer reflect the EI unit staff experience or the results that they aim to predict.

2.165 In the IGTO's view, a process which routinely obtains feedback from EI unit staff on the effectiveness of the system's selection of garnishee work activities would afford opportunities to refine the relevant processes and analytical models. It may also provide more meaningful insight on the reasons for output performance as well as give early warning of emerging risks.

2.166 In addition to process improvement, the conversion rate is dependent on the effectiveness of the case selection analytics. Improving the ATO's garnishee case selection analytics presents opportunity to remove from the candidate pool those taxpayers, including small businesses, that are less likely to warrant *enduring* garnishee action to repay their tax debts. It would also improve the EI unit staff experience as it would allow them to focus on cases that are more likely to warrant their attention. It would also assist the ATO achieve one of its main strategic objectives of achieving efficiency and quality outcomes.¹⁷⁹

2.167 As a general observation, the analysis above also demonstrates that the planned outcomes in the DBL's 2016–17 revised operational plan were not achievable due to the range of factors canvassed above, including the overly optimistic benchmark for *enduring* garnishee work. Accordingly, the estimated revenue collected as a result of garnishee activities was considerably lower than would have otherwise been compared to that in a more normalised budgeted plan year, such as in the 2015–16 and 2017–18 financial years.

RECOMMENDATION 2.2

The IGTO recommends the ATO:

- (a) improve the candidate-selection models for potential officer garnishee action; and*
- (b) further refine these models by providing for improved feedback input from staff considering these actions to those staff who plan and schedule their work.*

ATO response: Agree

The ATO notes the timing is subject to when technology changes can be scheduled.

¹⁷⁹ ATO, *Corporate Plan 2018–19*, Strategic Objective F1.

DEBT BUSINESS LINE SUPPORT AND COMMUNICATION

ATO approach to debt collection

2.168 The ATO takes a risk-based approach in encouraging taxpayers, as a whole, to make 20 million payments by the due dates as well as, for the 2016–17 financial year, managing more than 4.3 million debt accounts, 1.9 million of which were outstanding at year end.¹⁸⁰ Case management of these accounts by DBL staff can provide effective outcomes, however, it is resource-intensive and the ATO has a legal obligation to manage its operational budget efficiently, effectively, economically and ethically.¹⁸¹

2.169 Automated decision-making assists the ATO to improve the efficiency of dealing with large numbers of overdue accounts. However, human officers are needed to make decisions on actions that can have adverse financial impact on taxpayers, for example, issuing a garnishee notice. From a resource effectiveness perspective, the large number of lower risk undisputed debt accounts requires an activity management approach to be taken, such as that taken in the EI unit. This is to say that such lower risk debt accounts are not managed as a specific case by DBL staff members.

EI unit work environment

2.170 EI unit staff work in a scheduled environment. Work activities are planned for them through sophisticated processes and allocated to them for action from particular candidate pools (a 'bucket' based approach). The daily work of an EI unit staff member can involve a variety of different activities in unrelated accounts. This atomised approach does not allow the officer to see more of a taxpayer's case than that provided through the window of the activity before them. However, the approach has increased the number of accounts that the ATO can manage.

2.171 A key challenge for EI unit staff is to encourage payment from small businesses who collectively owe approximately two-thirds of the total undisputed collectable tax debt. Non-payment of a tax debt by a small business may signal potential financial difficulties which only requires short term assistance to trade out of debt. To provide such assistance, EI unit staff aim to assure themselves of a small business tax debtor's viability and capacity to pay their undisputed tax debts. However, access to information may increase the business' compliance costs and be hampered by poor record-keeping necessary for such assurance practices, limited administration resources or taxpayer non-cooperation.¹⁸²

2.172 For DBL staff who conduct stronger recovery actions, such as *enduring* garnishee work, this challenge is compounded. Their decision may affect the financial viability of the business, or conversely, it may provide an unfair competitive advantage—for example, where deferral of payment is effectively used as an unsecured source of credit to unfairly compete with compliant businesses and fund

¹⁸⁰ See Appendix 2 – Figure A2.4.

¹⁸¹ *Public Governance, Performance and Accountability Act 2013* Pt 2-2.

¹⁸² Above n 138.

growth.¹⁸³ This issue has been considered in more detail in the IGTO's 2005 and 2015 debt collection reports.¹⁸⁴ In the latter report, the key capabilities of an effective DBL staff member were identified to include:¹⁸⁵

- commercial awareness to understand how businesses and particular industries operate; and
- credit risk assessment (for example, analysis of taxpayers' management expertise, leverage and liquidity as well as the consequences of default and collection) based on financial information and which takes into account taxpayers' circumstances.

2.173 Such capabilities are critical to make effective decisions which avoid undue financial pressures for taxpayers and preserve their access to ATO assistance in the future if they default. Such decisions also foster perceptions of fair treatment which promote longer-term voluntary compliance.¹⁸⁶

Relevant ATO DBL staff support and training

2.174 The DBL supports its staff to conduct different types of work through provision of training, access to procedures and guidance in its SMART system as well as support provided by coaching and technical support staff. Further details of those methods of support are provided in the IGTO's 2015 *Debt Collection* report.

2.175 With respect to the exercise of the garnishee power, there are two main instruction and guidance documents that the ATO provides staff:

- Law Administration Practice Statement PS LA 2011/18 *Enforcement measures used for the collection and recovery of tax-related liabilities and other amounts*¹⁸⁷ which provides instruction on the collection process, policies and guidelines to be followed by ATO staff in their use of the Commissioner's enforcement measures, including the garnishee power, for the purpose of collecting outstanding tax debts; and
- the *Garnishee Principles* which comprises part of the ATO's garnishee procedures and provides 'focus questions' and guidance that is aimed at empowering ATO staff to make informed decisions in exercising the garnishee power (see Figure 2.4 below).¹⁸⁸

¹⁸³ Ibid.

¹⁸⁴ Above n 138; above n 20, pp 79 to 86.

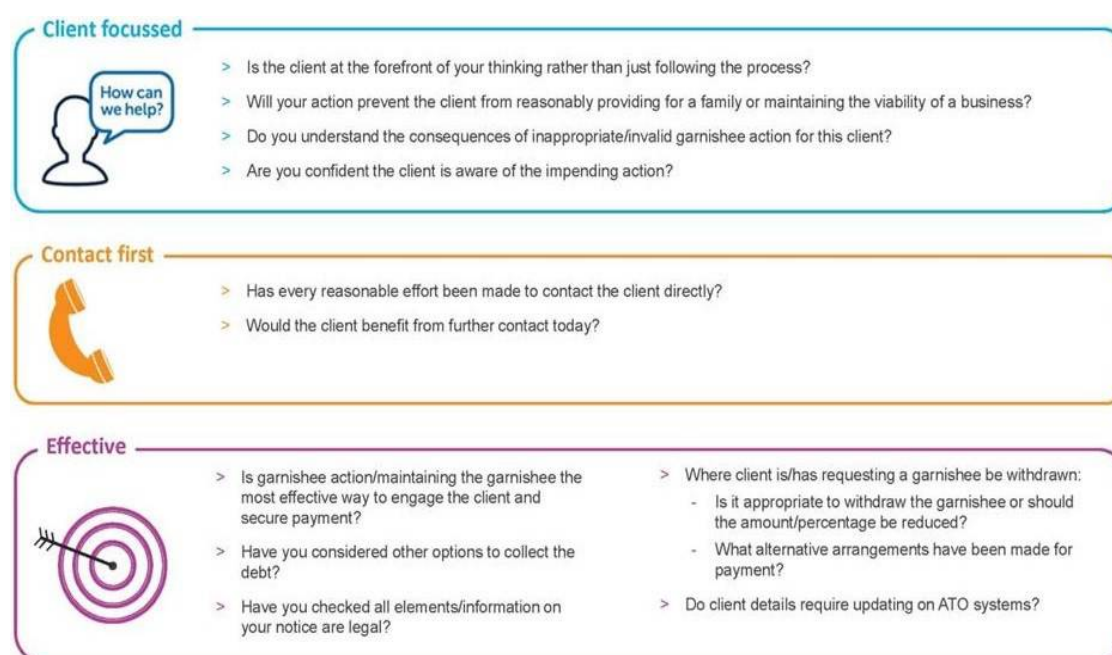
¹⁸⁵ Above n 20, pp 79 to 86.

¹⁸⁶ Ibid.

¹⁸⁷ ATO, *Enforcement measures used for the collection and recovery of tax-related liabilities and other amounts*, PSLA 2011/18, 3 July 2014.

¹⁸⁸ ATO, 'Garnishee Principles' (Internal ATO document, September 2015).

Figure 2.4: Extract from the *Garnishee Principles*



Source: ATO.

Note: refer to Appendix 10 for the complete document.

2.176 Since the IGTO's 2015 report, the DBL has also implemented a specific training package on appropriate conversations with taxpayers for EI unit staff. It aims to help staff develop a practical understanding of the factors to consider in determining whether stronger action (such as issuing a garnishee notice) is appropriate, whether further phone contact would be beneficial for a taxpayer and the potential impacts these actions may have on the taxpayer and the ATO.¹⁸⁹

2.177 A number of case studies related to the issuance of garnishee notices are also used in the training package. Participants are expected to review information in relation to previous interactions with hypothetical taxpayers and their compliance history before determining the most appropriate action to take. The training package also includes an example of the type of conversation that DBL staff could have with taxpayers when considering potential garnishee action.¹⁹⁰

Quality review process

2.178 The ATO's current quality framework involves quarterly review of case actions in which staff members had decided to issue *enduring* garnishee notices. Such quality control review occurs on a quarterly basis for staff and includes a relatively small sample of debt work compared to total number of actions. The ATO is in the process of updating its quality control framework which does provide case specific feedback to staff in a number of the 3–4 per cent of cases that are selected for review (see Appendix 8).

¹⁸⁹ ATO, 'IGT Tax and Revenue Committee Submission February 2018 – attachments' (Internal ATO document, undated) p 40.

¹⁹⁰ Ibid pp 40–41.

My Contribution and Our Contribution tools

2.179 From late 2014, EI unit team leaders and frontline staff have had access to a 'My Contribution' tool to support coaching and performance discussions.¹⁹¹ It is used by the team leader and staff member when they are in a feedback coaching session. This system provides information on assessments completed within the period of review and on-going quality results. The tool provides data to staff on their own performance over the last four weeks as well as an expanded 12 week overview.¹⁹²

2.180 Such performance data is provided against four key elements—productivity, skilling/capability, quality, and attendance/well-being. For the first three elements, data is further categorised into different 'SD domains', which are inbound and outbound telephony, work management (which incorporates skill based activities that are routed through the IWD system) and debt collection. The data is presented against benchmarks where they are applicable.

2.181 There are also 11 different classifications of debt interactions. These interactions include debt reductions, payment arrangements, negotiation, blue letters and orange letters (FAWLs), pre-legal actions and garnishee notices.¹⁹³

2.182 Data relating to the different classes of debt interactions can be viewed through the productivity element in the debt collection domain on the My Contribution tool. For each of the different types of debt interactions, it can provide the staff member with the number of work activities, total number of tax debt reductions over seven days and 30 days as well as the total balance reductions for those periods. The number of inbound and outbound phone calls made whilst completing activities are also provided. A total number of interactions and value of balance reductions are also provided.

2.183 Data relating to garnishee work may be captured through the productivity element in the work management domain where garnishee work activities were allocated by the IWD system. Such data will provide the total number of activities that have again been completed, AHT in seconds by work type, whether the staff member's AHT was within range of the relevant benchmark (or higher, lower or unable to be benchmarked) as well as AHT comparisons shown against team, local site and national level for the relevant period. The benchmarks are standards which are used as a point of reference to evaluate performance for each work type/queue.¹⁹⁴

¹⁹¹ ATO, 'Service Delivery Coaching Technology User Guide: My Contribution' (Internal ATO document, February 2018).

¹⁹² ATO, 'Service Delivery Quality Framework' (Internal ATO document, August 2017), p 14.

¹⁹³ ATO, 'Service Delivery Coaching Technology User Guide: Our Contribution' (Internal ATO document, May 2017), p 33.

¹⁹⁴ Above n 191, p 25.

2.184 The tool also provides data on quality assurance matters which allows team leaders to determine the level of correct decision-making regarding the *next best action* in activities.¹⁹⁵

2.185 A team leader can also use their access to an associated system called Our Contribution to view their team's overall performance and each agent's contribution to the collective team effort in terms of volume and percentages. The Our Contribution tool also allows team leaders to access the individual performance data for each team member on their My Contribution tool through a link provided next to each team member's name. Screenshots of the My Contribution and Our Contribution tools are provided in Appendix 16.¹⁹⁶

2.186 The debt reduction data in the My Contributions tool was introduced in late 2015 as part of a wide range of measures to improve "the payment compliance and debt management experience for clients, intermediaries and staff as part of the ATO reinvention journey, to support and build trust and confidence in the tax system". In particular, it was introduced as part of the ATO's reinvention program of work to improve the staff experience.¹⁹⁷

Staff and leaders can see a view of their contributions within the context of our business strategy, for example payment plan performance views now link directly to our strategic goals including payments received within 7 days; percentage of plans entered using direct debit payment method; and value of collections.

2.187 In addition to the My Contribution tool, a new platform called 'My Compass' requires staff to record their expectations and goals they wish to achieve in relation to skilling, capability and decision-making.¹⁹⁸

Debt People First project

2.188 Since August 2016, the DBL has been investigating the reasons for staff engagement and developing initiatives to encourage staff productivity as well as to improve the DBL staff experience ('Debt People First' project). As part of the project, different working groups were established to explore the issues. Their findings were used to develop a 'narrative' that was aimed at addressing staff concerns with their 'lack of understanding about the DBL's business, where they fit and how they contribute to its outcomes'.¹⁹⁹ The narrative was tested with staff who indicated an interest in understanding more about relevant performance measures and challenges in collecting tax debts from small businesses as well as the volumes and values of work types actioned.

¹⁹⁵ ATO local Parramatta S&I unit site, IGTO review team interview, 3 July 2018; ATO local Penrith EI unit site team, IGTO review team interview, 2 July 2018.

¹⁹⁶ Above n 193, pp 5, 20–22.

¹⁹⁷ ATO, 'Debt Executive meeting' (Internal ATO document, 19 February 2016) Agenda Item 6, p 3.

¹⁹⁸ ATO local Penrith EI unit site team, IGTO review team interview, 2 July 2018.

¹⁹⁹ ATO, 'Debt Executive Meeting Submission – Debt Narrative' (Internal ATO document, 27 July 2017).

2.189 As a result, an action plan was finalised in June 2018 to implement seven recommendations. One recommendation was to develop a communication approach by undertaking the following actions:

- Determine appropriate level of information dissemination from the Executive level and action
- Agreement of appropriate 'dissemination' criteria at all levels to empower staff and managers to adopt an attitude of transparency and openness
- Adopt SD's Communications framework [which, at the time, aimed to reduce duplication of email traffic and provide relevant, targeted messages to frontline staff who only have 10 minutes each day to read these messages]
- Creation of guidelines to determine 'best practice' approach to communication of information - including expectations from staff (to avoid over communication)...
- Engage staff to develop a resource outlining the end-to-end Debt process and different work elements undertaken across the [business line].²⁰⁰

DBL frontline staff feedback during 2016–17

2.190 Feedback obtained by the DBL over the 2016–17 financial year had indicated that frontline staff nationally did not believe senior DBL staff had a good understanding of the work that they, as frontline staff, undertook or the challenges they must meet. Also, frontline staff considered that in relation to their leadership there was "often little or no explanation for why decisions are made, leading to a lack of trust". Generally, frontline staff also believed that messages may change as they were passed on (or 'cascaded') down through the layers of management.²⁰¹ Frontline staff also experienced irritants that impacted efficiency, including "cumbersome procedures, the inclusion of too many links and difficulty in locating relevant procedure".²⁰²

2.191 There was also a paucity of time to read all messages in a scheduled environment. Locally at the Adelaide site some EI unit staff, in their interpretation of the management expectation of this work responsibility, recorded a 'consensus' that there was insufficient time for non-activity tasks in a scheduled environment as 15 minutes is not long enough for 'admin time' and that there was insufficient transition time to move from one work type to another or to read procedures. They also recorded that most communications come via work emails and there was no context to them, some of which were 'dismissive with no two way conversation'.²⁰³

²⁰⁰ ATO, 'Debt People First Action Plan – Status Report' (Internal ATO document, June 2018) p 2–3

²⁰¹ ATO, 'Weekly Debt Executive Meeting – Agenda' (Internal ATO document, 17 May 2017) p 6.

²⁰² Above n 173, p 8.

²⁰³ ATO, 'Team meeting minutes' (Internal ATO document, 15 September 2017).

2.192 Frontline staff nationally also felt they did not have enough “consolidation time” for the amount of training they received. As a result, frontline staff nationally felt frustrated, disengaged and were “not putting in extra effort”.²⁰⁴

Relevant DBL communications

DBL's internal communication forums

2.193 The DBL comprises a number of business units with various functions and roles and located in a number of sites across Australia (see Appendix 4). A chart of the different staff levels of the DBL and their attendance at various meetings held within different business groups during the 2016–17 financial year is reproduced in Appendix 6. In summary, that chart shows that these are meetings which include representatives from the four main DBL business units as well as staff from the SD Group. There are also meetings held within each of the main DBL business units and meetings which may involve representatives from all DBL's business units. Such meetings may include SES staff, Executive Level (EL) staff, Australian Public Service Level 6 (APS 6) team leaders and ‘general’ DBL (or ‘frontline’) staff. For example, the ‘APS 6 Debt Dialogue Sessions’ (also called the ‘APS 6 Leadership Forum’) is a conference call attended by SES, EL2, and EL1 staff as well as the DBL Executive and APS 6 team leaders. The ‘messages’ in this conference call are expected to be conveyed by the APS 6 team leaders to frontline staff during their team meetings.

2.194 Notwithstanding these forums, in the 2016–17 financial year, the DBL did not have an overarching strategy which set expectations regarding the type of information to be communicated to particular groups of DBL staff or the appropriate channels for those communications.²⁰⁵

DBL's management communications during 2016–17

2.195 During the 2016–17 financial year, there were a number of messages from the DBL Executive which were communicated via the APS 6 Leadership Forum regarding the level of collectable debt and priority of work.

2.196 In November 2016, after the postponement of the ASFP system (one of the core financial and collection systems changes), the DBL Deputy Commissioner commented that the level of collectable debt was ‘currently steady’.²⁰⁶ Following the major ATO IT systems outages in February 2017, the DBL Deputy Commissioner reported that the ATO's corporate KPIs were being met but that income and activity statement collectable debt was ‘higher[,] travelling at \$1B each’ and that the DBL was focusing on what they could do to reduce the level of activity statement DL6 debt.²⁰⁷

²⁰⁴ Above n 201.

²⁰⁵ ATO communication to the IGTO, 29 January 2019.

²⁰⁶ ATO, ‘Leadership meeting minutes’ (Internal ATO document, 24 November 2016).

²⁰⁷ ATO, ‘APS6 Leadership Forum minutes’ (Internal ATO document, 16 February 2017).

2.197 On 6 March 2017, the national S&I unit sent a broadcast communication to all DBL staff explaining, amongst other things, that:²⁰⁸

... cases with an identified garnishee source through analytics will commence being delivered to staff allocated to this work type. Where a garnishee source has been identified through analytics, specific details of the garnishee source will be included in [the] notes [on the relevant case file].

As with everything we do, the client should be at the forefront of your thinking and unless particular circumstances indicate otherwise. The expectation is for cases delivered with this note to be issued with an appropriate enduring garnishee as they have met the initial case selection parameters for this action.

2.198 In early March 2017, at the time that numbers of staff were receiving training for garnishee work, the DBL Deputy Commissioner explained that the level of collectable debt was 'within performance indicators' and that there was a strategy being developed to focus on DL6 debt cases, amongst others.²⁰⁹ During late March 2017, when the EI unit staff were focused on telephony and correspondence work, he commented that the level of collectable activity statement debt was "stubbornly high".²¹⁰ On 10 May 2017, the DBL Deputy Commissioner stated, amongst other messages, that the:

Debt book is very high in terms of collectable debt. Increase of \$2billion – pressure from DL6 [activity statement cases] and Multinationals amendments for [income tax] (a number of these are expected to move from collectable to disputed).²¹¹

2.199 Management communications from the DBL Executive regarding garnishee work were also sent to all EI unit staff via email (broadcast communications). For example, on 10 May 2017, a broadcast communication was sent to EL1 and EL2 staff in the EI unit. The communication was "for cascading [or forwarding] to all EI teams". It included the following statements:²¹²

... focussing on higher priority workloads

... As you may know, our stock on hand for stronger action work had been increasing, along with collectable debt. As part of our ramp up strategy for the end of the financial year, we have reprioritised to shift greater focus to higher priority workloads.

This will mean that you and your team may be requested to change your work focus, which could involve refresher training for skills or training in a new workload. Where this is the case, schedules are being updated to reflect the priority work and training to be undertaken.

²⁰⁸ Communication is reproduced in Appendix 10.

²⁰⁹ ATO, 'APS6 Leadership Forum minutes' (Internal ATO document, 14 March 2017).

²¹⁰ ATO, 'Leadership meeting minutes' (Internal ATO document, 29 March 2017).

²¹¹ ATO, 'APS6 Debt Dialogue Leadership Session' (Internal ATO document, 11 May 2017).

²¹² Communication is reproduced in Appendix 10.

2.200 On 23 May 2017, following two weeks of priority *enduring* garnishee work, the EI unit management (APS 6 team leaders, Assistant Directors, and Directors) were told that the DBL Executive had stated that there was 'good progress on allocation of resources to priority work, however, won't achieve 5.5 collectable debt to collections ratio'.²¹³

Garnishee Strategic Context document and related materials

2.201 Earlier in May 2017, the national S&I unit provided the EI unit with a 'Garnishee Strategic Context' document that set out the 'strategic context' for the ATO's *enduring* garnishee priority focus of work until the end of financial year (the strategic context document which is reproduced in Appendix 7). The document provided links to pre-existing procedures and policies for *enduring* garnishee work. The document was expected to be cascaded to all DBL staff via team leaders and coaching staff at the earliest opportunity.²¹⁴

2.202 In addition, an 'Enduring Garnishee – Strategic Context Talk Sheet' document (the Talk Sheet, which is reproduced in Appendix 7) was provided to team leaders and coaches to assist them reinforce these messages with frontline staff.²¹⁵ An associated document with two case studies was also provided which team leaders were required to forward to their local frontline staff.²¹⁶ The case studies document supplemented the PIT and *enduring* garnishee training which had already been received by the frontline staff who would conduct the priority work.

2.203 The strategic context document aimed to help all DBL staff appreciate the intended focus of the work they were about to undertake and that it should be consistent with the ATO's desire for the "community to have confidence in [the ATO's] ability to address non-compliance and ensure the tax and superannuation systems are fair for everyone".

2.204 Both the strategic context document and the Talk Sheet stated that the purpose of the *enduring* garnishee strategy was to 'encourage the client to engage' with the ATO²¹⁷ and 'to recover the debt'. 'This method of collection and engagement is useful when clients choose not to do the right thing by self-managing their obligations, or need encouragement to engage with us to obtain assistance in addressing financial difficulties'.²¹⁸

2.205 The strategic context document advised that cases allocated to staff as *enduring* garnishee work activities were allocated as such due to 'initial case selection parameters'.²¹⁹ Furthermore, the Talk Sheet said that a 'PIT garnishee does not need to be issued before considering an enduring garnishee'. However, the strategic context document stated '[y]ou play a vital part in testing the effectiveness of case selection

²¹³ ATO, 'Leadership meeting minutes' (Internal ATO document, 26 May 2017).

²¹⁴ Above n 115.

²¹⁵ ATO, 'Enduring Garnishee – Strategic Context Talk Sheet' (Internal ATO document, undated).

²¹⁶ ATO, 'Enduring Garnishee – Strategic Intent roll-out' (Internal ATO document, 11 May 2017).

²¹⁷ ATO, 'Enduring garnishee – tailored re-engagement and collection' (Internal ATO document, undated).

²¹⁸ Above n 215.

²¹⁹ Above n 217.

processes and assist the development of analytical models.’ It advised that ‘[i]f you decide that one more contact attempt is necessary to engage the client and that contact is unsuccessful, you should exercise your judgement to determine and *undertake the next best action*’[emphasis added].²²⁰

Garnishing financial institution accounts

2.206 The strategic context document stated that ‘cases will be delivered with a note which identifies known garnishee sources... Cases delivered with this note are expected to be issued with an appropriate Enduring Garnishee as they have met the initial case selection parameters for this action’. The general Talk Sheet clarified however, that the note would not replace ‘the requirement for staff to utilise the RAPT... to determine other available garnishee sources’. The note was merely included to display to staff that a potential *enduring* garnishee source existed.²²¹

2.207 The Talk Sheet had also said that *enduring* garnishee notices should be issued to a source which would be ‘most effective in recovering the debt (in the long term) and positively influencing the client behaviour’. Such a notice would be appropriately issued to a financial institution where there was income from ‘a significant amount’ of interest and there was no other ‘income sources available which would be more effective’. The case studies document provided a relevant example in which the staff member had used the RAPT to identify that the hypothetical taxpayer had received \$37 in bank interest and had a \$93,000 p.a. salary. The reader was then asked to identify the garnishee source to target:

Have you considered the effectiveness in regard to payment of the debt, the client's likelihood to reengage and any implications of issuing a garnishee to each of the above sources?

Interest income...

As the client is only receiving a small amount of interest, it is unlikely that he has substantial funds held within his financial institution accounts.

An enduring garnishee may prompt the client to re-engage into payment negotiations however, the client would be prevented from accessing his accounts. This would significantly impact his ability to meet basic living expenses and may cause serious financial hardship.

2.208 The above approach to financial institution (bank) accounts can be compared with a message given in the strategic context document that *enduring* garnishee notices were expected to be issued even where the likely financial return was ‘insignificant relative to the debt’. This was because such notices were considered to be ‘a highly-effective recovery tool to encourage engagement’ as well as being ‘an inexpensive and effective tool to recover tax liabilities’.

²²⁰ Above n 215.

²²¹ Ibid.

2.209 From May 2017, EI unit staff were allocated work activities based on selection criteria for PIT or *enduring* garnishee consideration, however, staff were authorised to issue either type of notice regardless of the reason it was selected for their action.²²² This approach to case selection and allocation allowed the EWM unit to address the undersupply of staff for *enduring* garnishee work as staff skilled in PIT garnishee notices were also skilled in *enduring* garnishee work. However, some of the work activities allocated to staff (e.g. via the WFM system) were confusingly titled for example, "Bank Model Garnishee".²²³

2.210 For PIT garnishee work, DBL staff may issue a PIT notice to a financial institution without fear of freezing a taxpayer's account due to the ephemeral nature of the PIT garnishee and the ATO's pre-established streamlined process to issue garnishee notices to financial institutions.²²⁴

2.211 When conducting *enduring* garnishee work, the garnishee procedures require staff to evaluate the most effective source for garnishment from a wider range of sources that would be considered when conducting PIT garnishee work—for example, a small business' trade debtor (such as principals who had engaged the taxpayer as a contractor) or merchant facilities (EFTPOS).²²⁵

2.212 In this context, it is important to appreciate that for *enduring* garnishee work the AHT was 30 minutes. According to ATO staff interviewed by the IGTO investigation team, the time it took to issue an *enduring* garnishee notice to a financial institution was, on average, 30 minutes. However, the time that it took to issue an *enduring* garnishee notice to a taxpayer's trade debtor was, on average, two hours²²⁶ as time was needed to establish the identity of the correct trade debtor as well as contacting their representative to establish the garnishment process with them.

2.213 During the IGTO investigation team's interviews, a consistent response from DBL staff at various locations and levels of responsibility confirmed that, at that time, the maximum number of *enduring* garnishee notices an EI unit officer could appropriately issue per hour was, on average, little more than two, and even then they would be limited to issuing such notices to bank accounts to do so.

2.214 Furthermore, establishing an *enduring* garnishee arrangement for monies paid through EFTPOS transactions (before the taxpayer accesses the funds)²²⁷ could also 'be difficult and where details have not been confirmed, this limits... garnishee opportunities'.²²⁸

²²² ATO, 'Copy of email to Adelaide EI staff about garnishee strategic context' (Internal ATO document, 29 August 2017).

²²³ ATO, 'Copy of email about garnishee activity description' (Internal ATO document, 9 August 2017).

²²⁴ ATO, 'New Point in Time garnishee option' (Internal ATO document, 23 February 2010).

²²⁵ Above n 215.

²²⁶ Above n 97.

²²⁷ ATO, 'Garnishee FAQs' (Internal ATO document, February 2018).

²²⁸ ATO, 'Copy of email to all debt staff about merchant facility garnishees' (Internal ATO document, 3 October 2017).

Localised site applications

2.215 There are indications that in the months of May and June 2017 a number of staff at four sites may have issued a small number of *enduring* garnishee notices to bank accounts without first considering whether it would be more effective to issue such notices on taxpayers' trade debtors.

Three local site responses

2.216 In three of the four local sites, the issue was promptly identified and responded to by providing guidance in May and June 2017.²²⁹ For example, on 12 May 2017, the local Brisbane site SDM team leaders who were assisting the EI unit with *enduring* garnishee work were asked to inform their staff that sources other than bank accounts should be considered. These sources could be identified from information contained in the Risk Assessment Profiling Tool (RAPT). The matters that staff were asked to keep in mind were:²³⁰

1. Always consider the income flow;

... 3. For corporate entities the information about [trade debtors] is very beneficial and as you know trade debtor garnishees are more likely to result in recovery and engagement as opposed to bank garnishees. Furthermore if there are recent financial statements on record these are probably an even better source of trade debtor information due to their currency; and

... It is acknowledged that having to search for information will mean the process may take a little longer however there is the potential for it to yield a better outcome in terms of \$\$\$\$ recovered.

2.217 A 'frequently asked questions' document (reproduced in Appendix 12) was also circulated on 29 May 2017 to all SDM unit team leaders in the local Brisbane and Parramatta sites.²³¹ It directed staff, amongst other things, to only issue *enduring* garnishee notices, issue one notice per taxpayer if there are multiple sources and issue notices to two allocated taxpayers per day. It advised:²³²

Q: Do I issue garnishees to banks, trade debtors or both?

A: Garnishees are to issue PREFERABLY to non-bank sources, based on the fact that garnishees to non-bank sources are generally more successful, both in receiving revenue and prompting a taxpayer to get in touch with the ATO about their debt.

²²⁹ ATO, 'Copy of email to SDM team leaders with tips for teams with garnishee cases' (Internal ATO document, 12 May 2017); ATO, 'Copy of email with information for SDM unit staff in Brisbane and Parramatta about garnishee work' (Internal ATO document, 29 May 2017); ATO, 'UMG Support Team update' (Internal ATO document, 19 June 2017).

²³⁰ ATO, 'Copy of technical advice email to SDM team leaders about garnishee sources' (Internal ATO document, 12 May 2017). A copy is reproduced in Appendix 12.

²³¹ ATO, 'Copy of email with information for SDM unit staff in Brisbane and Parramatta about garnishee work' (Internal ATO document, 29 May 2017).

²³² ATO, 'Garnishee Surge 2017 FAQ v1.1' (Internal ATO document, undated).

Therefore, we should be looking at non-bank garnishees first. If these can't be located, then please action a bank garnishee.

2.218 The support team in the local UMG EI unit site also observed by 19 June 2017 that:

... staff are issuing multiple garnishees to debtors or bank accounts regarding the one client. This is not an EI function and is SDM function only.²³³

2.219 The issue was also discussed at the 30 June 2017 national support meeting of EI unit coaches. Representatives of all EI unit sites attended. The minutes of that meeting record that:²³⁴

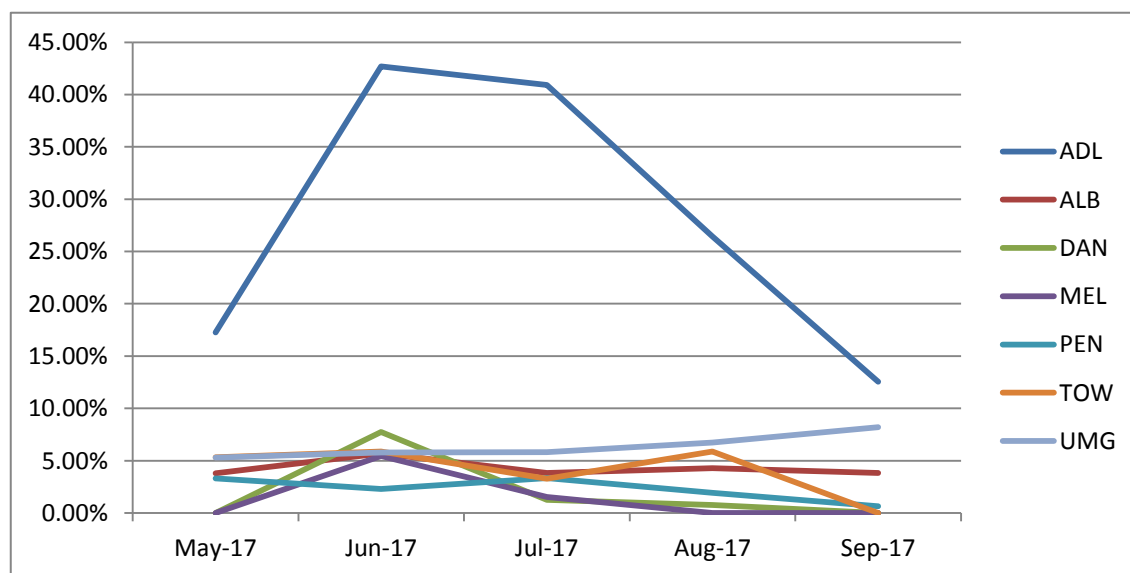
Recently all sites reviewed the strategic intent document in relation to the decision-making to and purpose of issuing garnishees.

Standard Garnishees to banks are not resulting in money coming in and can cripple business while the garnishee is in place.

Staff are to consider all sources, as the intent of [Enduring] Garnishees is to recover some funds.

2.220 Figure 2.5 below visually represents the percentage of garnishee notices which were *enduring* garnishee notices issued to taxpayers' bank accounts, by each local EI unit site over the May–September 2017 period.

Figure 2.5: Percentage of enduring garnishees issued to financial institutions, per local EI unit, by month over the May–September 2017 period



Source: ATO.²³⁵

²³³ ATO, 'UMG Support Team update' (Internal ATO document, 19 June 2017). An extract is reproduced in Appendix 12.

²³⁴ ATO, 'June 2017 National Support Network Meeting' (Internal ATO document, 30 June 2017). An extract is reproduced in Appendix 12.

2.221 The above figure shows that, in five of the six local EI unit sites (Albury, Dandenong, Melbourne, Penrith, Townsville and UMG), less than 10 per cent of all garnishee notices issued by that site for the May–September 2017 period were *enduring* garnishee notices to financial institutions. The local Adelaide EI unit site maintained a percentage of more than 10 per cent over this period, peaking at approximately 40 per cent in June and July 2017 (see Appendix 9).

Fourth local site responses

2.222 At the local Adelaide EI unit site, the proportion of *enduring* garnishee notices issued to bank accounts was substantially higher than any other site for an approximate four month period over May–September 2017 (see Figure 2.5 above).

2.223 To appropriately understand the output and site communications of the local EI unit site, it is important to appreciate as the history of the local Adelaide EI unit site, staff experience with *enduring* garnishee work and the operational differences between types of garnishees.

2.224 The IGTO investigations team were advised by EI unit staff that many staff in the local Adelaide site had considerable experience with PIT garnishee work and certain staff had conducted such work on a routine basis for many years. The site had been given formal training in *enduring* garnishee work some years ago. However, there had been little *enduring* garnishee work allocated to them since a block of work was allocated to them a number of years ago.²³⁶

2.225 For many EI unit staff in the local Adelaide site, having to consider trade debtors and merchant facilities as sources in conducting *enduring* garnishee work was an unfamiliar task, given the history of previous work allocated to them.

2.226 In preparation of the priority focus on *enduring* garnishee work, in March 2017, existing EI unit staff completed refresher training for that work. The local Adelaide EI unit site also conducted PIT and *enduring* garnishee training sessions for a number of new staff who had joined the unit in May and June 2017.²³⁷ The local Adelaide EI unit site commenced *enduring* garnishee notice work activities on 8 May 2017.²³⁸

Receipt of DBL Executive communications

2.227 Local Adelaide EI unit site team leaders participated in the monthly APS6 Leadership Forums and passed on key messages to their teams. For the May 2017

²³⁵ The local Perth EI unit site is excluded as it had only issued 14 garnishee notices in this period.

²³⁶ Above n 97.

²³⁷ 3 new staff in May 2017: ATO, 'Adelaide site report' (Internal ATO document, May 2017); 18 staff in June 2017: ATO, 'Adelaide site report' (Internal ATO document, June 2017).

²³⁸ ATO, 'Copy of email with calendar invite for new starters on 8 May 2017' (Internal ATO document, undated).

forum, for example, the DBL Executive's communications were referred to as follows in the minutes of one of the local Adelaide EI unit team meetings:²³⁹

We are full swing into end of year debt collection with standard garnishee work being a priority. Further training and support is being organised for any interested parties.

... The Leadership Group had a phone hook up with DC [i.e. the APS 6 Leadership Forum]...

Budget: we have achieved [our] projected collections for the year.

... The Debt Book [total debt holdings] is \$2 Billion larger than last year at this time.

Particular localised communications and site reporting

2.228 There were also a number of relevant local Adelaide EI unit site communications which involved team leaders or coaching staff. The relevant extracts of all such communications noted in this section are reproduced in Appendix 11.

2.229 On 8 May 2017, the local Adelaide EI unit first commenced its scheduled work as part of the *enduring* garnishee priority focus. Local EI unit coaching staff sent an email to all frontline staff in the local Adelaide site which stated:²⁴⁰

...Welcome back to the Enduring Garnishee work type - I'm sure it has missed you as much as you've missed it!

On this work type we intend on issuing enduring garnishees rather than PIT garnishees, where we are able.

... A couple of reminders to get you started:

1. Please attempt phone contact prior to considering collection action on a client.

- Your call is essentially the final effort to engage the client prior to taking collection action - If you do make successful contact, ensure that you have a firm conversation, requesting payment/an arrangement today. If the client is unable to negotiate or you are unable to get through to the client, attempt to issue an enduring garnishee today.

- There should be few instances where phone calls aren't being made prior to considering collection action (i.e. invalid phone numbers or a strong history of defaulted arrangements paired with recently failed phone contact attempts etc.)...

2.230 On Saturday 20 May 2017, 12 frontline staff in the local Adelaide EI unit site worked overtime to conduct *enduring* garnishee work activities. In the last hour of work, the supervising team leader site sent an email to the frontline staff that stated

²³⁹ ATO, 'Team meeting minutes' (Internal ATO document, 19 May 2017). An extract is provided in Appendix 11.

²⁴⁰ ATO, 'Copy of email from EI coach to all EI Adelaide staff about returning to work on enduring garnishees with reminders' (Internal ATO document, 8 May 2017).

“The last hour of power is upon us... That means you still have time to issue another 5 garnishees.... Right? ☺”.²⁴¹

2.231 On 23 May 2017, a broadcast communication was sent from the local Adelaide EI unit technical support team to all team leaders in that local site for their ‘information and dissemination’. It set out expectations regarding the specific steps that local Adelaide EI unit frontline staff should take in their *enduring* garnishee work:²⁴²

... The [enduring garnishee] process is to conduct a review and make a courtesy call to the client to advise the status of their case. When you contact the client:

- If you speak to someone attempt to negotiate **payment in full or a payment plan**. If you cannot, **do not give extra time** but confirm bank and merchant facilities and give legal warnings. If you have a viable garnishee source then **issue a garnishee**.
- If you are unable to speak with the client then **issue a garnishee**. As this is a courtesy call there is **no requirement to leave a message** and do not grant extra time.
- If there are no garnishee options available then escalate for the next action (as per [procedures]) – which includes summons, DPN or s459.

Garnishees are considered a highly-effective recovery tool to encourage engagement. These clients have had a number of opportunities to engage and have chosen not to, therefore a decision has been made to take the next best action – issue a garnishee. Doing so will progress the client’s case and have an effect, either:

1. The ATO will receive some funds to address/reduce the debt.
2. The client will contact us to pay the debt and withdraw the garnishee.
3. The client will contact us to discuss their circumstances (hardship/business closure) and we will then be able to address the case on its individual merits – which we could have done if they had responded to previous contact attempts.

Remember: it is the client’s obligation to address their tax affairs; they would be fully aware that they have a debt and it is not the tax agent’s responsibility to pay the debt. Therefore the ‘tax agent hasn’t contact me’ is not a defence any more than I didn’t see the 50 sign therefore I shouldn’t be hit with speeding fine.

²⁴¹ ATO, ‘Copy of email to staff about the end of the day during overtime’ (Internal ATO document, 20 May 2017).

²⁴² ATO, ‘Copy of email to EI Adelaide team leaders about enduring garnishee context’ (Internal ATO document, 23 May 2018).

2.232 The above message was attached to an email that was sent to the local Adelaide site EI unit technical support team later that day. It explained that:²⁴³

... there still appears to be some confusion or animosity in relation to the current garnishee campaign. Below is a statement that was sent to Team Leaders designed to outline our position on it and how these cases should be actioned.

As support staff, please make sure this is the message being given to staff through the hotline/floor walking.

Any coaches attending team meetings please discuss this during Coaches Corner as well and do your best to answer any questions that may arise.

2.233 At the end of each month, the local Adelaide EI unit site produced a site report which provided a local management focus on the activities and outputs of the EI unit frontline teams as well as the coaching and support team. No individual staff member's performance was identified in these reports. However, the results for the site were broken down to a team level. Comments were also recorded for each team.

2.234 For the month of May 2017, the local Adelaide site report referred to a "current focus on issuing [*enduring* garnishee notices] where appropriate".²⁴⁴ The report also quantified the number and proportion of *enduring* garnishee notices issued by local Adelaide EI unit teams as well as the time that teams took to issue such notices. In relation to garnishee work, similar comments were made for five of the six frontline teams that the "proportion of standard garnishees issued is another area for improvement to reflect the current focus on issuing standards where appropriate."²⁴⁵

2.235 On 8 June 2017, one of the local Adelaide site EI unit teams held its weekly meeting. The minutes of that meeting record the team spending 10 minutes with two local Adelaide site team leader/coaches from outside the team. One was recorded as advising "that [for] both IWD and RMS cases[,] if garnishee is appropriate *enduring* garnishee should be issued." The other was recorded as advising of "project streamlining procedures". Later in those minutes, it is recorded that a local Adelaide EI unit team member had stated that they were "confused by outcomes we are trying to achieve. i.e. are we trying to get willing participation or only debt collection?"²⁴⁶

2.236 The next day, on 9 June 2017, a different team in the local Adelaide EI unit site held their weekly meeting. The minutes record the team leader of that team advising the team members that "Whenever it's appropriate we should be issuing [*enduring*] Garnishees". Later in the minutes it is recorded that a coach had asked the team if they had any question regarding garnishee work. The minutes record "We asked if he would confirm the correct phone number to provide to clients, based on the different work-types ..." ²⁴⁷

²⁴³ ATO, 'Copy of email to local Adelaide EI site technical support team' (Internal ATO document, 23 May 2017).

²⁴⁴ ATO, 'Adelaide site report' (Internal ATO document, May 2017).

²⁴⁵ Ibid.

²⁴⁶ ATO, 'Team meeting minutes' (Internal ATO document, 8 June 2017).

²⁴⁷ ATO, 'Team meeting minutes' (Internal ATO document, 9 June 2017).

2.237 In the following week, on 13 July 2017, the team leader who had convened the meeting on 8 June 2017 (referred to above), forwarded to their team a copy of a coaching staff member's 'garnishee tips':²⁴⁸

Current Garnishee Process

1) Does a valid warning exist (written or verbal)

- Yes, attempt phone contact
- No, attempt phone contact (new FAWL will need to issue)

2) Was phone contact successful?

- Yes, obtain PIF [payment in full] or PA [payment arrangement] (no additional time is to be granted, advise we will be continuing recovery action) (get as much info as possible i.e bank details or merchant details)
- No, don't leave a message and continue with next course of action (no valid FAWL has been issued; you will issue a new one ... (valid FAWL exists, you will continue with the garnishee process)

3) Does a garnishee source exist?

- Yes, issue the Standard [enduring] Garnishee Notice to that source
- No, next recovery action i.e DPN/Summons/S459e

These clients are not entitled to any additional time and shouldn't be granted any unless they have unbelievably exceptional circumstances. This can only be judged case by case but 95% of these clients should be having either a FAWL/Garnishee or next recovery action taken on their account.

2.238 For the month of June 2017, the local Adelaide EI unit site report recorded an increase in both the number of garnishees issued and the proportion of *enduring* garnishees issued across the site. These increases were also reflected in the comments for each of the local Adelaide EI unit teams, "Both the total number of garnishees and the proportion of [*enduring*] garnishees issued have increased ... reflecting the current focus on issuing [*enduring* garnishee notices] where appropriate."²⁴⁹

2.239 On 27 July 2017, "RAPT and Naming conventions" training was delivered by the local Adelaide coaching staff to frontline staff in the site.²⁵⁰ This training aimed to improve frontline staff's use of the RAPT.²⁵¹ A frontline staff member who had attended this training explained to the IGTO investigation team that it was at this training that they had first become aware that issuing an *enduring* garnishee notice on a

²⁴⁸ ATO, 'Copy of email with garnishee tips' (Internal ATO document, 13 June 2017).

²⁴⁹ ATO, 'Adelaide site report' (internal ATO document, June 2017).

²⁵⁰ Ibid p 7.

²⁵¹ Above n 97.

taxpayer's bank account could result in the bank freezing the account for months. They also stated that unlike them, however, other frontline staff at that training session were already aware of this potential impact.²⁵²

2.240 The local Adelaide EI unit site report for the month of July 2017, reported as one of the top performance areas, a big increase in both the number of garnishee notices issued and the proportion of *enduring* garnishee notices issued. Comments on team performance, however, reported that there were decreases in garnishee notices issued for five of the six teams. It also reported that the proportion of *enduring* garnishee notices had decreased for two teams, increased for one team and for one other the proportion was "reflecting the current focus on issuing [such notices] where appropriate".²⁵³

Enduring garnishees to bank accounts — correction communications

2.241 On 9 August 2017, the national S&I unit had observed a number of *enduring* garnishee notices issued on taxpayers' bank accounts two days prior that did not appear to have appropriately considered the impact on the taxpayer.²⁵⁴ These notices were issued primarily by local EI unit staff in one site, the local Adelaide site. The national S&I unit sent an email to EI unit management who forwarded it to the local Adelaide EI unit's coaching and technical support team. The email stated:²⁵⁵

... Adelaide in particular appear to be issuing enduring garnishee's to financial institutions more than any other site.

In addition, it appears that a significant amount of these enduring garnishee's were actually delivered for a PIT... have you engaged with staff in Adelaide to identify why this is occurring?

- Was the enduring garnishee strategic context document (including Talk Sheet and case studies) not rolled out as intended?

- Are there conflicting messages being provided within the site?

Some staff have recorded on their notes that they believe an enduring garnishee is the best action given the clients compliance history (and we acknowledge that they are empowered to make a decision) however they do not appear to be considering our strategic position in respect to enduring garnishee's to an [financial institution].

My perception (rightly or wrongly) is that staff may be choosing to issue an enduring garnishee to an [financial institution] as it forces the client to call in order to have the garnishee withdrawn. While it may prompt engagement, this action severely impacts

²⁵² Ibid.

²⁵³ Above n 249.

²⁵⁴ ATO, 'Copy of email observing cases delivered for consideration of a PIT garnishee resulting in enduring garnishees being issued to banks' (Internal ATO document, 9 August 2017).

²⁵⁵ ATO, 'Copy of email identifying the Adelaide site issuing enduring garnishees to banks more than any other sites' (Internal ATO document, 15 August 2017).

the clients ability to maintain the viability of their business or provide for their family (which is our overarching garnishee principles).

To reconfirm – if staff are delivered a PIT garnishee and determine that an enduring garnishee to an originating source of income (Employer, [taxpayer's debtor]) would be more effective, we have no concerns with this approach. However an enduring garnishee to [a financial institution] should only be issued where it is appropriate to do so i.e. there is evidence of a significant amount of money available in the account which would indicate they have the capacity to pay.

2.242 The local Adelaide EI unit responded to the email on the same day. It was confirmed that training was provided to frontline staff in the local Adelaide EI unit site in accordance with the *enduring* garnishee strategic context document and the Talk Sheet and that the examples in the case studies were used. It also observed that:²⁵⁶

It does however appear that staff might be missing a fundamental step in the process regarding the source of income for the garnishee. I do also acknowledge that we may have 'confused' staff with a site comms that we issued, aiming to clarify the need to NOT make several attempts to contact etc. [referring to the 13 June 2017 broadcast communication] This doesn't excuse however that training and procedures are very clear and we will take steps to rectify immediately.

The trainer whom rolled out the majority of the sessions returns tomorrow and we will brief with them to try and identify gaps so we can tailor our next action. We will brief team leaders and issue site comms which will be followed up by short sessions during learning and development this week to reinforce the message. We will roll this out this week.

This will include clearer notes to indicate reasons why (if) a [*enduring* garnishee] was issued over a PiT.

2.243 From 24 August 2017, the technical support team in the local Adelaide EI unit site started delivering training to all local Adelaide EI unit teams regarding 'garnishees and the strategic intent'.²⁵⁷ This training was aimed to address the S&I unit's observations that *enduring* garnishees had been applied to bank accounts when other sources may have been available.²⁵⁸

2.244 On 29 August 2017, a follow up email was sent by the local Adelaide technical support team to all EI teams that attended the training sessions. It confirmed:²⁵⁹

The [national S&I unit has] identified that Adelaide in particular appear to be issuing enduring garnishees to financial institutions more than any other site. In addition, it

²⁵⁶ ATO, 'Copy of email in response to training and information communicated to staff about garnishees' (Internal ATO document, 21 August 2017).

²⁵⁷ ATO, 'Copy of email with calendar invite for Garnishee Strategic Context learning and development session' (Internal ATO document, undated); ATO, 'Adelaide Site Report' (Internal ATO document, August 2017).

²⁵⁸ Above n 97.

²⁵⁹ Above n 222.

appears that a significant amount of these enduring garnishee's were actually delivered for a PIT garnishee to issue.

It appears some staff may be making a decision to issue a [enduring] garnishee to a financial institution based on the client's compliance history, or to try and force the client to engage with the ATO. When making a decision to issue a garnishee, the officer must refer to the ATO's Garnishee principles and justify their decision.

If staff are delivered a PIT garnishee activity and determine that an enduring garnishee to an originating source of income (Employer, [trade debtor]) would be more effective, the [national S&I unit has] no concerns with this approach. However an enduring garnishee to an [financial institution] should only be issued where it is appropriate to do so i.e. there is evidence of a significant amount of money available in the account which would indicate they have the capacity to pay. If this is not the case, then issuing a PIT garnishee to a financial institution is appropriate as it may recover funds and prompt engagement without freezing the taxpayer's account and placing them in hardship...

Staff should identify garnishee sources available for the client, and evaluate which will be the most effective in recovering the debt (in the long term) and positively influencing the client behaviour.

...Evaluate each case on its merits and justify your decision taking into consideration the garnishee principles and the need to address non-compliance and unfair financial advantage...

2.245 The local Adelaide EI unit site report for the month of August 2017 made no mention of garnishee notices in top or low performance areas. Comments made for each team merely acknowledged increases or decreases in numbers of garnishee notices issued and the team's average actions per hour.²⁶⁰

Garnishee benchmark and staff performance

2.246 On 16 November 2017, an email was sent to the EI unit Leadership Group by the national S&I unit as part of a review that the latter unit was conducting. It disclosed part of the formula used by the national S&I unit for *enduring* garnishee work planning purposes:²⁶¹

... I have reviewed the following period: 1/10/17- 5/11/17.

The scheduled hours for Debt EI across this period = 1,455 hours.

Total number of enduring garnishees issued (including Garnishee type undefined) = 536

Expected volume of garnishees to be issued (30min AHT X 24% success rate) = 1506

²⁶⁰ ATO, 'Adelaide site report' (Internal ATO document, August 2017).

²⁶¹ ATO, 'Copy of email about the analysis of enduring garnishee work completed per hour' (Internal ATO document, 16 November 2017).

Can you please review your sites output vs the hours rostered and provide any explanations of our output?

2.247 The above email was forwarded to the local Adelaide, Albury, Dandenong and UMG sites. In discussions amongst each other, the local EI unit operational staff appear to have understood the 0.5 *enduring* garnishee notices per hour as a benchmark that should be met operationally:

The expected volume of garnishees to be issued is 30min [average handling time] x 24% success rate.

This translates to an average of one standard garnishee per two hours scheduled or 0.5 garnishees per hour.

Looking at the results it appears that the national average for Sep17 is 0.09 and Oct17 is 0.14 so there is a lot of work for us to do.

2.248 In one email response, it was also questioned whether the '[0].5 benchmark [was] realistic?'²⁶²

2.249 By the end of November 2017, the local Adelaide EI unit site report included the benchmark of 0.5 *enduring* garnishee notices issued per hour, as well as the national EI unit average.²⁶³ The report defined this benchmark as:

The expected volume of garnishees to be issued is 30min AHT x 24% success rate. This translates to an average of one standard garnishee per two hours scheduled or 0.5 garnishees per hour.

2.250 It reported as one of its lowest 'performance areas', "the number of [*enduring*] garnishees issued per hour is well below the benchmark and national average". It stated that the strategy moving forward was to "Focus on issuing standard garnishees where appropriate and utilise the RAPT data to identify employer and [trade debtor] sources." Comments about each team's performance now included comments on whether there were increases/decreases in the number of *enduring* garnishee notices per hour issued and how this figure compared to the site average.²⁶⁴ The local Adelaide EI unit site report for November 2017 was presented to all EI unit teams in the local Adelaide site.²⁶⁵ The proportion of *enduring* garnishee notices as well as the proportion of *enduring* garnishee notices increased in this month (see Table A9.3 in Appendix 9).

2.251 On the week commencing 5 February 2018, training sessions were conducted on *enduring* garnishee work and decision-making for the local Adelaide EI unit

²⁶² ATO, 'Copy of email in response to analysis of enduring garnishee work completed per hour' (Internal ATO document, 28 November 2017).

²⁶³ Ibid.

²⁶⁴ ATO, 'Adelaide site report' (Internal ATO document, November 2017).

²⁶⁵ ATO, 'Adelaide site report' (Internal ATO document, December 2017).

teams.²⁶⁶ A follow up email was sent to all EI unit staff in that site on 12 February 2018. It stated: ²⁶⁷

... We hope that you now have a sound understanding of:

Our major focus; to make effective decisions to appropriately move these cases forward.... Our current strategies when actioning garnishee work ... What's changed in the world of garnishees since we first begun actioning the work ... How you can make a contribution; including making fast decisions and taking effective action...

2.252 The email also attached a 'frequently asked questions' document for garnishee work which, amongst other things, reInforced the restrictions placed on the EI unit in issuing an *enduring* garnishee notice: ²⁶⁸

Q: When would it be appropriate to issue [an *enduring*] Garnishee to a bank account?

A: Rarely! While there is no 'blanket rule' we need to ensure that we are not placing the taxpayer into severe financial hardship or stopping them from trading by freezing their account. Consult a coach if you are unsure whether issuing [an *enduring*] Garnishee on a bank account will be an appropriate outcome.

2.253 The local Adelaide EI unit site report for February 2018 stated that 'the number of [*enduring*] garnishees issued per hour has increased dramatically this month and Adelaide is only slightly below the national average'. The strategy moving forward is to 'continue to assist staff to identify opportunities to issue [*enduring*] garnishees where appropriate, utilise the RAPT data to identify employer and [trade debtor] sources and reduce the case [average handling times]. The report also captured the numbers of *enduring* garnishee notices issued per hour at 0.32, with the benchmark at 0.5.²⁶⁹

2.254 On 20 April 2018, EI unit management issued a broadcast communication to all DBL staff that issuing of *enduring* garnishee notices to financial institutions was suspended pending consideration of the ATO's approach to debt management.²⁷⁰

ATO's Business Process Review

2.255 On 4 July 2018, the ATO undertook an internal Business Process Review which included a garnishee working group to examine:

- its business processes, how those processes work in practice and whether the processes are consistent with practice;
- relevant complaints and quality assurance; and

²⁶⁶ ATO, 'Garnishee and decision-making – training sheet' (Internal ATO document, January 2018).

²⁶⁷ Below n 394..

²⁶⁸ Ibid.

²⁶⁹ ATO, 'Adelaide site report' (Internal ATO document, February 2018).

²⁷⁰ ATO, 'Debt news – temporary suspension on enduring garnishee is to financial institutions' (Internal ATO document, 20 April 2018).

- its use of garnishee notices as compared to other statutory users.²⁷¹

2.256 The ATO's internal review was finalised on 22 July 2018 and noted the impact that *enduring* garnishee notices to financial institutions had on taxpayers. In response to this issue, the ATO formed the view that *enduring* garnishees on bank accounts should only be issued by Debt's specialised case work teams which deal with sensitive, high value, organised crime, serious financial crime, and other complex work.²⁷² The ATO also identified areas for improvements in relation to the process, procedures, and learning and development products for garnishee notices.²⁷³

2.257 Until garnishee decision-making training commenced in the local Adelaide EI unit site in January 2018, only 9 of the 1,295 *enduring* garnishee notices were issued by that local site to taxpayers' trade debtors over the May–December 2017 period. Whereas, 935 *enduring* garnishee notices were issued to financial institutions by that local site over that period. By comparison, the local UMG and Albury EI unit sites had issued 102 and 33 *enduring* garnishee notices to taxpayers' trade debtors and issued 680 and 292 *enduring* garnishee notices to financial institutions, respectively, over this period. Further details are provided in Appendix 9.

ATO quality assessments of garnishee work

2.258 The ATO's internal quality review assessments of ATO staff garnishee work over the January 2017 to March 2018 quarters are set out in Appendix 8. The following observations may be made from those results.

2.259 The majority of cases reviewed met or exceeded the quality standards and the percentage of such cases increased over time from 87 per cent for garnishee notices issued in the January–March 2017 quarter to 92 per cent for such notices issued in the same period in the following year.

2.260 For reviewed cases which did not meet the ATO's quality standards, the higher percentage of cases, according to the ATO's assessment, were:

- in the April–September 2017 quarters for cases in which actions other than issuing a garnishee notice were more appropriate, issuing a different type of garnishee notice or issuing the notice to a different source of garnishment (3.92% and 8.79% of cases assessed for each respective quarter);
- in the July–December 2017 quarters for cases in which the amounts stated on the garnishee notices were incorrect (2.20% and 3.33% of cases assessed for each respective quarter);
- in the July–December 2017 period for cases in which insufficient warning was provided of potential stronger action or copies of the garnishee notice were

²⁷¹ ATO, 'Copy of email about the Business Process Review' (Internal ATO document, 12 April 2018).

²⁷² Above n 68, pp 4–5, 9–10.

²⁷³ ATO, 'Debt Executive meeting agenda' (Internal ATO document, 21 May 2018).

not sent to all relevant parties (6.59% and 5.56% of cases assessed for each respective quarter); and

- in the January–June 2017 quarters for cases in which the record-keeping of staff actions taken was incomplete or absent (2.52% and 2.71% of cases assessed for each respective quarter).

Garnishee complaints

2.261 Numbers of complaints that the ATO and the IGTO received regarding garnishee notices over four financial years from 1 July 2014 to 30 June 2018 are set out in Appendix 15.

2.262 For the 2016–17 financial year, the ATO received 177 such complaints. This represents approximately 0.75 per cent of all garnishee notices issued in that financial year. The percentage is the same for the following financial year.

2.263 For the 2016–17 financial year, the IGTO received 51 such complaints. This represents approximately 0.22 per cent of all garnishee notices issued in that financial year. In the following financial year, the IGTO received 103 such complaints which amounts to 0.20 per cent of garnishee notices issued in that year.

2.264 As complaint investigations undertaken by the IGTO over the period are generally initiated after a taxpayer has received a garnishee notice from the ATO, there was some delay with some taxpayers approaching the IGTO for assistance when they had concerns regarding garnishee notices that were issued towards the end of the financial year.

2.265 Of the total number of garnishee complaints lodged with the IGTO in the 2016–17 and 2017–18 financial years, 34 and 45 were lodged by small businesses, respectively.

2.266 The concerns raised by small businesses in complaints were that the small business considered:

- the ATO should not have issued the garnishee notice at all—for example, they believe that they have no debt or have paid the debt;
- the ATO should not have issued an *enduring* garnishee notice—for example, it froze the business' bank account;
- the ATO should not have issued the garnishee to that source—for example, the business' trading account was garnished;
- the ATO should not have issued the garnishee notice as the business owner was attempting to enter into a payment arrangement with the ATO or believes that they were already paying off the debt; and
- the business owner did not receive prior warning from the ATO that it would issue a garnishee notice.

2.267 The manner in which ATO garnishee action is taken can have disproportionate impact on the operations of small businesses as well as contribute to emotional, reputational and financial difficulties. For example, in a complaint lodged by a small business regarding the ATO's use of garnishee notices during the 2016-17 financial year the small business owner told the IGTO case officer:

Late afternoon... we discovered our bank account was no longer visible online. I contacted our bank who informed me that the ATO had garnisheed our account. We contacted the ATO the next day, who informed us that they tried calling us...and had sent a letter, to which no reply had been received... I had missed a call from a private number as I was in a meeting. I could not return the call as it was a private number and the caller left no message. We assume that this private call was the ATO after our most recent discussions with them. The letter the ATO [sent] was addressed to our previous location... We have not received any correspondence from the Real Estate agent (old address), or our accountant...

They have withdrawn all funds from our account... We don't have access to the account so we cannot pay bills, salaries etc, effectively halting us from trading or pay expenses such as rent, power etc all due within the next few days.

I called the ATO again... to enquire as to what else needs to be done and when we would have an answer or garnishee would be lifted. He replied with "it's been placed in a queue and then someone will call us". I said "it could take weeks?" he replied with "yes". At this stage unless something happens within the next 48 hours we will have no option but to reduce staff hours and depending on how long it takes to resolve, potentially lay off staff until the matter is determined, either way will only hurt our business further.²⁷⁴

2.268 The relevant debt in this case included a Pay as You Go Instalment which is effectively a prepayment towards an end of year income tax liability, and the owner had already begun making voluntary payments towards the debt.²⁷⁵

2.269 The IGTO provides small businesses with an expedited option for the ATO to resolve their concerns directly with them on the understanding that they could engage the IGTO if they remained dissatisfied. In such cases, the IGTO ensures that the concerns of the small business are formally registered with the ATO, an identifiable ATO officer is tasked to assist them to resolve the issue within 15 business days and identifies the administrative issues of concern to be addressed, together with the small business' preferred outcome.

2.270 The IGTO may also commence an independent investigation into the events that gave rise to the small business' concerns. In such cases, IGTO officers independently engage with the small business and relevant ATO staff to facilitate appropriate resolution options based on the factual and evidentiary material, including

²⁷⁴ Internal IGTO Complaint information.

²⁷⁵ Ibid.

that which is independently verified by IGTO officers who have direct access to ATO systems from their office.

2.271 Such investigations may conclude by providing independent assurance of the ATO's actions where the evidence supports such a view (33 per cent of IGTO investigations concluded in the last three financial years). In such cases, the IGTO also provides independent explanation to assist small business owners understand the events and nature of the ATO's actions—for example, whether appropriate opportunity and notice was provided prior to garnishee action.²⁷⁶

2.272 For example, in one such investigation the IGTO officer had independently verified that over the past 18 months the ATO had made contact with the small business owner and their tax representatives multiple times by phone. They had discussed the business' outstanding lodgements for the past 3 years as well as its debts, which at the time of the *enduring* garnishee, amounted to over \$150,000. Some months prior to the *enduring* garnishee, the ATO had also sent two letters to warn of potential stronger recovery action and had issued a PIT garnishee notice. The small business owner, however, had not taken any action in response.²⁷⁷

2.273 In such cases, the IGTO can offer small businesses assistance in exploring and facilitating successful alternative resolution options—for example, facilitating discussion with ATO debt staff regarding proposals for payment arrangements or securities, for a period, to assist small businesses increase cash flow and trade out of debt. The IGTO may also support small business owners through the process of seeking hardship relief where they experience such unfortunate circumstances.²⁷⁸

2.274 IGTO investigation may also conclude that the evidence corroborates the small business' concerns (27% of IGTO investigations concluded in the last three financial years). In such cases, IGTO officers independently engage with the ATO and the small business to facilitate an appropriate resolution.

2.275 Small businesses may seek a withdrawal of a garnishee notice as an outcome to their complaint, particularly where an *enduring* garnishee has serious financial impact on a small business' ability to conduct their business—for example, the garnishee notice issued on the business' trading account has resulted in the bank freezing that account. The IGTO's investigation can expedite the ATO's consideration of such impacts, and in some cases, lead to the withdrawal of the notice in light of the taxpayer's circumstances.²⁷⁹

2.276 In a small number of investigations, including two cases in the 2016–17 financial year, IGTO investigations have concluded, and the ATO has agreed, that monies had been inappropriately garnished. For example in one case, the ATO officer did not comply with the ATO's garnishee procedures as they did not attempt to contact the taxpayer prior to issuing the garnishee notice. Whilst the small business' debt was overdue, it had already made frequent voluntary payments of significant

²⁷⁶ Ibid.

²⁷⁷ Ibid.

²⁷⁸ Ibid.

²⁷⁹ Ibid.

amounts that had reduced the debt by 75 per cent by the time the ATO issued the garnishee notice.²⁸⁰ The ATO agreed to provide a formal apology to the business.

2.277 In these small number of IGTO investigations, although the ATO has agreed that monies should not have been garnished from the taxpayer,²⁸¹ the ATO was not authorised to return the garnished amounts. By the time the small business had initiated contact with the IGTO, the garnished monies had already been deposited into the Government's Consolidated Revenue Fund (CRF) in satisfaction of the tax debt.

2.278 According to the Australian Constitution, any withdrawal from the CRF requires Parliamentary approval.²⁸² The ATO advises that it does not have such approval for the purpose of refunding garnished amounts which have been applied against an undisputed collectable tax debt.²⁸³

2.279 Given the current legislative arrangements, it is important that taxpayers seek assistance as soon as possible from the IGTO when they become aware of the ATO's garnishee notice and have concerns relating to the appropriateness or fairness of such action. The IGTO's observations and recommendations regarding the underlying policy and legislative issues will be considered in the IGTO companion taxation administration policy report.

IGTO OBSERVATIONS

2.280 Towards the end of the 2016–17 financial year, a priority focus on firmer recovery actions was given regarding taxpayers with more than \$100,000 in undisputed collectable tax debt and who had not entered a formal arrangement with the ATO to repay those amounts. This priority focus was due to the unexpected postponement of financial and collection changes and two major ATO system outages—there was a backlog of collection work regarding “stubbornly high” level of undisputed collectible debt levels and a large number of previously planned stronger actions which had not been conducted. Such a focus would attempt to conduct the ‘make up the numbers’ of the planned full-year number of stronger work type activities within the remaining months as a ramp up to the end of the financial year.

2.281 The priority focus of work would be supported by the existing layer of consistent policy and procedural documentation as well as training and support arrangements to assist frontline staff. It would also be supplemented by additional staff being trained to conduct both PIT and *enduring* garnishee work.

2.282 There were risks, however, in conducting a seven-week focus on the exercise of coercive recovery powers, including that the 200 staff in 33 sites (some of whom had not exercised such power previously) exercise such power consistently and appropriately.

²⁸⁰ Ibid.

²⁸¹ Ibid.

²⁸² *Commonwealth of Australia Constitution Act* ss 81 and 83.

²⁸³ ATO, ‘Debt executive meeting submission’ (Internal ATO document, 6 June 2018).

Garnishee strategic context document and its generalised messages to staff

2.283 The DBL took additional and, in the IGTO's view, prudent steps to 'cascade' written documentation to staff which provided the context for the priority focus of work and to ensure that this context was discussed by team leaders, coaches and frontline staff at the local sites.

2.284 Unfortunately, however, there were risks that some of the generalised messages in the strategic context document could be misapplied by frontline staff in particular circumstances. These risks arose if the document was not read together with, and subject to, the ATO's existing policies and procedures which all staff were required to follow.

2.285 The risk of misapplication relating to some of these generalised messages was sought to be addressed by providing useful clarifications to the "Garnishee Strategic Context" document in an accompanying Talk Sheet, 'Enduring Garnishee - Strategic Context Talk Sheet' and Case Studies.

Staff discretion in issuing enduring garnishee notices

2.286 For example, one of the generalised DBL management messages in the strategic context document appeared to indicate an expectation that *enduring* garnishees were to be issued in all cases that were allocated to DBL staff:

[c]ases delivered with this note [i.e. a note which identified known source for garnishment (source note)] are expected to be issued with an appropriate Enduring Garnishee as they have met the initial case selection parameters for this action.

2.287 The accompanying management issued Talk Sheet, however, dispelled any notion that this expectation was a directive to issue such notices in all cases allocated to staff as it referred to the requirement that staff were to exercise their own judgement in accordance with the pre-existing procedures:

The current exclusion rules and considerations identified within the procedure should be used to guide an appropriate decision.

2.288 In the IGTO's view, the requirement for staff to exercise their own judgement and not issue *enduring* garnishee notices in most or every allocated case was not only ATO endorsed policy but was also understood by DBL staff, as a whole, as corroborated by the 8 per cent conversion rate for *enduring* garnishee work activities (i.e. *enduring* garnishee notices were only issued in approximately 8 per cent of allocated *enduring* garnishee work activities).

Attempts to contact the taxpayer

2.289 Another generalised management message in the strategic context document indicated that staff need not contact the relevant taxpayer unless the taxpayer had not received a warning within the last six months. However, the Talk Sheet emphasised an expectation that staff are to use their judgement regarding taxpayer-contact: "If you

decide that one more contact attempt is necessary to engage the client and that contact is unsuccessful, you should use your judgement to determine and undertake the *next best action*" [emphasis added]. This message is discussed further in the section below, "Local site applications".

Using garnishee notices to prompt taxpayer engagement

2.290 The purpose of issuing *enduring* garnishee notices in this priority focus of work was another message that was strongly emphasised in the DBL management strategic context document and Talk Sheet. This purpose was "to encourage the client to engage with us, positively influence their behaviour through promoting willing participation and to recover the debt". In this respect, *enduring* garnishee notices were "likely to be more effective as it prompts the client to evaluate their circumstances..."

2.291 From a creditor perspective, such notices can provide an effective tool for DBL staff to motivate taxpayers to contact the ATO. Such contact would then provide opportunity for DBL staff to obtain the taxpayer's agreement to repay the undisputed collectable debt. An *enduring* garnishee notice also recovered, on average, a greater amount of payments towards the debt due to the notice's ongoing operation, generally three months. For example, in the 2016-17 financial year such notices recovered almost two and half times more than a PIT garnishee notice (i.e. \$5,617, compared to \$2,333 for PIT garnishees), based on an average of 7-day balance reductions (see Table 2.2 above).

2.292 Neither the strategic context document nor the Talk Sheet, however, expressly balanced this emphasis of using garnishee notices to prompt taxpayer engagement against the requirement of staff to have due regard to the financial impact that an *enduring* garnishee notice may have on the taxpayer. Such a requirement assists to minimise the risk of issuing an *enduring* garnishee notice which has a disproportionate impact in the circumstances. However, the strategic context document did provide links to documents which would provide such balance, if they were read together and followed by staff.

2.293 For example, a link was provided to practice statement, *PSLA 2011/18*, which states that "care must be taken when exercising this [garnishee] power" and that staff must consider "the financial position of the tax debtor ... having regard to the particular circumstances of the tax debtor" as well as "the likely implications of issuing a notice on a tax debtor's ability to provide for a family or to maintain the viability of a business."²⁸⁴ A link was also provided to the ATO's 'Garnishee Principles' document (reproduced in Appendix 10) which is incorporated into the garnishee procedures that staff are required to follow. The first principle "Client focussed" asks questions to prompt application of that principle—for example, "Is the client at the forefront of your thinking rather than just following the process?; Will your action prevent the client from reasonably providing for a family or maintaining the viability

²⁸⁴ Above n 187, para [101].

of a business?; Do you understand the consequences of inappropriate/invalid garnishee action for this client?".²⁸⁵

Frontline staff access to the Talk Sheet

2.294 Although application of the Talk Sheet would minimise the risks of frontline staff misapplying some of the generalised messages in the strategic context document, the Talk Sheet, itself, was not provided directly to all frontline staff. It was "designed to support team leaders or coaches in communicating the strategic context document to staff" and may not have been forwarded to or 'cascaded' to frontline staff.

2.295 Accordingly, correction of frontline staff misinterpretation or misapplication of the messages in the strategic context document relied on local site team leaders and coaches to actively identify and correct any such errors. Where local EI unit sites were new or relatively inexperienced with *enduring* garnishee work, additional and knowledgeable team leader and coaching support would be required to identify the implications of such misapplication in particular circumstances.

2.296 In the IGTO's view, the strategic context document and the accompanying materials were positive steps aimed at preserving confidence in the consistent exercise of a coercive recovery power by numbers of staff in an activity-based highly-scheduled environment. In this respect, it was important that frontline staff read and assimilate this information and opportunity to do so was afforded through the local site meetings which were scheduled to discuss the strategic context for the *enduring* garnishee notice priority focus of work.

2.297 While in a general sense this corporate communication approach of the DBL was effective in providing consistent messages, in the IGTO's view, a more integrated and holistic approach to communication to all DBL staff in this situation would have improved the attempts to minimise the risk of misapplication or misunderstanding by DBL staff.

Garnishing bank accounts

2.298 One particular circumstance in which misapplication of the generalised messages could result in the inappropriate exercise of the garnishee power was where *enduring* garnishee notices were issued to taxpayers' bank accounts. This risk of misapplication arose, in part, from the wording in the strategic context document regarding the source of garnishment:

"[w]here a garnishee source has been identified [in the note delivered with the case (the 'garnishee source note')], but the likely financial return is considered insignificant relative to the quantum of the debt, a garnishee is still considered a highly effective recovery tool to encourage engagement."

2.299 The Talk Sheet clarified that the purpose of the garnishee source note was to merely provide proof to staff that a potential source for garnishment existed. More

²⁸⁵ Above n 188.

importantly, the Talk Sheet emphasised the requirement for staff judgement to be exercised in this respect as it dispelled any notion that a garnishee notice was to issue to a source that was identified in that note before staff had first “evaluate[d] which [garnishee source] will be most effective in recovering the debt (in the long term) and positively influencing the client behaviour”. Furthermore, the Talk Sheet stated that the garnishee source note did not replace the requirement for staff “to utilise the RAPT ... to determine other available garnishee sources”.

2.300 The Talk Sheet also specifically alerted staff to additional considerations that were to be taken into account when deciding whether to target a taxpayer’s bank account:

A garnishee to a financial institution is appropriate where the income is from interest, and interest is of a significant amount, evidencing a large amount of cash in the bank. However garnishees to financial institutions are not the preference if there are other income sources available which would be more effective.

2.301 It did not, however, identify the practical implications for taxpayers’ bank accounts where *enduring* garnishee notices were used. In such cases, the financial institution may ‘freeze’ that account for the duration of the notice (generally three months) if there was insufficient cash in the account to satisfy the notice. If that frozen bank account was a small business’ trading account, for example, this would cause, at the very least, administrative inconvenience in having to re-route its receivables and payments. Where insufficient regard was given to a small business’ individual circumstances, such a notice risked disproportionate financial harm to the operations of that business and its viability. Issuing a PIT garnishee notice, however, in these circumstances would reduce (although not eliminate) this risk as it would not freeze the taxpayer’s bank account due to its once-off operation.

2.302 One of the scenarios in the Case Studies document, which local site team leaders were required to provide staff, explained the practical implication of an *enduring* garnishee notice on a taxpayer’s bank account.

2.303 For new or less experienced staff, however, the different practical implications of issuing PIT and *enduring* garnishees on bank accounts may not have been fully appreciated. They also may not have drawn the link between such practical implications and the requirements of the ATO-endorsed procedures and policies for staff to have the “client at the forefront of [their] thinking”²⁸⁶ and to have regard to a business’ financial viability.²⁸⁷

2.304 In the IGTO’s view, had the Talk Sheet been provided to all DBL staff and opportunity afforded to read and understand it, together with the relevant ATO procedures and policies, this would have better informed staff about the overall approach as well as, the need to consider *enduring* garnishee notices on taxpayers’ bank accounts and have due regard to taxpayers’ financial circumstances (including the

²⁸⁶ Above n 188.

²⁸⁷ Above n 187, para [102].

amount of money in those accounts and the nature of those accounts). Also, it would have alerted the staff member to the option of reducing the risk of financial harm by issuing a PIT garnishee notice at a lower percentage, if a more appropriate source for garnishment was not available. Overall, the risk or likelihood of misinterpretation and misapplication would have been significantly reduced.

Local site applications

2.305 Notwithstanding the above clarification in the Talk Sheet, localised communications within the DBL indicate that certain staff in four local sites may have started issuing *enduring* garnishee notices to taxpayers' bank accounts, despite more appropriate sources of garnishment being available in those cases.

Three local sites responses

2.306 In three of those local sites, the local team leaders and coaching staff, on becoming aware of the above events, issued corrective guidance in writing which reinforced with local frontline staff that taxpayers' trade debtors were a preferred source for garnishment, even though such a process took much longer than issuing an *enduring* garnishee to a bank account.

2.307 The above corrective action indicates that DBL staff members with greater experience in conducting *enduring* garnishee work were generally aware of the risks in issuing *enduring* garnishee notices to financial institutions.

2.308 It should be noted, however, that the text of these corrective communications in the local sites did not refer to the financial impact on taxpayers, but had stated that such notices were not the best option as they rarely recovered much money²⁸⁸, were "not the preference"²⁸⁹ or "not the function" of the EI unit to issue *enduring* garnishee notices in particular circumstances.²⁹⁰ However, the potential for *enduring* garnishee notices issued to taxpayers', including small businesses' bank accounts, was explicitly recognised in the 30 June 2017 National Support meeting which was attended by coaches from all of the local EI unit sites.²⁹¹

2.309 In the IGTO's view, with the exception of the local Adelaide EI unit site which is discussed further below, the above corrective guidance was generally effective in preventing a visible staff practice emerging as the statistics show that there were a relatively small proportion of *enduring* garnishee notices issued to financial institutions compared to the total number garnishee notices issued by those local sites over the May-June 2017 period (see Figure 2.5 above and Appendix 9).

²⁸⁸ Above n 230; above n 232.

²⁸⁹ Above n 215.

²⁹⁰ Above n 233.

²⁹¹ Above n 234.

Fourth local site response

2.310 As Figure 2.5 shows, the local Adelaide EI unit site had issued a greater proportion of *enduring* garnishee notices to financial institutions than all of the other EI unit sites.²⁹² To place the local Adelaide site anomaly in context, it is important to appreciate a number of factors in relation to the local Adelaide EI unit site at the relevant time.

Localised communications that may be perceived as ‘directives’

2.311 First, an inexperienced officer who read localised communications in isolation of the relevant policies and procedures may have risked misapplying generalised instructions which were issued by the local coaching staff and team leaders, and may have misunderstood them as being directive in nature.

2.312 The more limited range of ATO-sourced communications and related material canvassed in the ABC Four Corners Program is analysed in Appendix 13 by way of completeness. As the IGTO investigation team has access to the full range of ATO information and evidence obtained through this investigation, the IGTO has drawn on this broader range of information and evidence in the observations and recommendations.

2.313 Second, localised communications in the local Adelaide site had, to the credit of the authors, expressed an expectation that frontline staff were to call the taxpayer and that there “should be few instances where phone calls aren’t being made prior to considering collection action”.²⁹³

2.314 Such expectations encouraged local frontline staff to undertake action that was in addition to that indicated by the strategic context document and Talk Sheet. In the latter documents, such contact need not be made if the taxpayer had been issued a FAWL or similar warning within the last six months, unless the staff member “decide[d] that one more contact attempt [was] necessary to engage the client”.

2.315 Third, a localised broadcast communication which was issued to frontline in the local Adelaide EI unit explained that issuing a garnishee notice would “progress” the taxpayer’s case with the result of either the ATO receiving some monies to reduce the debt, the taxpayer contacting the ATO to pay the debt and have the notice removed or:²⁹⁴

The client will contact us to discuss their circumstances (hardship/business closure) and we will then be able to address the case on its individual merits – which we could have done if they had responded to previous contact attempts.

²⁹² Note, the Perth site is excluded as it issued less than 20 enduring garnishee notices over the May–June 2017 period.

²⁹³ See for example the 8 and 23 May 2017 emails in Appendix 11.

²⁹⁴ See, in Appendix 11, 23 May 2017 email from the local Adelaide EI unit coaching staff to all local Adelaide EI unit frontline staff.

2.316 This explanation did not acknowledge the potential for adverse damage that could be caused by an *enduring* garnishee notice in freezing the taxpayer's bank account.

2.317 In the IGTO's view, however, this omission in the local site communication is likely due to a lack of awareness of the importance of this practical implication as the explanation implicitly acknowledges the requirement for staff to consider the individual circumstances of each case and the taxpayer's financial circumstances, albeit in relation to their capacity to repay the debt.

2.318 Unfortunately, two related communications in the local Adelaide EI unit site indicated a belief that all taxpayers who had not entered into a payment arrangement for undisputed collectable debts of more than \$100,000 would be "fully aware"²⁹⁵ of such debts and were "not entitled to any additional time...unless they have unbelievably exceptional circumstances".²⁹⁶

2.319 In the IGTO's view, such statements may have clouded the judgement of taxpayers' conduct and fault for the non-payment of the debts. They also demonstrate for local EI unit frontline staff a posture which, if adopted by frontline staff as well, may set an unhelpful tone for conversations with small business debtors. For example, it would likely obscure the ability of frontline staff to identify opportunities which could better assist such businesses to trade out of debt in appropriate circumstances. Such a posture, in the IGTO's view, is inconsistent with the aim of fostering voluntary payment of undisputed collectable debts and longer term on-time payment behaviours.

Enduring garnishee notices issued to financial institutions

2.320 In one localised communication to 15 frontline team in the Adelaide EI unit site, the relevant local team leader issued an email which contained an instruction that may have been misunderstood as requiring staff to issue *enduring* garnishee notices to bank accounts without regard to the potential impacts.²⁹⁷ The instruction was that, following an unsuccessful contact with the taxpayer, if a garnishee source existed the staff member should "issue the [*enduring*] garnishee notice to *that* source" [emphasis added].²⁹⁸

2.321 In the IGTO's view, this localised communication raised a risk that inexperienced staff members could misinterpret the instruction as requiring the staff member to issue an *enduring* garnishee notice to the source that was identified in the garnishee source note that was attached to the work activity. Such an instruction, however, would have been contrary to the ATO's procedures, garnishee principles, Talk Sheet, cases studies document, the local Adelaide EI unit site's 'strategy moving forward' to "utilise the RAPT data to identify employer and [trade debtor] sources" (as reported in the site's monthly reports) and local site communications which

²⁹⁵ See the 23 May 2017 email in Appendix 11.

²⁹⁶ See the 13 June 2017 email in Appendix 11.

²⁹⁷ See the 13 June 2017 email in Appendix 11.

²⁹⁸ See, in Appendix 11, 13 June 2017 email from a local Adelaide EI unit team leader to local Adelaide EI unit frontline staff in their team. Note, other requirements included that the taxpayer had received a valid warning (either verbal or a FAWL), no payment in full was received and no payment arrangement was entered.

emphasised the requirement for staff members to obtain from taxpayers information regarding “bank and merchant facilities”²⁹⁹ and to use the RAPT to identify garnishee sources.³⁰⁰

2.322 In August 2017, the misunderstanding in the local Adelaide EI unit site regarding *enduring* garnishee notices being issued to bank accounts without first evaluating other garnishee sources, such as trade debtors, was clearly identified by the national S&I unit. This was also some 7–8 weeks after the issue had been raised with all coaches in the EI unit and been recorded as acknowledging that such notices “can cripple business while the garnishee is in place”.³⁰¹ Although some training had since been provided in the local Adelaide EI unit site (to improve the use of the RAPT), after it was specifically identified that some staff in the local Adelaide EI unit site were issuing such notices, a more concerted effort was conducted over 24–29 August 2017 with all frontline staff at that local site.

2.323 Written confirmation of the issue was also issued by local coaching staff to all local frontline staff at that site, indicating that the training had been aimed at addressing the S&I unit’s observations that *enduring* garnishees had been applied to bank accounts when other sources may have been available.³⁰² This localised Adelaide EI unit site communication to local frontline staff in the site clearly described the potential damage that could be done by inappropriately considered *enduring* garnishee notices which were issued on taxpayers’ bank accounts.

2.324 In the IGTO’s view, such description acted as a counterweight to the previous emphasis on using the garnishee notice as a tool to prompt taxpayer-engagement, which was an emphasis misapplied by some inexperienced or unfamiliar staff when issuing *enduring* garnishee notices to financial institutions. With the benefit of hindsight, the local site management communications could have addressed this misapplication by confirming in writing the requirement to use the RAPT and, if it were appropriate to issue an *enduring* garnishee notice, seek to issue it to the taxpayers’ trade debtors in preference to their bank accounts, irrespective of the additional time that such an approach would entail. Such communications could have also illustrated the potential disproportionate consequences for taxpayers. In the context of a seven-week priority focus of work in a highly scheduled environment, the omission of such advice appears, in the IGTO’s view, to be due to the local Adelaide EI unit site’s unfamiliarity with *enduring* garnishee work rather than any intent.

2.325 It should also be noted that staff who attended the RAPT training in July 2017, advised the IGTO investigation team that it was at this training session that they had become aware for the first time of the potential for *enduring* garnishee notices to freeze bank accounts, including that in the highly-scheduled work environment of the EI unit,

²⁹⁹ See, in Appendix 11, 23 May 2017 email from the local Adelaide EI unit coaching staff to all local Adelaide EI unit frontline staff; 13 June 2017 email from a local EI unit team leader in the Adelaide site to their frontline team.

³⁰⁰ See, in Appendix 11, 8 May 2017 email from the local Adelaide EI unit coaching staff to all local Adelaide EI unit frontline staff.

³⁰¹ Above n 234.

³⁰² Above n 97.

important information which was embedded in the Case Studies document was not immediately apparent to staff.

2.326 With the benefit of hindsight, the coaches at the 30 June 2017 National support meeting could have raised with senior management the risks and recommended monitoring the proportion of *enduring* garnishees issued to taxpayers' bank accounts, as well as review of staff members' reasons for doing so, as a measure to guard against further departure from the ATO endorsed procedures. Furthermore, efforts could have been taken to better understand why some staff chose to issue *enduring* garnishee notices to financial institutions when the more time consuming task of establishing *enduring* garnishee arrangements with a taxpayer's trade debtor may have proved more effective.

Particular communications referred to in the Four Corners Program

2.327 To complete the examination of the localised communications in the local Adelaide EI unit site, the IGTO has also analysed emails and meetings that were identified in the Four Corners Program in relation to the ATO's garnishee actions towards the end of the 2016–17 financial year.

2.328 Importantly, the 20 May 2017 email communication must first be appreciated as a local frontline team in a local site as it was only received by 12 people. There were approximately 200 staff in the EI Unit who were trained to undertake *enduring* garnishee work. A summary is provided below of the more detailed analysis which is set out in Appendix 13.

2.329 The comment made in the 20 May 2017 email sent by the local team leader to 12 local EI unit frontline staff during the last hour of overtime, was conveyed as ironic³⁰³ in style. In the IGTO's view, the facts and evidence indicate that this could not have been intended literally. It would take a local Adelaide EI unit staff member, on average, 25 hours of scheduled work to issue 5 such notices if all such notices were to financial institution accounts, and approximately 2 weeks if such notices were issued to trade debtors. It is possible, however, that the comment may have been misunderstood, for example, by those who were unaware of or unfamiliar with the nature of garnishee activities or the author's style of communication or both. In such a case, it would be unfortunate if the comment had caused confusion regarding its intention. With the benefit of hindsight, the message could have been better expressed to avoid any question that such a comment was intended to be taken literally or as an instruction.

2.330 The totality of the facts and evidence, comprising the communications and documents referred to in Appendix 13 as well as the additional facts and evidence set out in this report, show that there was no directive given to DBL staff for them to issue *enduring* garnishee notices in almost every case. In the IGTO's view, an inexperienced officer who, in isolation of the relevant policies and procedures, read localised communications or embraced the emphasis consistent with that in the strategic context

³⁰³ As defined by the Macquarie Dictionary (online): "a figure of speech or literary device in which the literal meaning is the opposite of that intended, especially, as in the Greek sense, when the locution understates the effect intended, employed in ridicule or merely playfully."

document may have risked misapplying generalised instructions or emphasis that were issued by coaching staff and team leaders and may have misunderstood them as being directive in nature.

2.331 In relation to the meeting held in August 2017, the facts and evidence, comprising the communications and documents referred to in Appendix 13 as well as the additional facts and evidence set out in this report, show that its purpose was to correct a misunderstanding that had been formed by some local Adelaide EI unit staff over the previous two months that led to their departure from the ATO-endorsed procedures regarding *enduring* garnishee notices issued to financial institutions.

Performance issues

2.332 During the relevant period, frontline EI unit staff members' performance was monitored primarily through the Our Contribution and My Contribution tools (see Appendix 16). These tools provide insight on measures of frontline staff timeliness and volumes of activities on their team and individual contribution. For the quality of staff work, however, the tools provide a more generalised view as the quality measures are not created from a natural business process, but are inferred from such processes together with interpretations that other staff reach in reviewing a small proportion of the first-mentioned staff members' work.

2.333 The My Contribution and Our Contribution tools are useful for providing performance feedback in a highly-scheduled environment dealing with large numbers of activities, such as the EI unit, in which the number of tasks and timeframes for completion are critical to efficient administration.

2.334 Importantly, the My Contribution tool does not set monetary collection targets or performance benchmarks for staff. DBL's staff performance development agreements do not include collection targets or performance. DBL staff remuneration is not linked in any way to the debt amounts recovered.

2.335 The debt balance reductions are indications of contribution that a staff member may make as a result of the actions they considered to be the *next best action*. The tool can only infer the financial contribution as a result of a staff member's activities. Reductions may only be coincidental as receipts may arise for a variety of reasons including unrelated voluntary payments or transactions where debt reductions occur on accounts (see "reporting" - Appendix 2).

2.336 The IGTO considers that it may be helpful to consider contribution measures that encourage longer term taxpayer voluntary compliance, as measured by positive changes in compliance behaviours which occur after interaction with DBL staff. As noted, in the feedback provided by frontline staff in the DBL, they are keen to have greater insight about management decisions, their overall effectiveness in dealing with taxpayer clients and whether they are balancing their decisions accurately, as noted in the 'DBL frontline staff feedback' section above.

2.337 Performance is also measured at a site level through the local EI unit monthly site reports. A number of concerns are apparent when the numbers of *enduring*

garnishee notices issued by the local Adelaide EI unit site over the three month period of June–August 2017 is compared with those issued by other local EI unit sites. First, the proportion of *enduring* garnishee notices issued by the local Adelaide EI unit, as a percentage of all types of garnishee notices issued by that site, far exceeds the proportion issued by other local EI unit sites. Second, the average rate of *enduring* garnishee notices issued by local Adelaide EI unit staff per hour, also far exceeds the rate issued in other local sites (see Appendix 9).

2.338 A strong correlation emerged between the proportion of *enduring* garnishee notices issued to bank accounts, particular performance measures regarding *enduring* garnishee notices that were incorrectly incorporated into local Adelaide EI unit monthly site reports and incorrect emphasis that was placed on those performance measures in this local monthly site report.

2.339 For example, the local Adelaide EI unit June and July 2107 site reports measured the proportion of *enduring* garnishee notices issued as a percentage of the total number of garnishee notices issued. During this period, the percentage of *enduring* garnishee notices issued to bank accounts rose from 17 percent (May 2017) to 41–43 per cent (June–July 2017). Following the August 2017 corrective actions (as mentioned above), this percentage decreased to 26 per cent in and the local Adelaide EI unit August 2017 site report made no comment regarding the proportion and number of *enduring* garnishee notices that had been issued by each team.

2.340 The local Adelaide EI units November 2017 (and following months) site reports reported the local Adelaide EI unit frontline teams' average of issuing *enduring* garnishee notices issued per hour was compared to the benchmark that was used for internal planning purposes (0.5 *enduring* garnishees issued per scheduled hour) as well as the site and national average of all EI unit teams. The percentage of *enduring* garnishee notices issued to financial institutions rose to 22 and 27 per cent over November and December 2017, respectively. The local Adelaide EI unit November 2017 site report was disclosed to local Adelaide EI unit frontline staff.

2.341 The benchmark was not communicated by DBL management nor used by management as a target for DBL staff at the operational level.³⁰⁴ It was included in the local Adelaide site's monthly report by non-management staff.³⁰⁵

2.342 In interviews with the IGTO investigations team, staff from DBL management, the EI unit leadership and the national S&I unit were of the view that the benchmark was used only as part of planning the DBL's operational work activities.³⁰⁶ It provided a baseline for planned resource allocation of expenditure and reference point for monitoring against planned progress of work and to identify any need for adjustment to those plans. It was also explained that a local site's performance which significantly deviated from the benchmark may prompt discussion with the EI unit business management area to obtain insight as to the reasons and whether there was opportunity to improve case selection³⁰⁷—i.e. to be used to understand why the

³⁰⁴ ATO S&I unit team, IGTO review team interview, 3 July 2018.

³⁰⁵ Above n 168.

³⁰⁶ Above n 197.

³⁰⁷ ATO EWM unit and S&I unit team, IGTO review team interview, 5 July 2018.

benchmark was not predicting output, and not as a performance measure for frontline staff to meet.

2.343 Unfortunately, the local Adelaide EI unit site misunderstood the purpose of this benchmark as a performance measure when the benchmark was disclosed by the national S&I unit as part of a planning review in November 2017. The benchmark was disclosed to four local EI unit sites. However, the influence of this benchmark on frontline staff performance, as evidenced by the percentage of *enduring* garnishee notices issued to banks together with a relatively small number of such notices being issued to trade debtors, was limited to a small number of staff in the local Adelaide EI unit site for the months of November and December 2017, the local Dandenong EI unit site in the months of January and March 2018 and the local Townsville EI unit site in the months of December 2017 and February 2018.

2.344 In the local Adelaide EI unit site the issue was addressed over January and February 2018 through training that had been given to local EI unit staff to improve garnishee decision-making. The site's performance for February and March 2018 corroborate this as there is a reduced percentage of *enduring* garnishee notices issued to banks and an increased number of such notices issued to trade debtors (see Appendix 9).

2.345 Once the issue was identified by management in the other local sites in April 2018, it was addressed by suspending, and later removing, the EI unit's authority to issue *enduring* garnishee notices to banks.

2.346 In reflecting on the performance measures, it is encouraging to note that the average EI unit performance of 0.1–0.2 *enduring* garnishee notices issued per hour and the 8 per cent conversion rate for *enduring* garnishee work activities provide a strong basis for concluding that EI unit staff, in main, took care to consider the appropriateness of issuing garnishee notices in light of the taxpayer's circumstances and took their responsibility to consider the *next best action* seriously. While benchmarks were used as general planning tools for internal budget allocation purposes, which were set by senior management, operational DBL staff generally carried out their duties and responsibilities to taxpayers.

2.347 On this basis, it is very difficult to arrive at a conclusion that all or most of the relevant EI unit staff had considered these budgeted plan settings to be personal KPIs or performance measures to direct their actions.

2.348 Without the benefit of the above facts and evidence that has been obtained by the IGTO investigations team and related analysis, a different conclusion may have been formulated if the only perspective available was that of the localised communications which were linked with localised and temporary departures from the ATO-endorsed procedures through misapplication of generalised messages and a focus on timeliness performance measures.

2.349 This raises an important challenge for ATO management regarding the metrics used for budget design and planning purposes, such as conversion rates and AHTs. Such use raises a risk of generating a perception among operational staff that

they must fulfil conflicting expectations where the original and revised budget planning metrics appears to be disconnected from their operational experience in carrying out their day-to-day responsibilities. This highlights the important nature of clear, consistent and effective management communication to all levels of management and operational staff in full appreciation of the work-place experience of EI unit staff.

RECOMMENDATION 2.3

The IGTO recommends the ATO to develop a communication strategy for the Debt business local site management and staff which includes a facility for direct communication from the Debt Executive for critical or complex messages where major changes to personnel resource deployment occur, particularly where personnel are new or are undertaking new work or expected to carry out work they have not engaged in for a period, so as to facilitate consistency of expectations between all levels of staff, including team working groups, at all site locations.

ATO response: Agree

EI unit staff experience

2.350 EI unit staff have access to various ATO systems to assist them in determining the most appropriate activity that should be taken next on an account. Each work activity is finalised by a decision which influences where the case progresses, or 'which bucket' to which it is sent. For relatively simple cases, such as a salary earner who has not paid their income tax debt, it is usually easy for EI unit staff to understand a taxpayer's circumstances and determine an appropriate outcome.³⁰⁸ For more complex cases, staff competency is drawn from their training, experience of different taxpayers' circumstances, knowledge and awareness of various business industries as well as possession of soft skills, for example, the ability to empathise and ask non-financial questions.

ATO support to EI unit staff

2.351 The ATO provides a range of support to EI unit staff to assist them in their difficult role. Work is allocated to EI unit staff on the basis of work types which provide a narrower scope for decision-making and which are allocated on the basis of the staff member's skillsets. Training is provided to EI unit on these different work types and 'consolidated' with coaching staff for one or two weeks afterwards. The ATO has also recently implemented 'Appropriate Conversations training' to assist staff to understand practical considerations when making a decision to take a stronger action, such as issuing a garnishee notice. Case studies are also provided to EI unit staff, including a sample conversation.

2.352 EI unit staff are provided descriptive work instructions on the SMART system. During their work shifts, EI unit staff may call a hotline to ask technical specialists for

³⁰⁸ Above n 197.

assistance on issues that arise in their work as well as seek help from coaches who walk the floor. As explained to the IGTO investigation team by coaching staff, such assistance is commonly resolved by developing staff's confidence in using the existing SMART system by guiding officers through the scripting.

EI unit staff decision-making

2.353 In the EI unit, the ATO prohibits frontline staff from viewing taxpayers' accounts to determine the outcome of decisions that they had previously made for integrity and potential conflict. Also, the training, guidance, support and on-the-job feedback that are offered are indirectly referable to any specific decision that the staff member has made in work activities or the specific consequences flowing from that decision. There is a possibility, however, that EI unit staff may receive feedback that is directly referable to particular work activities completed by them if such activities are among the 3-4 percent of cases which are reviewed during the quality assessment process (see Appendix 8) and it is determined that feedback needs to be provided to the staff member. As a result, EI unit staff have limited feedback that is directly referable to the specific outcomes of their decisions and, therefore, have limited opportunity to learn from past experience.

2.354 The atomised activity-based approach in the EI unit can be contrasted with the case management work in the SDM unit. SDM unit staff who case manage accounts have greater opportunity to improve their key capabilities as they may directly observe taxpayers' responses to their decisions, verify the reliability of taxpayer payment commitments and obtain a deeper understanding of the circumstances of particular taxpayers and the sectors in which they operate. The longer the SDM unit staff member performs such a role, the more experience they are able to draw from in making decisions in the range of circumstances that may arise. In comparison, EI unit staff have less opportunity in their activity-based environment to gain the necessary important experience to make better decisions.

2.355 There may be little need for deep and broad experience and capabilities when an EI unit staff member deals with routine procedural decisions with little impact on taxpayers. However, particular challenges are faced by EI unit staff who do not have such experience and capabilities when they are asked to determine whether to afford a small business short term assistance to trade out of debt or whether to take stronger action to recover the undisputed collectable tax debt.

2.356 The IGTO has previously recommended targeted training for DBL staff³⁰⁹ and advised that such training should include development of staff's financial awareness (including understanding of balance sheets and profit and loss statements), commercial awareness (including understanding of key businesses and industries that fall into debt) and credit risk assessment capability (based on financial information and taxpayer behaviours and circumstances). The ATO had agreed.

³⁰⁹ Above n 20, recommendations 3.1 and 4.8.

2.357 In addition to targeting the content of training, in the IGTO's view, it is imperative that EI unit staff are able to quickly develop effective skills and experience in choosing the recovery mechanism that is most appropriate to the taxpayer circumstances they are presented in their work activities.³¹⁰ Such skills and experience would assist to minimise unnecessary costs and frustration of small business owners as it would improve commercial awareness and credit risk assessment capability of EI unit staff who make decisions regarding garnishee notices.

2.358 One approach may be for the ATO to consider lifting in part or whole its prohibition on viewing taxpayers' accounts to allow EI unit staff to access their past activities to understand the outcomes of their decisions and overall case outcome. However, such a practice may raise unacceptable risks of unauthorised access to sensitive taxpayer information in a high volume scheduled environment.

2.359 In the IGTO's view, real-time feedback could be provided to EI unit staff on the direct outcomes of a range and number of their prior decisions in a controlled manner which minimises the risks of unauthorised access. Such feedback could be delivered by team leader as part of their regular coaching conversations with individual staff. Such an approach would also assist with earlier identification of any additional learning needs for staff and provide direct visibility on the positive impact of their work. Supporting this kind of regular feedback to EI unit staff, as they have requested, will assist them to better appreciate the nature of their work and facilitate better learning experiences.

2.360 The IGTO is also of the view that there is opportunity to provide targeted capability development through simulated role-playing scenarios typically encountered during garnishee interactions with taxpayers. This would allow the staff member to receive feedback on their decisions directly and refine their experience in an learning environment without adversely impacting on taxpayers.

2.361 Role-play sessions are an effective way for staff to develop a practical understanding of considerations and is a step removed from 'on the job training'. Furthermore, role playing sessions were supported by ATO management and EI unit staff during the IGTO's interviews for this review.

RECOMMENDATION 2.4

The IGTO recommends the ATO improve support for Early Intervention unit staff, by:

- (a) developing more effective mechanisms to facilitate more regular case-specific outcome feedback; and*
- (b) incorporate role-playing exercises into facilitated training sessions as an ongoing feature.*

ATO response: Agree

³¹⁰ See, above n 20, recommendations 4.1(c), 4.8(a), and (c).

CONCLUSION

2.362 The review investigation process adopted by the IGTTO office was intensive and comprehensive for the reasons outlined in the introduction above. The review sought to ensure all parties had the opportunity to contribute to the review and could inform it of the facts and evidence associated with their concerns and relevant events.

2.363 As a starting point, it is important to appreciate the accounting methodology for the recognition of taxation revenue by the ATO to the CRF in the overall context. The recognition of revenue is not 'cash' or collection-based, but rather accruals-based in nature. The accounting standards are designed to ensure that revenue is only raised when an assessment creates a *liability to pay* an amount, not the *payment of that liability* or the collection of the 'debt' (where that liability was not paid by the due date). The collection of debts is separately considered from revenue raised for Federal Budget and reporting purposes.

2.364 Collection of debts is certainly important for Federal Budget and reporting purposes. However, it is the collection of debt trend over the years that are considered for Federal Budget purposes and the value of the debts in any particular year which is considered an asset for reporting purposes. This overall approach is designed to provide proper recognition of the impairments to revenue as well as the revenue itself—e.g. to raise more revenue the ATO would need to raise more assessments, not collect more debts on assessments which had already been raised. Any resulting debts are treated as assets that may be subject to collection action over the relevant period.

2.365 In the 2016–17 financial year, the ATO experienced significant unexpected events which had impact, both at a corporate level and at a business line level, including the DBL. As the House of Representatives Tax and Revenue Committee (HRSCT&R) has dubbed, this year was 'annus horribilis' for the ATO.³¹¹

2.366 For the ATO's DBL, these events had a particularly significant impact on the original operational plan. A key consequence from these events is that the ATO's DBL issued over 40 per cent less garnishee notices than planned in the 2016–17 year, as well as that in comparison to a more normalised year such as the preceding and following years (2015–16 and 2017–18, respectively). The overall impact of this outcome is, as outlined in more detail within the report, that significantly less cash would be expected to be collected, particularly as less garnishee notices would be able to be issued.

2.367 The ATO has an annual plan for the application or expenditure of the appropriations it receives which fund the delivery of its commitments to Government. Such planning is a good governance measure and the delivery of commitments needs to be managed on a risk basis. One of the primary objectives for the ATO is the collection of revenue for the Australian government and community. However, there is a range of other applications and purposes reflected in the ATO's plan. Accordingly, the plan directs the expenditure towards these purposes and not directly at

³¹¹ Above n 47.

maximising collection of debt amounts. For example, in the 2016–17 financial year, the DBL only received 3.9 per cent (\$124 million) of the ATO's appropriation.

2.368 The application of appropriations is generally based upon the respective corporate and business lines' prior year activities and the use of modelling,³¹² as adjusted for expected efficiencies and significant events, such as new measures or technology applications. The DBL's original operational plan for the 2016–17 year was based on its prior year activities and outcomes. However, a more efficient process was planned for the last five months as the DBL had assumed that long-anticipated financial and collection systems changes would substantially improve efficiencies in the selection, targeting and conduct of collection activities. However, these assumed efficiencies were not realised as the anticipated systems changes did not precede. This gave rise to a need to revise the original DBL operational plan and recalibrate the number of planned activities for the remainder to the financial year.

2.369 The major ATO IT systems outages, which featured in the media at that time, had occurred soon after and disrupted a significant portion of the DBL's annual client-facing and collection activities for 2 months. The outages prevented 242,875 planned collection activities from being conducted that were expected to have recovered \$417.7 million of unpaid debt.³¹³ In the aftermath, however, there was a need for the DBL to address the backlog of debt correspondence and telephony work that had built up, as a priority. Once addressed, resources would be redeployed back toward the DBL's original plan activities.

2.370 An unexpected increase in the total undisputed collectable debt also emerged in the aftermath of the major ATO IT systems outages, primarily as a result of a 24 per cent increase in taxpayers with debts of more than \$100,000 (DL6 cases).³¹⁴ At the time, the DBL was also approaching a budgetary overspend³¹⁵ and experiencing supply gaps and skill set shortages,³¹⁶ in addition to the direct and indirect impacts that the major ATO IT systems outages had had on collection activity numbers and amounts.

2.371 As a result, there was a reduced period in which to conduct collection activities, including garnishee work, than would have otherwise been conducted in a more normalised financial year. This was due to the redirection of planned resourcing away from normal garnishee work to other areas for a number of months in the first half of the financial year and the redeployment of those resources to address the backlog of work created by the major ATO systems outages.

2.372 Accordingly, the DBL was faced with the prospect of conducting a greatly reduced number of garnishee activities within the remaining months of the financial year, in comparison to the original operational plan.

2.373 Scheduling shortfalls were experienced in conducting the garnishee activities, due to other priority work. Time was also needed for numbers of staff to consolidate

³¹² Above n 33.

³¹³ Above n 83.

³¹⁴ Above n 84.

³¹⁵ Above n 79.

³¹⁶ Above n 72.

new skills as part of the DBL's strategy to increase the number of resources available for garnishee work.

2.374 By April 2017, new collectable debt work was being addressed. However, the backlog resulting from the major ATO systems shortages persisted at “stubbornly high” levels, mainly due to DL6 cases.³¹⁷ At this time, the total undisputed collectable debt was more than \$2 billion when compared to the same time in the previous year.³¹⁸ Difficulties with collections and Cyclone Debbie compounded the situation as a further \$2 billion in collectable debt was quarantined from collection activities for three months.³¹⁹

2.375 The DBL continued to experience scheduling shortages until May 2017.³²⁰ In planning the numbers of garnishee work activities and the staff needed to conduct them, the DBL management maintained a ‘benchmark’ that had been created for internal planning purposes and was overly optimistic—on average, for *enduring* garnishee work activities, 0.5 notices were estimated to issue per hour. However, during the relevant period, the monthly average of all EI unit sites did not exceed 0.2 *enduring* garnishee notices issued per hour. Also, the number of garnishee notices that issued fell far short of that predicted in the original plan. Feedback provided by EI units many months later helped to address some of the underlying causes and the IGTO has recommended that the ATO incorporate such feedback processes as a routine measure in addition to improving its case selection models for garnishee work.

2.376 In reflecting on the role of performance measures for DBL staff generally, it is important to consider the facts and evidence obtained in the investigation process that led the IGTO to the following observations.

2.377 First, the number of garnishee notices that were issued during the 2016–17 financial year (23,712) fell well short of the number in the DBL's original operational plan (40,289). Second, the actual conversion rate for *enduring* garnishee work activities (8%) and actual rate of such notices issued per hour (0.2) was far less than that assumed in the original plan (which was a 24% conversion rate and 0.5 such notices estimated to issue per hour). Third, the consistent response that local site DBL frontline staff, and all levels of management, gave to the IGTO investigation team was that garnishee work required staff to consider each case on its merits in accordance with ATO policy and procedures and to determine the *next best action* to take with that taxpayer. Also, when frontline staff were asked in formal investigation interview about personal performance measurement and collection KPIs, a common response was to express concern with any suggestion that they be measured against the amount of debt they collected as this would conflict with their role and responsibilities. Fourth, the evidence provided by ATO officers (current and former) anonymously and independently to the IGTO investigation team confirmed that no personal performance measures, bonuses or other incentives based on amounts collected were set on the amount of debt collected by DBL staff.

³¹⁷ Above n 102.

³¹⁸ Ibid.

³¹⁹ Above n 108.

³²⁰ Above n 91; above n 57.

2.378 Regarding the corporate communications issued, the DBL Executive took positive steps to mitigate the risk of distorting the messages that were 'cascaded' through layers of management during the changes to the operational plan—for example, the DBL Executive met monthly with all management and APS 6 team leaders directly. It also took steps to promote the consistent exercise of the garnishee power, which included frontline-staff training in all relevant sites to reinforce the expectation that the garnishee power would be exercised appropriately.

2.379 A document to provide context for the *enduring* garnishee strategy, including links to existing policies, procedures and guidance, was provided to all DBL staff. However, in the highly-scheduled work environment of the EI unit there was a risk that an isolated reading of this contextual document could provide conflicting messages to staff when applied to particular operational scenarios due to certain emphases in the document. A companion document that addressed such risks was promptly produced and distributed to team leaders and coaching staff to assist them in discussions with frontline staff or team members. However, it was not provided directly to all DBL staff. A case studies document was also provided for DBL staff to read in their own time.

2.380 As a result, certain communication problems did arise in smaller localised pockets where clarification was required regarding the practical implications that flowed from the points of emphasis in the garnishee priority focus of work. In the 2016–17 financial year, these pockets were generally addressed promptly and effectively by DBL staff, with one local EI unit site exception, that being Adelaide. In the latter case, albeit taking longer to identify, this was addressed by management promptly as well.

2.381 The IGTO investigation team accessed the local Adelaide site, amongst others, to interview key staff, obtain relevant documentation and, for some, view their ATO user accounts. The range of relevant facts and evidence which were surfaced allowed a clearer picture to emerge.

2.382 The affected staff in the local Adelaide EI unit site, whilst improving their proficiency with *enduring* garnishee work, sought to carry out their responsibilities by applying their training and localised communications regarding the new work actions that were allocated by management. However, confusion regarding objectives for this new work gave rise to a misapplication by local Adelaide staff who were unfamiliar with particular practical implications of issuing *enduring* garnishee notices to financial institution (or bank) accounts. They laboured under that misconception for over two months until identified by national management and thereafter promptly addressed.

2.383 Importantly, the ATO has since addressed the specific concern regarding the problem of *enduring* garnishee notices more definitively by restricting authority to issue such notices to financial institutions. Now, such notices may only be issued by DBL staff who have whole-of-case management responsibility for debt accounts—SDM unit staff.

2.384 Although the underlying risk has been addressed, the events highlight opportunities for ATO management to improve the effectiveness and supportive nature of future communications to frontline staff regarding significant changes to

operational plans. In particular, facilitation of consistent expectations among all levels of staff (senior management through to individual team members) and the actions they take, would be promoted through communications that pay particular attention to assumptions regarding specific skills, knowledge and experience of staff.

2.385 Accordingly, the IGTO has made recommendation that a communication strategy be developed which includes facility for direct communication from the Debt Executive for critical or complex messages where major changes to personnel resource deployment occur, particularly where personnel undertake new or unfamiliar work or may otherwise be unaware of important changes to previous work practices.

2.386 The IGTO also examined the communication referred to in the media as the ‘hour of power’ email as part of the investigation in this review. The IGTO investigation team found that the email was sent to 12 frontline staff in the local Adelaide office by a single team leader who was supervising them one Saturday as they worked overtime. The email included a comment regarding the issuing of 5 garnishee notices in one hour. The review tested this comment on literal terms and also analysed it in light of the facts and evidence that the IGTO investigation team had uncovered.

2.387 In interviews with frontline staff in different EI unit sites, the common position put by them was that the greatest number of *enduring* garnishee notices that might issue in one hour would be two. The investigation team tested this time frame by conducting live walk throughs on DBL systems with proficient DBL staff. It became quickly apparent that this general estimate, as put by DBL staff, was supported. Furthermore, the aggregated reporting numbers across EI unit sites for the 2017 calendar year also confirmed that more than 2 such notices per hour were not achievable and, on average, were much lower—0.2 *enduring* garnishee notices per hour (see Appendix 5 for national monthly averages and Appendix 9 for local site monthly averages). Further substantiated support and analysis is provided in the report.

2.388 Lastly, during the investigation team’s interview with the team leader who authored the email, their intention was made clear—it was not intended in a literal sense, but rather in an ironic sense. With the benefit of hindsight, given the manner in which this style of communication had been misconstrued, it may have been better to express that message differently.

2.389 In summary, the IGTO’s conclusion is that the message was intended ironically (and not literally), was unfortunate in expression, was communicated to 12 staff out of the 200 staff that were skilled to conduct *enduring* garnishee work and was a single localised communication that did not form part of the broader DBL management communications (such as the broadcast communications that were distributed to all DBL staff, including all key management staff—for example, the 10 May 2017 broadcast communication notifying staff of the priority focus of *enduring* garnishee work—see Appendix 10).

2.390 Overall the DBL staff, in the main, effectively managed a challenging year with a range of operational plan and activity changes. However, there was a localised

misapplication by staff, particularly in relation to *enduring* garnishee notices in the local Adelaide site.

2.391 The IGTO has recommended that ATO senior management improve support and feedback for EI unit staff to improve skill and experience by developing more effective and regular case-specific feedback as well as role-playing exercises. This is particularly the case for those staff who, due to secrecy and integrity requirements, are otherwise unable to view the direct results of their decisions.

2.392 Although the focus of this review has been to surface and appropriately consider facts and evidence regarding two key allegations in relation to the ATO's use of garnishee notices, it is just as important to recognise that taxpayers, including small businesses, may have been adversely affected.

2.393 The IGTO is keenly aware of certain small businesses who were disaffected by garnishee notices issued to them as IGTO office staff (as Taxation Ombudsman staff) have assisted small business taxpayers in real-time for free to address their complaints directly with the ATO. An analysis of complaints, which is provided in more detail in this report, shows that the number of small business taxpayer complaints about garnishee notices that were received by the ATO and/or the IGTO is small in comparison with the number of garnishee notices issued.

2.394 Although small business taxpayers comprise 28 per cent of complaints lodged with the IGTO, the IGTO is concerned that many small business taxpayers are made aware of our Taxation Ombudsman services too late to avail themselves of the complete range of options open to them to resolve their concerns quickly, independently and with minimum cost. A separate section follows which provides a way forward to improve support for affected small businesses in future.

2.395 The key benefit of the IGTO's Taxation Ombudsman service is to prompt better decisions, including those made by the ATO and small business taxpayers. Such decisions are made in light of all relevant facts and evidence, and are surfaced by an independent party with unfettered access to all ATO staff, records and information. For example, without access to the full range of facts and evidence (as well as accompanying analysis):

- decisions on relevant issues or concerns may be limited to a small number of communications and documents that the parties agree to share; and
- understanding of the facts may be limited to the personal experience and knowledge of a particular party, rather than drawing on a history of expert specialist insight.

2.396 In the IGTO's experience, when the full range of relevant facts and evidence is made available and taken into account, both small business taxpayers and the ATO make more informed decisions which promote longer-term mutual respect and trust.

2.397 With respect to the allegations identified in the terms of reference, the IGTO has considered the relevant facts and evidence and set out the resulting analysis. Based on the available facts and evidence and above analysis, the IGTO concludes that the allegations as outlined in the terms of reference are not substantiated. In summary, the

evidence confirms that ATO management staff did not give directions to EI unit staff to issue standard garnishee notices in almost every case as a ‘cash grab’ towards the end of the 2016–17 financial year, nor that management set performance targets for staff based on the level of debt collected.

2.398 The ATO’s garnishee policy, processes and practices generally seek to balance the ATO’s role of collecting undisputed collectable debt on behalf of the community with the need to take appropriate care in exercising the coercive garnishee power proportionately. While some management communications may have emphasised the use of garnishee notices to prompt taxpayer engagement, they did not purport to express the totality of staff obligations in exercising the garnishee power nor purport to override ATO-endorsed policy and procedural requirements to consider the impact on taxpayers in exercising that power. This is not to say that all staff on all occasions have exercised that power proportionately and appropriately, as the IGTO has resolved small business garnishee complaints in which this did not occur. However, the IGTO did not find evidence that departures from the ATO’s policies and procedures were made deliberately, knowing that *enduring* garnishee notices could have disproportionate impact on the taxpayer’s bank accounts, including those of small businesses.

2.399 The impact on small business owners, even in a small but important number of cases (as noted above) can be very significant and take the form of substantial emotional, reputational and financial harm. This raises the question as to how affected small business might best be helped in quickly seeking and obtaining effective support where situations do go awry for them in dealing with the tax administration system.

2.400 The section that follows seeks to empower small businesses and provide them with a constructive way forward within the existing framework—by promptly engaging with the IGTO Taxation Ombudsman service directly to get specialist support and assistance on the most appropriate options to address their concerns with the tax administration system, particularly where their concerns are not able to be resolved directly with the ATO.

SMALL BUSINESSES IMPACTS — A WAY FORWARD — IGTO

2.401 Small business concerns underlie this review. The wider range of concerns identified in the joint Sydney Morning Herald/ABC Four corners investigation continues to remain of significant ongoing interest. The section outlines a way forward in a constructive manner that seeks to better support affected small business taxpayers through the tax administrative systems review framework where they have complaints or disputes arise for them in dealings with the ATO more generally.

2.402 Small businesses account for 33 per cent of Australia’s Gross Domestic Profit and employ over 40 per cent of Australia’s workforce.³²¹ It has been said many times

³²¹ Australian Small Business and Family Enterprise Ombudsman, *Small Business Counts: Small Business in the Australian Economy* (2016) p 6; Sam Nicholls and David Orsmond, ‘The Economic Trends, Challenges and Behaviour of Small Businesses in Australia’ (2015) Conference Volume 5 <www.rba.gov.au>.

that small businesses are the 'backbone' or 'life blood' of the Australian economy. Small business owners also need to meet a range of challenges such as state and Federal compliance obligations including payroll tax and workers compensation, income tax and superannuation laws. There are also a range of pressures experienced in running businesses. These may be financial, such as cash flow management or the use of the family home as security for capital. These may be physical or mental due to high work demands. These pressures can affect well-being, contributing to stress which is linked to associated physical and mental health problems.³²²

2.403 Small businesses comprise 28 per cent of the assistance sought from the IGTO office as the Taxation Ombudsman. The IGTO office already provides free assistance and resolution of matters across a wide range of tax administration matters through a complaints prism. This involves identifying appropriate resolution options in a broad range of disputes both pre and post assessment. This independent free service and the engagement and support it provides is of significant benefit to all taxpayers, but particularly so for small business be they represented by tax professionals or tax agents or otherwise even more vulnerable as unrepresented taxpayers for financial or other personal reasons.

2.404 It is also apparent that concerns raised regarding the nature of the ATO's relationship with small business continue to attract ongoing attention in the media. The nature of this concern has also been expressed in terms of new policy responses or initiatives recently implemented by the Government³²³ as well as that announced by the main opposition party³²⁴.

2.405 The tax and superannuation administration system is very complex. It can even be difficult to navigate for many professionals. For example, tax laws have been described as 'hopelessly difficult even for accountants, let alone the small business operator'.³²⁵ The ATO's administration of these systems generally operates effectively in an overall sense and is evidenced by the high levels of voluntary compliance. However, there will always be exceptions that arise in this regard. This is particularly so for the more vulnerable taxpayers, including small businesses, who are disaffected or otherwise fall through the gaps in such a large complex and varied systems operation. It is important to recognise these situations with support and to treat affected people with care and consideration as this is an important factor in engendering their confidence and trust in the system and indeed wider community perceptions that may be drawn in that regard.

2.406 The overarching administrative principle is to seek to provide caring support and resolution of affected small business taxpayers at the earliest opportunity and to help them in a manner that promotes the most efficient and cost effective solution.

³²² Everymind & icare, 'Can digital interventions help to improve mental health and reduce mental ill-health in small businesses?' (2017) <www.icare.nsw.gov.au>; Anthony Hasphall, 'The crippling impact of mental health on small business owners' (26 June 2017) Sydney Morning Herald; Cara Waters, 'Study reveals small business takes toll on mental health' (19 December 2017) Sydney Morning Herald; Sarah Berry, 'Mental health: The 'major issue' small business owners are facing in silence' (4 October 2017) Sydney Morning Herald.

³²³ *Administrative Appeals Tribunal Amendment (Small Business Taxation Division) Regulations 2019*; The Hon Stuart Robert, 'Backing small business – simplifying and resolving tax disputes' (Media Release, 12 February 2019).

³²⁴ Bill Shorten, 'Doorstop media conference' (Perth, 10 April 2018).

³²⁵ Tony Greco, General Manager Technical Policy, IPA, *Committee Hansard*, Canberra, 23 May 2013, p 8.

2.407 It is also important to recognise that the IGTO independent taxpayer complaints service does see situations where individuals have not received the full support or application of the Taxpayer Charter principles by ATO officers in their administrative actions or inactions and this includes small businesses both represented and unrepresented. Just as importantly there are a range of misunderstanding or inadvertent errors that can arise for all taxpayers in such a complex system, particularly for the more vulnerable. The IGTO office also seeks to support and clarify through improved explanation and independent provision of assurance for them. The IGTO can do this as it has independent and unfettered access to the ATO systems and works to ensure all the relevant information is provided and understood by both the taxpayer and ATO in seeking to resolve the complaint or dispute.

2.408 In this context, the role of the IGTO is an important initial independent free service that seeks to address concerns regarding small business disputes with the ATO as a first port of call, where the ATO has been for one reason or another not able to achieve that with the taxpayer. The overarching administrative principle here is to provide independent caring, support and resolution of affected small business taxpayers at the earliest opportunity and in a manner that promotes the most efficient and cost effective solution. The IGTO office has a team of professional specialist with requisite tertiary qualifications and experience along with personal soft skills to enable them to provide that support for all taxpayers and tax professionals.

2.409 The IGTO's independent complaints handling service also provides for evidence-based analysis of emerging problems or challenges within the tax system that are adversely affecting taxpayers, whether they are actual or perceived or of a nature which may be financial or administrative, but considered unnecessarily or unfairly burdensome. The IGTO also works to identify problems in real time and effect these solutions similarly, through the ATO's adoption of agreed business improvements without the need to conduct a formal review. This approach promotes prompt resolution of underlying problems at a reduced overall cost for the administration and provides an improved experience for taxpayers.

2.410 Importantly, the HRSCT&R report of its inquiry into the ATO's 2016-17 annual report identified the need to raise awareness of the IGTO and made related recommendations.³²⁶ This is consistent with the IGTO office's feedback from complainants, as outlined in testimony by the Acting IGTO at a recent Senate Estimates Committee hearing regarding the strong positive feedback from complainants about the office's service. However, consistent with the HRSCT&R's views as expressed above, the only wrinkle is the lower level of awareness of the IGTO outside of the tax profession and Government as well as the need to improve such awareness among other citizens who require our services. The IGTO has already moved on this front as part of its media and communications strategy and expanded avenues of engagement with the Australian community to include various social media platforms as well as

³²⁶ House of Representatives Standing Committee on Tax and Revenue, Parliament of Australia, *2017 Annual Report of the Australian Taxation Office: Fairness, functions and frameworks - performance review* (2019) Recommendations 9 and 35.

informally adopting and promoting the more well-known 'Taxation Ombudsman' moniker in our community-facing communications.³²⁷

2.411 The IGTO, in a review context, adopts the motto 'Consult – Review – Advise: *Improve*'. In a complaints context, the aspiration is to address taxpayers' real concerns in real time with real care. In both contexts, the approach is to seek to improve understanding and outcomes through review or complaint investigation for the benefit of affected taxpayers and for the system more broadly.

2.412 In acknowledging the large and complex nature of the taxation and superannuation system and environment, no such system is or will be perfect – problems will occur. The key is the manner in which problems are responded to when they do occur. In doing so, it is important to support and foster the administrative framework and related institutions that have the skill and capacity to appreciate and care for people in their situations in a manner that seeks to improve their understanding and outcomes where possible.

2.413 Accordingly, given the effect that concerns of this nature may have on the general confidence of the system and the potential for adverse impact on small business owners' personal wellbeing, the IGTO will also continue to maintain a careful watching brief over future developments to consider whether a broader more comprehensive review of small business concerns should be adopted at a future particular juncture, given the range of taxation-related administrative and policy changes that are in consideration or implementation.

³²⁷ Commonwealth, Senate Estimates, Economics Legislation Committee, 20 February 2019, p 82 (Andrew McLoughlin), <www.aph.gov.au>.

APPENDIX 1—TERMS OF REFERENCE

BACKGROUND

The Organisation for Economic Co-operation and Development has observed that:

*The ways by which revenue authorities interact with taxpayers and employees impact on the public perception of the tax system and the degree of voluntary compliance. Taxpayers who are aware of their rights and expect, and in fact receive, a fair and efficient treatment are more willing to comply.*³²⁸

Accordingly, perceptions of fairness are particularly important in a self-assessment tax system which is dependent on voluntary compliance.

The ABC Four Corners program,³²⁹ which aired on 9 April 2018, included allegations by current and former Australian Taxation Office (ATO) staff about inappropriate use of ATO powers to issue garnishee notices and extracting payment particularly from small business taxpayers. Such allegations require independent investigation to allay or address concerns of inequity, lack of confidence in the tax system, and corresponding adverse impacts on voluntary compliance.

Garnishee notices are the most common form of firmer actions used by the ATO to recover tax debt. Such written notices may be issued by the ATO to third parties, who are required to pay money, owed to the taxpayer, to the ATO to satisfy the taxpayer's tax debt. Such third parties may include employers, banks, trade debtors and certain agents.³³⁰ Garnishee notices may require either a one-off payment or recurring payments for certain periods of time.³³¹

The Inspector-General of Taxation (IGT) conducted a broad review³³² into the ATO's debt collection approaches in 2015 (Debt Review). In total, 19 recommendations were made some of which related specifically to garnishee notices. Since the Debt Review, the IGT, as the Taxation Ombudsman, has continued to receive complaints about ATO's debt recovery actions. In fact, they have consistently formed over 20 per cent of all complaints made to the IGT with the use of garnishee notices being amongst the top three topics of such complaints.

The IGT will undertake a review to examine the allegations made by current and former ATO staff in the Four Corners program as well as to explore the themes arising from related complaints made to his office in recent years. In particular the IGT will investigate allegations that the ATO:

- gave directions to staff to issue standard garnishee notices in every case as a 'cash grab' towards the end of the 2016 – 17 financial year; and
- set targets for staff and assessed their performance based on the level of debt collected.

³²⁸ Organisation for Economic Co-operation and Development (OECD), *Principles of Good Tax Administration* (Practice Note GAP001, 2001), p 3.

³²⁹ Four Corners, *Mongrel bunch of bastards* (9 April 2018) <www.abc.net.au>.

³³⁰ *Taxation Administration 1953* sch 1 ss 260-5, 260-45(2), 260-75(2) and 260-105(2).

³³¹ ATO, 'Significant Debt Management: Guidelines for Effective Case Management' (Internal ATO document, November 2014) pp 14-15.

³³² IGT, *Debt Collection* (2015).

The review will draw on IGT complaints data, consider the ATO's implementation of specific recommendations made in his Debt Review and independently assess the relevant ATO systems including interviewing current and former ATO staff in the debt recovery units across multiple locations. It will also seek to understand and assess the nature of any impact upon affected taxpayers particularly small businesses.

TERMS OF REFERENCE

The IGT will investigate allegations that have been made in the Four Corners program regarding the ATO's use of garnishee notices as well as relevant themes emerging from complaints made to his office. This review will particularly focus on the ATO's:

1. *strategies to manage tax debts by way of garnishee notices;*
2. *policies and procedures for issuing garnishee notices, including how the ATO considers circumstances of taxpayers such as vulnerable small businesses and individuals;*
3. *mechanisms to ensure staff adherence to its garnishee notice policies and procedures;*
4. *Key Performance Indicators (KPI) with respect to both tax debt collection and staff performance;*
5. *specific communications to staff regarding the use of garnishee notices and associated KPIs at each location of its debt recovery units; and*
6. *other relevant concerns or potential improvements identified during the course of the review.*

Importantly, employment issues regarding current and former ATO staff are not within the IGT's legislative purview and will not form part of this review.

SUBMISSIONS

We invite you to lodge a submission to this review setting out your, or your clients', experiences with the ATO's use of garnishee notices including any impact it has had on you or your client. Your views on any potential improvements are also welcomed.

The closing date for submissions is 22 June 2018. Submissions can be sent by:

Email to: garnishee@igt.gov.au
Post to: Inspector-General of Taxation
GPO Box 551
SYDNEY NSW 2001
Fax: (02) 8239 2100

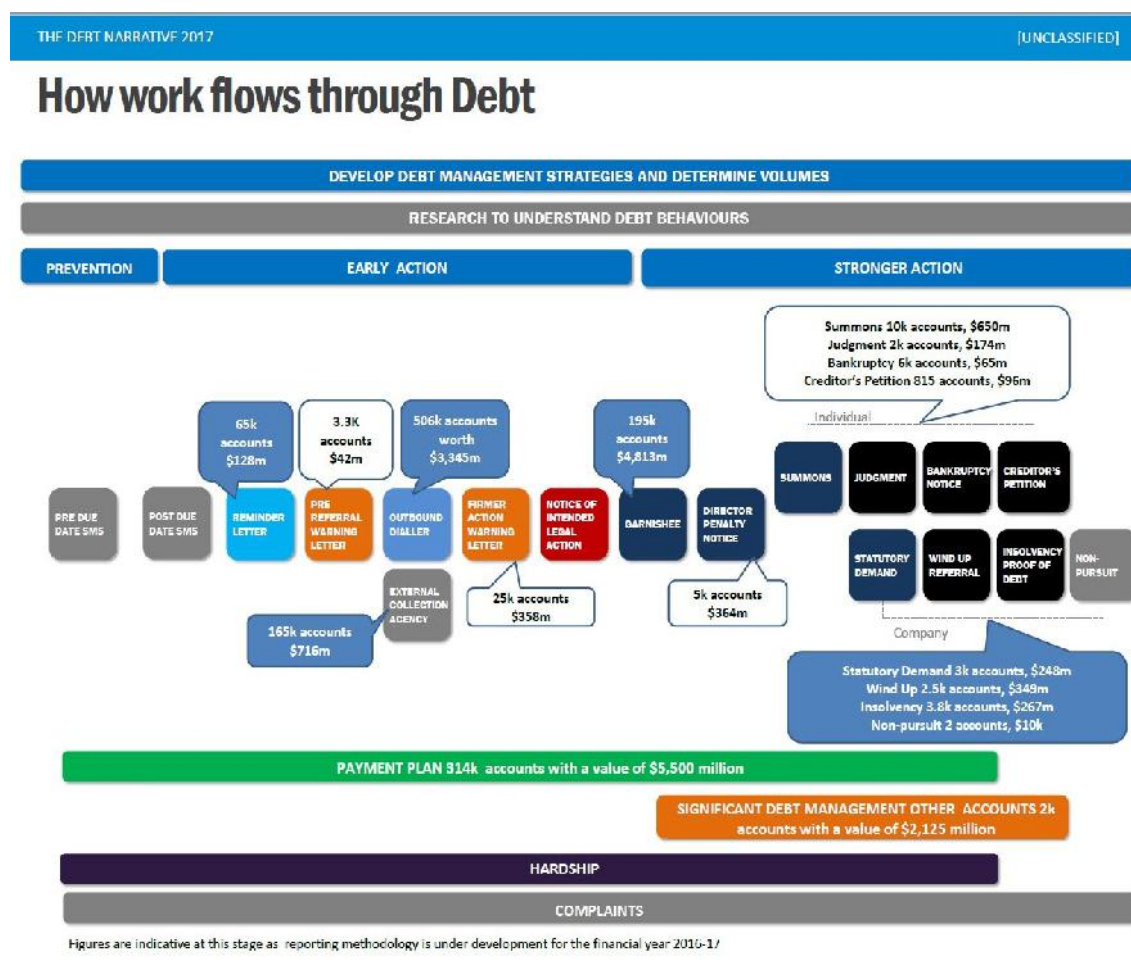
CONFIDENTIALITY

Submissions provided to the IGT are maintained in strict confidence (unless you specify otherwise). This means that the identity of the taxpayer and advisers as well as any information contained in submissions will not be made available to any other person, including the ATO. Section 37 of the *Inspector-General of Taxation Act 2003* safeguards the confidentiality and secrecy of such information provided to the IGT — for example, the IGT cannot disclose the information as a result of a Freedom of Information (FOI) request, or as a result of a court order generally. Furthermore, if such information is the subject of client legal privilege (also referred to as legal professional privilege), disclosing that information to the IGT will **not** result in a waiver of that privilege.

APPENDIX 2—NATURE AND TYPE OF DEBT COLLECTION ACTIVITIES

A2.1 There are number of steps in the ATO's debt collection process before the ATO will consider whether to issue a garnishee notice. This process, as well as the ATO's estimated debt holdings under each step for the 2016–17 financial year is demonstrated in figure A2.1 below:

Figure A2.1: Overview of debt collection cycle for the 2016–17 financial year



Source: ATO.³³³

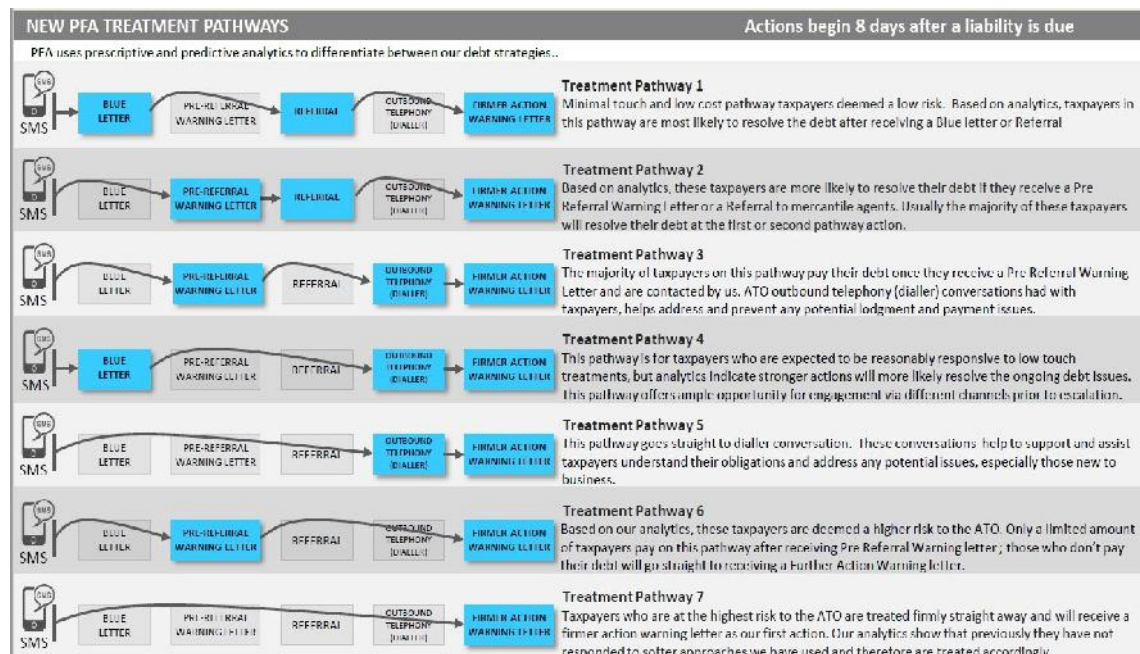
A2.2 Figure A2.1 above provides that the ATO takes 'prevention' action to assist taxpayers to pay their debts on time, which includes sending to taxpayers, who lodge their return through myTax, text messages before or after the debts' due date to remind them they have a bill to pay.³³⁴

³³³ Above n 15.

³³⁴ Ibid.

A2.3 Should payment not be received soon after the due date, the ATO may undertake a range of actions known as ‘early actions’ to remind people to pay their debts. The ATO uses prescriptive and predictive analytics under its ‘Purposeful First Action’ (PFA) approach to determine which action to take against the taxpayer,³³⁵ and this is summarised in Figure A2.2:

Figure A2.2: ATO PFA treatment pathways



Source: ATO.³³⁶

Note: These pathways represent the ATO's approach at the time it was produced and is subject to change.

A2.4 Figure A2.2 above shows that the ATO has seven different approaches to debt collection depending on the taxpayer's behaviour and its expectations of recovering the debt from the taxpayer as a result of its actions. For example, the ATO will send a blue letter, referral to an external debt collection agency (EDCA) and then a firmer action warning letter (FAWL) to taxpayers who are considered 'low risk'. On the other hand, those taxpayers who are considered 'highest risk' will receive a FAWL at the beginning of the debt collection process.

A2.5 Where taxpayers have not addressed their debts as a result of the ATO's communications or referral to an EDCA, the ATO will take actions known as 'firmer action' to recover the debt. These actions include issuing a garnishee notice.

³³⁵ ATO, 'For information – Purposeful First Action (PFA) fully operational', (Internal ATO document, 2 March 2017).

³³⁶ ATO, 'Debt Executive Meeting Submission, 16 May 2018' (Internal ATO document, 1 May 2018).

A2.6 The Commissioner can issue a written notice requiring a third party³³⁷ to pay money to the Commissioner it owes or may later owe to a taxpayer to satisfy the taxpayer's debt.³³⁸ This notice is similar to a garnishee order issued through the courts,³³⁹ and therefore is commonly known as a garnishee notice.³⁴⁰

A2.7 Serving a garnishee notice is considered to be an efficient and cost effective way for the ATO to obtain payment of debts or encouraging engagement.³⁴¹ However, as it is an exercise of coercive power, the ATO directs officers to take care when exercising this power.³⁴²

A2.8 The ATO explained that garnishee notices are used at the end of a lengthy process³⁴³ when taxpayers have refused to engage with the ATO about paying their debt as it would be irresponsible for the ATO to allow the debt to continue to grow.³⁴⁴

A2.9 There are two common garnishee types, a point in time (PIT) and *enduring* garnishee.

A2.10 A PIT garnishee seeks a one-off payment from the third party. It can only be issued to a financial institution, and cannot be withdrawn or revoked.³⁴⁵ A PIT allows the taxpayer to continue to operate their bank account in a normal manner, rather than having the account 'frozen' by the financial institution until the garnishee is withdrawn or revoked.³⁴⁶

A2.11 An *enduring* garnishee notice, or sometimes known as a standard garnishee, requires the third party to pay to the Commissioner a specified amount, or a specified percentage, of each amount of the available money for over a certain period of time, until the debt is satisfied.³⁴⁷ *Enduring* garnishees typically do not expire unless they are issued to a financial institution which has a three month expiry date.³⁴⁸ Compared to a PIT garnishee notice, it can be applied to a broader range of sources, including the proceeds of sales of assets, trade debtors and dividends.

A2.12 Figure A2.3 shows the process map for when debt staff will issue a garnishee notice.

³³⁷ This includes liquidators, receivers, trade debtors, bank accounts and certain agents. See *Taxation Administration 1953* Sch 1 ss 260-5, 260-45(2), 260-75(2) and 260-105(2).

³³⁸ *Taxation Administration 1953* Sch 1 s 260-5.

³³⁹ Above n 187, [para 9].

³⁴⁰ *Ibid* [para 98].

³⁴¹ *Ibid* [para 100].

³⁴² ATO, 'Issue garnishee notice', (Internal ATO document, 9 July 2018).

³⁴³ Commonwealth, Senate Estimates, Economics Legislation Committee, 30 May 2018, p 14 (Melinda Smith), <www.aph.gov.au>.

³⁴⁴ Commonwealth, Senate Estimates, Economics Legislation Committee, 30 May 2018, p 12 (Chris Jordan), <www.aph.gov.au>.

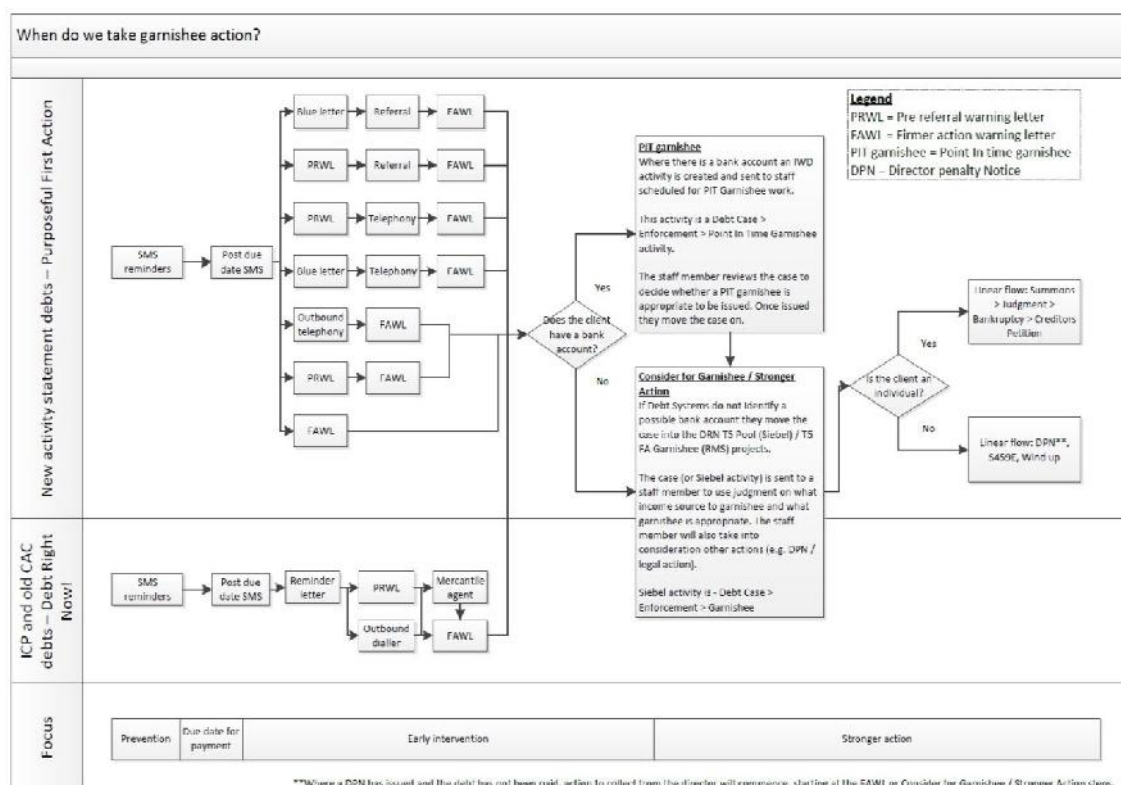
³⁴⁵ ATO, 'Point in time garnishee', (Internal ATO document, October 2016).

³⁴⁶ ATO, 'Garnishee - overview' (ATO internal document, January 2018).

³⁴⁷ *Taxation Administration 1953* Sch 1 s 260-5(4)(b).

³⁴⁸ ATO, 'Issue garnishee notice' (Internal ATO document, October 2018).

Figure A2.3: ATO process map for issuing garnishee notices



Source: ATO.³⁴⁹

Note: These pathways represent the ATO's approach at the time it was produced and is subject to change.

A2.13 The above figure shows that following the ATO's PFA approach, the ATO will allocate a debt case to staff to issue a PIT garnishee if the Debt systems identify the taxpayer has a bank account, or an *enduring* garnishee if there is not a bank account. In both cases, staffs are required to exercise judgement as to whether it is appropriate to issue a PIT or *enduring* garnishee notice.

A2.14 Under the ATO's Debt Right Now strategy, the ATO uses risk-based collection model for case selection, amongst other things. This collection model involves a risk assessment based on taxpayers' financial data from income tax returns and activity statements, as well as prior behaviour, amongst other things, to identify taxpayers at risk of insolvency and likely to repay their debts in full.³⁵⁰

A2.15 Finally, the ATO may take action which it considers 'stronger action' to recover the debt, such as winding up and liquidating companies or to bankrupt an individual.³⁵¹

A2.16 The ATO explained that its data analytics of taxpayer debt behaviours show that the debt collection pathway for each taxpayer is not always a linear flow.³⁵² Therefore, the debt action that the ATO takes will vary based on the taxpayer's circumstances and

³⁴⁹ ATO, 'When do we take garnishee action - process map' (Internal ATO document, undated).

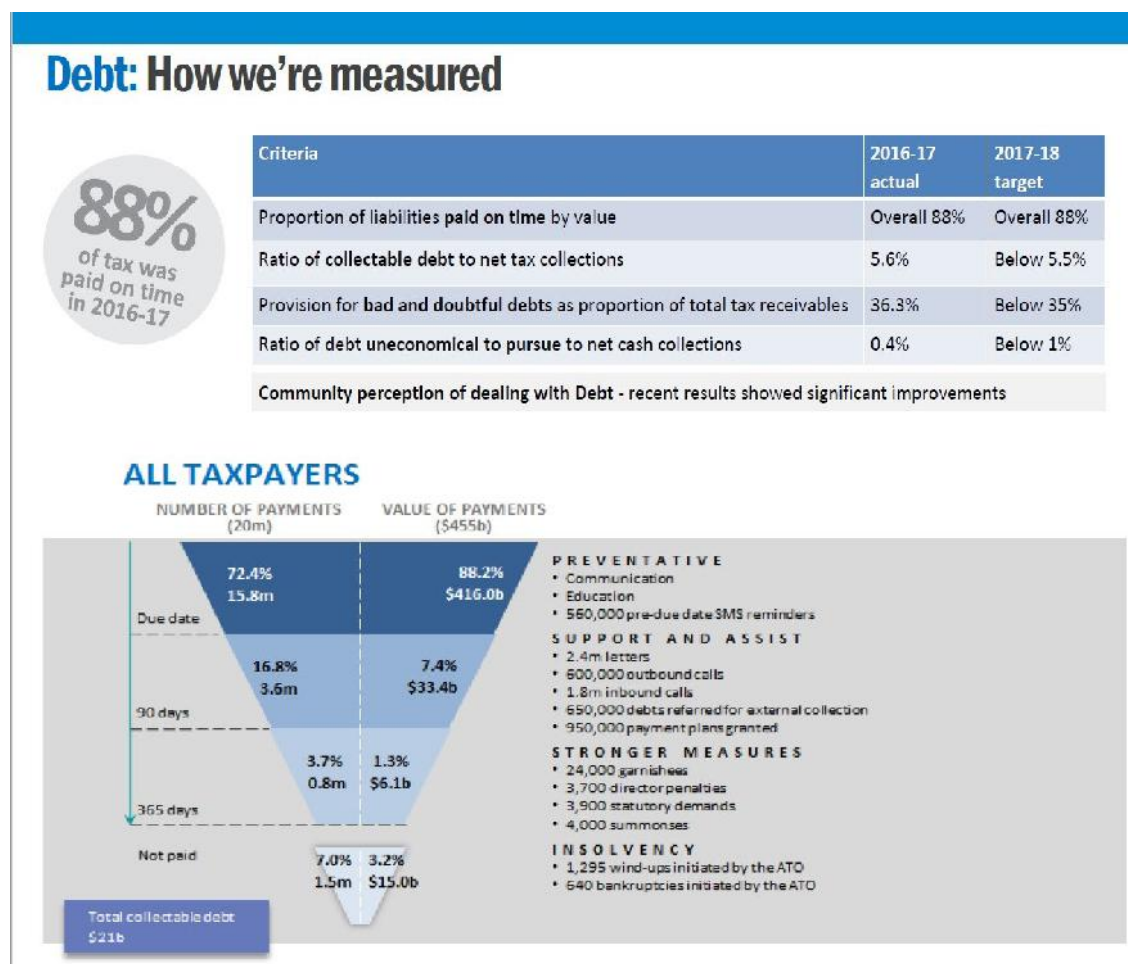
³⁵⁰ Above n 20, p 37.

³⁵¹ Above n 15.

³⁵² Ibid.

behaviour. This is reflected in the quantum of debt actions undertaken by the DBL in the 2016–17 financial year contained in Figure A2.4 below.

Figure A2.4: ATO debt collection actions in the 2016–17 financial year



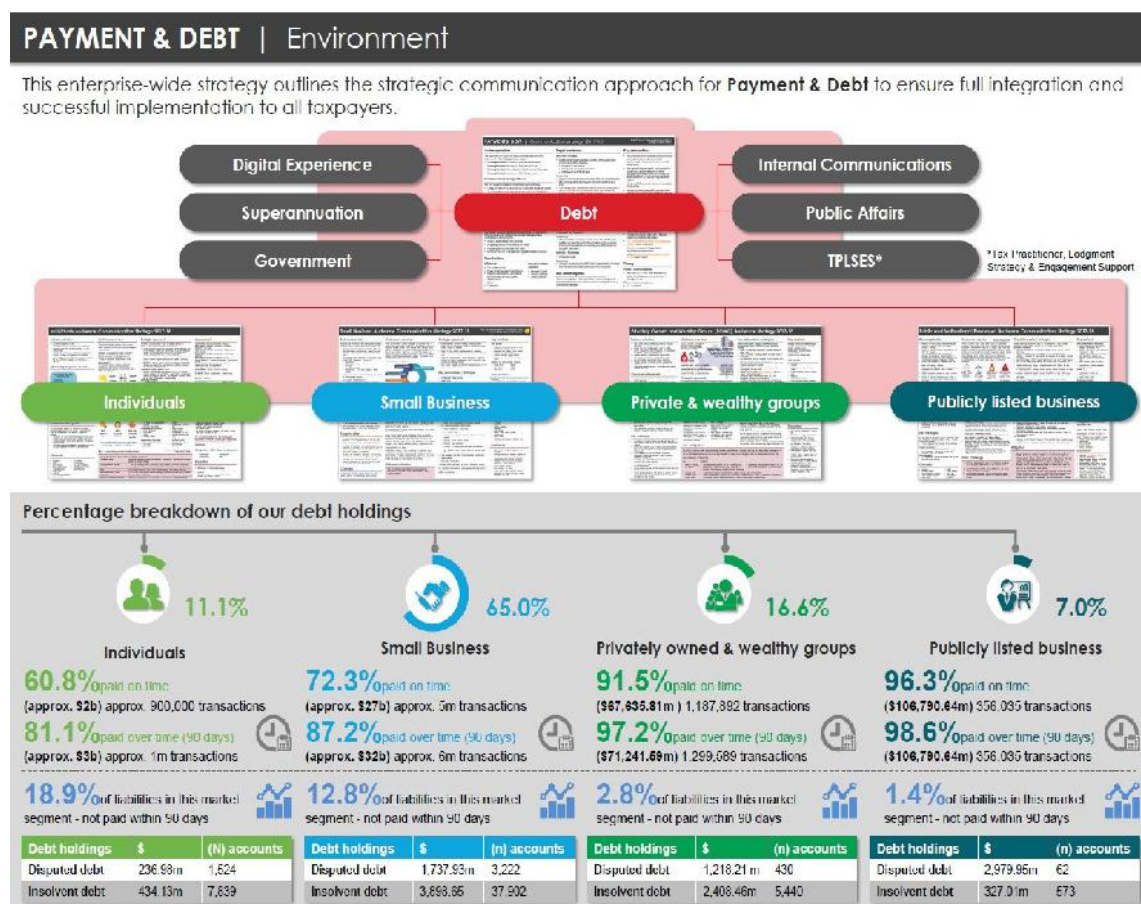
Source: ATO.³⁵³

A2.17 Figure A2.4 shows that a majority of the ATO's debt collection actions are focused on supporting and assisting taxpayers, with 2.4 million letters issues, 1.8 million outbound calls, and 950,000 payment plans entered into. Where 'stronger measures' were taken, the ATO issued 24,000 garnishee notices which is more than the other actions in director penalties (3,700), statutory demands (3,900) and summonses (4,000) combined.

A2.18 Despite the efforts of the ATO's debt collection, there will be those taxpayers who debts remain unpaid. The ATO proportion of debt owed by market segment is presented in Figure A2.5 below

³⁵³ Ibid.

Figure A2.5: Debt holdings by market segment in the 2016–17 financial year



Source: ATO.³⁵⁴

Reporting

A2.19 The DBL's corporate reporting unit have access to reporting systems which can run queries and apply definitions to generate reports based on all ATO data that is stored in a data warehouse (CUBES reporting).³⁵⁵ CUBES reporting allows the DBL to run reports for certain widgets (i.e. garnishee notices, DPNs, etc.) if the information is required, for example, the garnishee figures that were provided to the IGTO during this review.³⁵⁶ Operational teams may conduct their own performance reports. However, these teams do not have access to the CUBES reporting.

A2.20 In relation to monitoring the ATO's debt book, weekly updates are provided to the Debt Executive and include comparison to the corresponding week from the previous financial year. The types of debt that are subject to these reports include income tax, activity statement, and superannuation. DBL directors may be included in the distribution of the weekly debt reports, in addition to the DBL Executive, if they express particular interest on a subject falling within the report.³⁵⁷

³⁵⁴ Above n 17.

³⁵⁵ ATO Debt business line reporting team, IGTO review team interview, 9 July 2018.

³⁵⁶ Ibid.

³⁵⁷ Ibid.

A2.21 The monthly figures of the number of garnishee notices that were issued can be obtained. However, the ATO is unable to capture how much revenue was collected as a direct result of such notices. The ATO is only able to track the reduction in debt during that period. Accordingly, the ATO does not distinguish between whether the reduction in debt was due to funds recovered by garnishee notices, or from voluntary payments made by taxpayers.³⁵⁸

³⁵⁸ Ibid.

APPENDIX 3—ATO PERFORMANCE AGAINST CORPORATE KPIs

Table A3.1: Relevant ATO key performance indicator targets and results, over 1 July 2009 to 30 June 2018

Financial year	On-time payment proportion KPI		Collectable debt ratio KPI		Variance of revenue collected against forecast KPI		Operating budget KPI	
	Target	Actual	Net Tax Collections (\$b)	Collectable debt (\$b)	Target	Actual	Target	Actual
2009–10	N/A	N/A	N/A	5.8%	N/A	+0.4%	N/A	+1.30%
2010–11	N/A	87.5%	N/A	5.2%	N/A	-4.5%	N/A	+0.11%
2011–12	N/A	89.1%	N/A	5.5%	N/A	-3.4%	N/A	+0.09%
2012–13	N/A	89.1%	N/A	5.7%	N/A	-5.6%	N/A	+0.30%
2013–14	N/A	88.6%	N/A	6.1%	N/A	-4.4%	N/A	+0.02%
2014–15	N/A	89.2%	Below 6%	5.7%	N/A	-2.7%	N/A	+1.60%
2015–16	N/A	89.5%	Below 5.5%	5.3%	N/A	-4.1%	N/A	-0.8%
2016–17	Above 85%	88.2%	Below 5.5%	5.6%	+/- 2.5%	-1.2%	+/-0.6%	-0.13%
2017–18	Above 88%	89.5%	Below 5.5%	5.7%	N/A	+3.3%	+/-0.6%	+1.0%

Source: ATO Annual Reports, 2009–10 to 2017–18.

Note 1: Descriptions of the KPIs are provided in Chapter 2 of this report.

Note 2: Variance of revenue collected against forecast KPI was discontinued as a KPI in the 2017–18 financial year.

Note 3: Ratio of collectable debt to net tax collections is calculated as a rolling average of the monthly figures in the financial year.

Note 4: 2008–09 collection figures are excluded due to the impact that the \$7.368 billion tax bonus for working Australians (part of the economic stimulus package which was implemented following the global financial downturn) had on net collections and collectable debt (see ATO, *Annual Report 2008–09* pp 13, 16 and 54).

Note 5: 2010–11 and 2011–12 of actual operating budget KPI calculated with reference to reported surplus and operating expenditure within the ATO's annual report for the relevant financial year.

Table A3.2: Average ratio of collectable debt to net tax collections, over 1 July 2010 to 30 June 2018

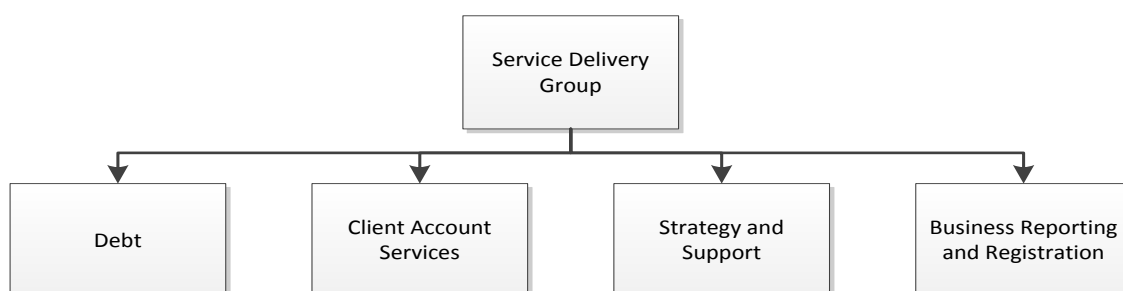
Financial year	Collectable debt (\$b)	Net Tax Collections (\$b)	Ratio of collectable debt to net tax collections
2009–10	14.7	272.9	5.8%
2010–11	14.1	272.9	5.2%
2011–12	16.6	300.9	5.5%
2012–13	17.7	311.8	5.7%
2013–14	19.5	321.6	6.1%
2014–15	19.2	336.8	5.7%
2015–16	19.2	342.6	5.3%
2016–17	20.9	359.3	5.6%
2017–18	23.7	396.6	5.7%
Nine-year average			5.6%

Source: ATO Annual Reports, 2009–10 to 2017–18.

APPENDIX 4—ATO ORGANISATIONAL STRUCTURE FOR DEBT MANAGEMENT

A4.1 The Service Delivery Group (SD) Group manages a suite of ATO services including telephony, registrations, processing and debt management.

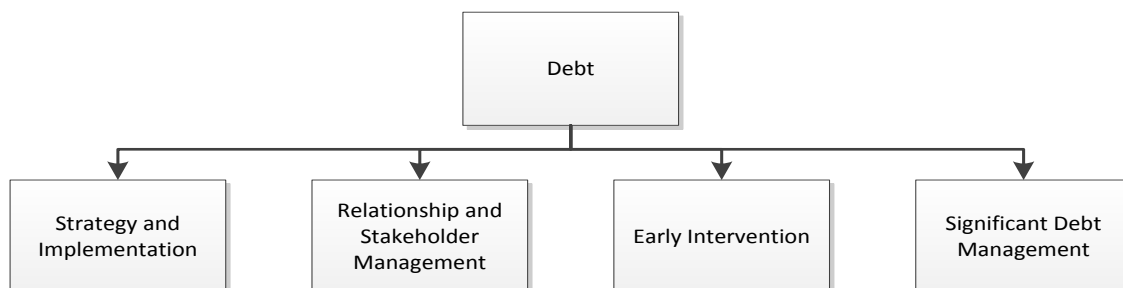
Diagram A4.1: Service Delivery Group Business units



Source: IGTO analysis of ATO information.³⁵⁹

A4.2 Diagram A4.2 below provides a representation of the DBL's four business units:

Diagram A4.2: Debt business units



Source: IGTO analysis of ATO information.

A4.3 The DBL is comprised of four business units:

- Strategy and Implementation – designs, implements and monitors strategies and tactics to ‘tailor a taxpayer’s experience to make it easy to pay’. It sets the DBL’s direction, which is delivered by the EI and SDM areas. It also has responsibility to ensure that ATO staff have the relevant system, tools and insights to deliver DBL’s strategies;

³⁵⁹ Above n 34.

- Relationship and Stakeholder Management – manages DBLs core functions such as communications and complaints, and supports the DBL by building and managing key relationships;
- Early Intervention (EI) – undertakes debt collection activities such as entering taxpayers into payment arrangements and issuing garnishee notices; and
- Significant Debt Management (SDM) – undertake debt collection activities against taxpayers that are deemed high risk, including phoenix, organised and financial crime through case management.³⁶⁰

A4.4 The activities of the EI and SDM units can be summarised in table A4.1 below.

Table A4.1: responsibilities of EI and SDM

Activity / Product	Early Intervention	Significant Debt Management
Inbound EI telephony and correspondence	Yes	No
Release	Yes	No
Payment arrangement	Yes	Yes
Remission of GIC	Yes	Yes
Non pursuit	Yes	Yes
Garnishee (Pit and Enduring)	Yes	Yes
DPN	Yes	Yes
S459e	No	Yes
Summons	No	Yes
Bankruptcy	No	Yes
Creditor's Petition, Wind-up and Judgment	No	Yes
DPO	No	Yes
Securities	No	Yes
Disputed Debt	No	Yes
SDM Correspondence	No	Yes

Source: ATO communication to the IGTO 8 January 2019.

Note: 'inbound EI telephony' and 'inbound EI correspondence' refers to EI staff handling queries pertaining to summons, judgement and insolvency; 'release' refers to release from payment of certain tax liabilities where a taxpayer will suffer serious financial hardship; 'non-pursuit' refers to decisions by the ATO to not pursue recovery action where debts are irrecoverable at law (see para 2.9) or uneconomic to pursue; 's 459E' refers to statutory demands served by the Commissioner as a creditor under the corporations law; 'summons' refers to processes taken by the ATO to have the court recognise that the debt is duly owed; 'judgment' refers to processes by which the ATIO seeks to execute on the judgment; 'SDM correspondence' refers to handling SDM specific topics such as debt strategic recovery and debt schemes, as well as insolvency correspondence regarding topics such as creditors meetings.

A4.5 The EI unit comprises of teams led by team leaders, coaching staff and technical support team.

³⁶⁰ Above n 32.

APPENDIX 5—AVERAGES OF GARNISHEE NOTICES

Table A5.1: ATO national average of enduring garnishee notices issued per hour by the EI unit from May 2017 to March 2018, by month

Month	National average
May	0.10
June	0.19
July	0.19
August	0.11
September	0.10
October	0.14
November	0.12
December	0.18
January	0.20
February	0.32
March	0.29
Average/Total	0.18

Source: ATO, Adelaide site reports, July 2017–March 2018.

A5.1 The table above shows that the national average of *enduring* garnishee work activities completed per hour declined from 0.19 in July 2017 to 0.11 in August 2017, and then 0.1 in September 2017. By October 2017, it had increased to 0.14 before declining again to 0.12 in November 2017. In December 2017, the national average had increased to 0.18, and continued to increase in January 2018 (0.2) and February (0.32), before declining to 0.29 in March 2018.

Table A5.2: Composition of garnishee notices issued and seven day balance reduction in 2016–17, by month

2016–17	Point-in-time Garnishees		Enduring Garnishees		Total Garnishees	
	No. issued	7 day Bal. reduction (in \$m)	No. issued	7 day Bal. reduction (in \$m)	No. issued	7 day Bal. reduction (in \$m)
Jul	1,397	3.278	218	1.695	1,615	4.973
Aug	1,173	2.425	209	1.018	1,382	3.442
Sep	1,217	3.335	203	6.690	1,420	10.025
Oct	979	2.144	215	0.921	1,194	3.065
Nov	1,266	4.516	340	0.735	1,606	5.251
Dec	65	0.130	129	0.142	194	0.272

Table A5.2: Composition of garnishee notices issued and seven day balance reduction in 2016–17, by month – (continued)

2016–17	Point-in-time Garnishees		Enduring Garnishees		Total Garnishees	
	No. issued	7 day Bal. reduction (in \$m)	No. issued	7 day Bal. reduction (in \$m)	No. issued	7 day Bal. reduction (in \$m)
Jan	920	2.255	163	2.321	1,083	4.576
Feb	1,705	2.284	257	2.075	1,962	4.359
Mar	1,415	2.822	234	1.876	1,649	4.698
Apr	1,313	1.877	250	1.485	1,563	3.363
May	2,936	8.622	1,330	3.577	4,266	12.199
Jun	3,882	8.924	1,897	8.048	5,779	16.972
TOTAL	18,268	42.612	5,445	30.584	23,713	73.195

Source: ATO.³⁶¹

Table A5.3: Composition of garnishee notices issued and seven day balance reduction in 2017–18, by month

2017-18	Point-in-time Garnishees		Enduring Garnishees		Total Garnishees	
	No. issued	7 day Bal. reduction (in \$m)	No. issued	7 day Bal. reduction (in \$m)	No. issued	7 day Bal. reduction (in \$m)
Jul	2,391	9.200	703	1.247	3,094	10.447
Aug	1,991	5.940	527	2.455	2,518	8.395
Sep	2,072	6.435	391	1.832	2,463	8.267
Oct	2,037	6.194	534	2.084	2,571	8.278
Nov	1,883	5.406	814	3.511	2,697	8.917
Dec	398	1.729	235	2.964	633	4.692
Jan	2,150	8.031	803	2.927	2,953	10.958
Feb	7,486	19.734	1,642	6.243	9,128	25.977
Mar	5,507	13.649	1,676	6.693	7,183	20.342
Apr	6,040	16.501	663	1.450	6,703	17.951
May	6,733	11.332	356	0.619	7,089	11.952
Jun	3,606	12.158	434	3.660	4,040	15.818
TOTAL	42,294	116.308	8,778	35.686	51,072	151.994

Source: ATO.³⁶²

A5.2 Tables A5.2 and A5.3 shows the debt reduction within seven days after either a PIT or *enduring* garnishee notice issued during each month of the 2016–17 and 2017–18 financial years.

³⁶¹ Above n 130.

³⁶² Ibid.

APPENDIX 6—OVERVIEW OF DEBT BUSINESS UNIT MEETINGS

Figure A6.1: DBL business unit meetings

General Staff	Team Leader	Executive Level	Senior Executive
EARLY INTERVENTION <div>Early Intervention Team Meetings (Team leaders, Staff) 26</div> <div>Early Intervention Team Meetings (Team leaders, Staff) 27</div>	<div>Debt Nations Support Meeting (Selected staff: EL2, AP25 & AP25 level) 18</div>	<div>Early Intervention Director Meeting (AC, EL2) 4</div> <div>Early Intervention Management Meeting (EL2, EL3, EL4 level) 5</div> <div>Early Intervention EL Meeting (EL3) 6</div>	EARLY INTERVENTION
<div>Significant Debt Management Team Meetings (All SCM EL3 Staff) 28</div> <div>Significant Debt Management Team Meetings (Team leaders, Staff) 29</div>	<div>Significant Debt MT Meetings (EL3, AP26) 19</div> <div>Significant Debt MT Area Meetings (EL2, EL3, AP26 from area, (EL2, AP26)) 20</div> <div>Team Leader Meetings (SDV AP26) 21</div>	<div>Significant Debt MT Director Meeting (AC, EL2) 7</div> <div>SCM Individual Director Meeting (AC, EL2) 8</div>	SIGNIFICANT DEBT MANAGEMENT
<div>Debt Communications (All Debt Staff) 30</div> <div>Making Connections (All Service Delivery Staff) 31</div> <div>Debt Communications (All Debt Staff) 32</div>	<div>AP26 Debt Dialogue Sessions (Debt DC, AC, EL2, AP26) 22</div>	<div>Service Delivery SD/EL2 Conference (Service Delivery DC, AC, EL2) 9</div> <div>Debt Dialogue Sessions (Debt DC, AC, EL2, EL3) 10</div> <div>Strategy Development Network Meeting (RACM AC, SD, AC, EL2 & EL3 by invite) 11</div> <div>Planning Day (Individual areas) (AC, EL2, EL3 by invitation) 12</div>	ALL DEBT <div>Debt Executive Meetings (Debt DC, AC) 1</div> <div>Debt DC/AC/CM/EL2 (35 required Debt DC, AC/35) 2</div> <div>Debt Leaders Conference (Debt DC, AC, EL2) 3</div>
<div>Strategy and Implementation Meeting (All SD Staff) 32</div> <div>Strategy & Implementation Team meetings (Team leaders, Staff) 33</div>		<div>Strategy & Implementation Director Meeting (AC, EL2, EL3 by invitation) 13</div> <div>Strategy and Implementation Meeting (EL2 (optional) EL1) 14</div> <div>Debt Systems & Payment System Design (OS and 3rd EL2) 15</div>	STRATEGY AND IMPLEMENTATION
<div>Risk & Stakeholder MT team meetings (Team leaders, Staff) 34</div>	<div>RACM Leadership Group Presentations (AC, EL2, EL3 and AP26) 23</div> <div>SD Complaints Team Leader Meetings (SD Complaints AP26) 24</div> <div>SD Complaints Support Staff (SD Complaints AP25, AP25, AP26, AP26) 25</div>	<div>RACM Director Meetings (AC, EL2) 16</div> <div>Service Delivery Complaints EL Meetings (SD Complaints EL2, EL3) 17</div>	RELATIONSHIPS AND STAKEHOLDER MANAGEMENT

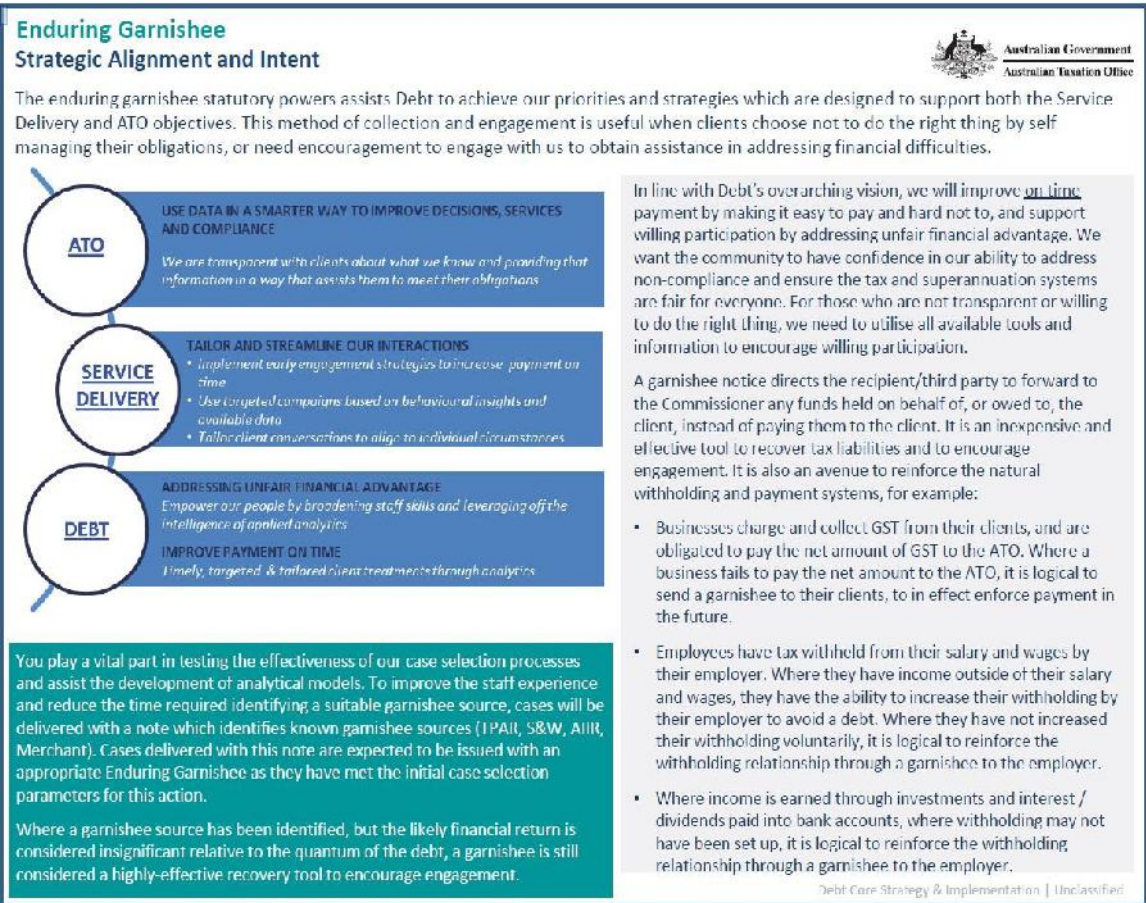
Source: ATO communication to the IGT 23 July 2018.

A6.1 Figure A6.1 shows the various meetings held within the DBL and its four business units, as well as meetings amongst the different level of DBL staff.

APPENDIX 7— ENDURING GARNISHEE STRATEGIC CONTEXT DOCUMENT

A7.1 The following *Enduring Garnishee Strategic Context* document had been developed during the 2016–17 financial year by the S&I unit which was distributed to EI team leaders and coaches in all sites.

Figure A7.1: Enduring Garnishee Strategic Context document, part 1 of 2



Source: ATO.³⁶³

³⁶³ Above n 216.

Figure A7.2: Enduring Garnishee Strategic Context document, part 2 of 2

Enduring Garnishee	
Case attributes	
<ul style="list-style-type: none"> • Taxable Payments Annual Report (TPAR), Salary & Wage (S&W), Annual Investment Income report (AIIR), Merchant data availability • Collectable RMS or ICP (Siebel) debt cases • Will not be case managed, disputed, insolvent or cases under active payment plans • May have outstanding lodgments • May have had previous debt action taken, including a point in time garnishee (successful or unsuccessful) • May have no debt action within the last six months (staff may need to contact the client to advise them of the further action that will be undertaken). 	
Strategic Outcomes	Measure of success
Increased willing participation	<ul style="list-style-type: none"> • Number of clients who have moved from lodging and paying late to meeting obligations by due date
Increased collection of debt	<ul style="list-style-type: none"> • Reduction in overall debt • Increase in value of debt in payment plans (interim and standard)
Increased lodgment	<ul style="list-style-type: none"> • Reduction in number of outstanding lodgments
Increased client engagement	<ul style="list-style-type: none"> • Number of clients who engaged as a result of our interactions
Addressing unfair financial advantage	<ul style="list-style-type: none"> • Increased community confidence
To find out more	
<ul style="list-style-type: none"> • Case studies – garnishees • Law Administration Practice Statement ISA 2011/13 – Enforcement measures used for the collection and recovery of tax-related liabilities and other amounts • Garnishee notice • Garnishee Principles 	
Debt Core Strategy & Implementation Unclassified	

Source: ATO.³⁶⁴

ENDURING GARNISHEE STRATEGIC CONTEXT TALK SHEET

A7.2 The following Talk Sheet had been developed during the 2016–17 financial year by the S&I unit which was distributed to EI team leaders and coaches in all sites.³⁶⁵

ENDURING GARNISHEE - STRATEGIC CONTEXT TALK SHEET

PURPOSE

This Talk Sheet has been designed to support Team Leaders or Coaches in communicating the “Enduring garnishee strategic context” document to staff. The objective is to provide a clear line of sight between the work they undertake and the strategic intent.

OVERVIEW

One of the key strategic initiatives within Debt is to support willing participation by addressing unfair financial advantage.

³⁶⁴ Ibid.

³⁶⁵ Above n 215.

We want the community to have confidence in our ability to address non-compliance and ensure the tax and superannuation systems are fair for everyone. For those clients who are not willing to do the right thing, we need to utilise all available tools and analytics to encourage willing participation, or address the behaviour by taking stronger action.

The primary intent of the enduring garnishee strategy is to encourage the client to engage with us, positively influence their behaviour through promoting willing participation and to recover the debt.

We have identified that issuing an enduring garnishee to the originating source of income is likely to be more effective as it prompts the client to evaluate their circumstances and reinforces the natural withholding and payment systems.

For example:

- Where a client is paid a salary or wage, we can reinforce this withholding relationship by issuing a garnishee to the employer.

This may prompt employees to consider and/or have a meaningful discussion with their employer about their circumstances such as:

- Am I having enough tax withheld from my salary?
 - Can I increase the amount of tax withheld to prevent a future debt?
 - If I have a second job, have I accidentally claimed the tax free threshold twice?
- Where a contractor is being paid by another business, the expectation is that the GST will be on-paid to the ATO.

We can reinforce this expectation by sending a garnishee to the payer which may encourage the contractor to comply in the future.

This includes businesses in the building and construction industry who make payments (including GST) to contractors for their services. These payments are reported to the ATO through Taxable Payment Annual Reporting (TPAR) data.

KEY PRINCIPLES

- Generally, the expectation is that cases delivered for an enduring garnishee will be issued an enduring garnishee. The current exclusion rules and considerations identified within the procedure should be used to guide an appropriate decision.

If you decide that one more contact attempt is necessary to engage the client and that contact is unsuccessful, you should exercise your judgement to determine and undertake the next best action.

- Where an enduring garnishee source has been identified through analytics, specific details of the source will be included in RMS notes.

The purpose of this note is to overtly display to staff that a potential enduring garnishee source exists. The note does not replace the requirement for staff to utilise the RAPT 'Garnishee details' tab to determine other available garnishee sources.

- Staff should identify garnishee sources available for the client, and evaluate which will be the most effective in recovering the debt (in the long term) and positively influencing the client behaviour.
- A garnishee to a financial institution is appropriate where the income is from interest, and the interest is of a significant amount, evidencing a large amount of cash in the bank.

However garnishees to financial institutions are not the preference if there are other income sources available which would be more effective.

- A PIT garnishee does not need to be issued before considering an enduring garnishee.

RESOURCES

- The 'Enduring garnishee strategic context' document is available in SMART to assist you in understanding the strategic intent.

SMART pathway is: Procedures Tab > Debt management > Garnishee > Enduring garnishee strategic context

APPENDIX 8—QUALITY ASSESSMENTS OF GARNISHEE NOTICES

A8.1 From July 2016, following recommendations made in the IGTO's 2015 *Debt Collection*³⁶⁶, the ATO commenced quarterly quality assurance reporting with respect to issued garnishee notices.³⁶⁷ The results are summarised in the table below.

A8.2 During this review, the SD Executive endorsed implementation of a new SD Quality Framework which is expected to be operational by May 2019.³⁶⁸ This new framework is intended to assess staff on their professionalism, integrity of complying with the relevant legislation and policies as well as achieving appropriate outcomes for taxpayers and the ATO.³⁶⁹ The ATO plans to sample staff's most recent work from the last ten days³⁷⁰ in a total of five to eight quality assessments, depending on the assessed capability of staff and the time after they had received training.³⁷¹ Team leaders will be expected to discuss these assessments as part of their coaching conversations which will be expected to be held on a monthly basis.³⁷² Team leader observations, side by side evaluations and self-assessments are also intended to be incorporated within this new framework.³⁷³

DEBT ASSURANCE REPORTS

Table A8.1: Quality assurance outcomes for garnishee cases assessed from 1 January 2017 to 31 March 2018, by quarter

Period	Total cases selected	Met Standard with feedback				
		Total (Note 1)	Judgement (Note 2)	Amount (Note 3)	Communications (Note 4)	Record keeping (Note 5)
Jan-Mar 17	278	29.14%	0.00%	0.00%	5.04%	17.99%
Apr-Jun 17	332	23.80%	3.92%	1.81%	11.14%	14.16%
Jul-Sep 17	91	21.98%	3.30%	1.10%	10.99%	10.99%
Oct-Dec 17	90	15.56%	1.11%	2.22%	10.00%	2.22%
Jan-Mar 18	261	24.14%	3.83%	0.00%	5.75%	3.83%

³⁶⁶ See above n 20, recommendation 4.1(c).

³⁶⁷ Above n 189.

³⁶⁸ ATO, 'Copy of email to all Service Delivery staff about the quality framework consultation outcome' (Internal ATO document, 4 January 2019).

³⁶⁹ ATO, 'Proposed Service Delivery Quality Framework' (Internal ATO document, undated).

³⁷⁰ Ibid.

³⁷¹ Ibid.

³⁷² ATO, 'Quality, Coaching and Assurance – Manager overview' (Internal ATO document, undated).

³⁷³ Above n 369.

Table A8.1: Quality assurance outcomes for garnishee cases assessed from 1 January 2017 to 31 March 2018, by quarter – (continued)

Period	Total cases selected	Standard not Met				
		Total (Note 1)	Judgement (Note 2)	Amount (Note 3)	Communications (Note 4)	Record keeping (Note 5)
Jan-Mar 17	278	12.59%	0.00%	0.00%	4.32%	2.52%
Apr-Jun 17	332	11.14%	3.92%	0.00%	2.11%	2.71%
Jul-Sep 17	91	10.99%	8.79%	2.20%	6.59%	0.00%
Oct-Dec 17	90	10.00%	1.11%	3.33%	5.56%	1.11%
Jan-Mar 18	261	8.05%	0.77%	0.38%	3.07%	1.53%

Source: ATO Debt Assurance Reports, 1 January 2017 to 31 March 2018.

Note 1: Percentage of total cases selected where the outcome was 'Met Standard with feedback' and 'Standard not Met'.

Note 2: For example, assessors considered that there were other actions more appropriate than issuing a garnishee notice, or a different type of garnishee notice or garnishee source would been appropriate.

Note 3: For example, the debt amount stated on the garnishee notice was incorrect.

Note 4: Copy of the garnishee notice had not been sent to the taxpayer or tax agent, or had been sent to an incorrect postal address.

Note 5: Notes recorded on the ATO's systems were absent or incomplete to support the decision to issue a notice.

During the period 1 January 2017 to 31 March 2018, remedial action was taken for certain cases that were assessed, which included withdrawal of the garnishee notice; the taxpayer contacted to negotiate a payment arrangement; a copy of the garnishee notice issued to the taxpayer's current address; General Interest Charges corrected on the taxpayer's account; and an apology letter issued to the taxpayer.

During the period 1 January 2017 to 31 March 2018, remedial action was taken for certain cases that were assessed, which included withdrawal of the garnishee notice; the taxpayer contacted to negotiate a payment arrangement; a copy of the garnishee notice issued to the taxpayer's current address; General Interest Charges corrected on the taxpayer's account; and an apology letter issued to the taxpayer.

A8.3 The table above provides a summary of the issues that have been identified in the ATO's assessments of garnishee work activities, from 1 January 2017 to 31 March 2018 where the outcome was that the DBL staff had either met standard of the assessment criteria but feedback was provided, or standard was not met. These issues include communicating with taxpayers about the issuing of a garnishee notice (or the potential of one being issued), the DBL staff not correctly recording their decisions on the ATO's systems to issue a garnishee notice, decisions to issue and garnishee notices being issued with incorrect amounts. Remedial actions were needed at times to address these cases.

Table A8.2: Percentage of total quality assurance outcomes per site for garnishee cases assessed from 1 January 2017 to 31 March 2018, by quarter

Period	Total cases selected	Cases selected				Met/Exceed Standards			
		All sites	ADL	ALB	UMG	All sites	ADL	ALB	UMG
Jan-Mar 17	278	100.00%	14.75%	3.24%	62.23%	58.27%	8.99%	2.52%	31.29%
Apr-Jun 17	332	100.00%	8.13%	8.73%	60.54%	65.06%	5.12%	6.02%	36.14%
Jul-Sep 17	91	100.00%	9.89%	14.29%	23.08%	67.03%	4.40%	8.79%	15.38%
Oct-Dec 17	90	100.00%	14.44%	11.11%	8.89%	74.44%	12.22%	8.89%	5.56%
Jan-Mar 18	261	100.00%	24.14%	13.03%	15.33%	67.82%	14.94%	11.88%	7.66%

Period	Total cases selected	Met Standard with feedback				Standard not Met			
		All sites	ADL	ALB	UMG	All sites	ADL	ALB	UMG
Jan-Mar 17	278	29.14%	2.52%	0.72%	22.66%	12.59%	3.24%	0.00%	8.27%
Apr-Jun 17	332	23.80%	1.81%	1.51%	17.77%	11.14%	1.20%	1.20%	6.63%
Jul-Sep 17	91	21.98%	3.30%	1.10%	5.49%	10.99%	2.20%	4.40%	2.20%
Oct-Dec 17	90	15.56%	1.11%	1.11%	2.22%	10.00%	1.11%	1.11%	1.11%
Jan-Mar 18	261	24.14%	5.75%	0.77%	6.51%	8.05%	3.45%	0.38%	1.15%

Source: ATO Debt Assurance Reports, 1 January 2017 to 31 March 2018.

A8.4 The table above provides a percentage of the outcomes assessed for the three major sites that issued garnishee notices against the national total number of assessments for the relevant quarter.

APPENDIX 9—GARNISHEE NOTICES ISSUED PER ATO SITE

Table A9.1: Total number of garnishee notices and scheduled work hours from 1 May 2017 to 31 March 2018, by month

Month	Local EI unit site									TOTAL
		ADL	ALB	DAN	MELB	PEN	PER	TOW	UMG	
May-17	No. of enduring garnishee notices (EG) issued	190	86	1	5	9	1	12	228	532
	Scheduled EG work hours	2,566	1,853	-	-	-	-	1,178	3,124	8,721
	EGs issued per hour	0.07	0.05	N/A	N/A	N/A	N/A	0.01	0.07	0.06
Jun-17	No. EGs issued	457	277	64	62	28	1	8	245	1,142
	EG work hours	1,649	3,081	939	558	-	-	259	2,222	8,708
	EGs per hour	0.28	0.09	0.07	0.11	N/A	N/A	0.03	0.11	0.13
Jul-17	No. EGs issued	218	56	5	5	47	2	7	236	576
	EG work hours	771	514	-	3	13	35	35	1,785	3,156
	EGs per hour	0.28	0.11	N/A	1.45	3.58	0.06	0.2	0.13	0.18
Aug-17	No. EGs issued	136	69	2	2	25	4	7	144	389
	EG work hours	819	930	-	-	271	-	84	1,424	3,528
	EGs per hour	0.17	0.07	N/A	N/A	0.09	N/A	0.08	0.1	0.11
Sep-17	No. EGs issued	65	66	3	-	8	6	-	140	288
	EG work hours	737	606	-	-	271	-	84	1,424	3,122
	EGs per hour	0.09	0.11	N/A	N/A	0.03	N/A	0	0.1	0.09

Table A9.1: Total number of garnishee notices and scheduled work hours from 1 May 2017 to 31 March 2018, by month – (continued)

Month	Local EI unit site									TOTAL
		ADL	ALB	DAN	MELB	PEN	PER	TOW	UMG	
Oct-17	No. EGs issued	62	73	10	2	10	3	4	239	403
	EG work hours	861	657	3				5	1,316	2,842
	EGs per hour	0.07	0.11	3.33	N/A	N/A	N/A	0.8	0.18	0.14
Nov-17 (Note 1)	No. EGs issued	140	145	4	2	9	8	13	347	668
	EG work hours	1,955								1,955
	EGs per hour	0.07								0.07
Dec-17	No. EGs issued	27	8	1	2	1	1	3	119	162
	EG work hours	106								106
	EGs per hour	0.26								0.26
Jan-18	No. EGs issued	118	70	57	2	12	3	14	411	687
	EG work hours	1,182								1,182
	EGs per hour	0.1								0.1
Feb-18	No. EGs issued	601	248	83	8	39		26	503	1,508
	EG work hours	2,020								2,020
	EGs per hour	0.32								0.32
Mar-18	No. EGs issued	524	371	78	3	27		1	493	1,497
	EG work hours	1,843								1,843
	EGs per hour	0.29								0.29

Source: ATO data³⁷⁴ and IGT analysis.

Note 1: Total hours of enduring garnishee notices not obtained for other sites from November 2017.

A9.1 Table A9.1 shows the total number of issued *enduring* garnishee notices by month and local site from March 2017–March 2018, and the number of hours that was scheduled for that work activity.

A9.2 The table below shows the number of *enduring* garnishee notices that were issued to financial institutions by local EI unit sites in May and June 2017. The table also provides the numbers of such notices compared to the total number of *enduring* garnishee notices, as well as the total of all garnishee notices that were issued by the local site.

³⁷⁴ Above n 168; above n 264.

Table A9.2: Types of enduring garnishee notices issued from May to June 2017, by month and local site

Site	Month	Total of all garnishee notices issued (A)	Total enduring garnishee notices (EGs) issued (B)	EGs issued to financial institutions (C)	EGs issued to trade debtors (D)	Proportion of EGs issued (B ÷ A)	Proportion of EGs issued to financial institution (C ÷ A)
Adelaide	May-17	626	190	108	2	30%	17%
	Jun-17	836	457	357	0	55%	43%
Albury	May-17	237	86	9	0	36%	4%
	Jun-17	1,212	277	69	8	23%	6%
Dandenong	May-17	520	1	0	0	0%	0%
	Jun-17	297	64	23	0	22%	8%
Melbourne	May-17	381	5	0	0	10%	0%
	Jun-17	642	62	35	0	10%	5%
Penrith	May-17	273	9	9	0	3%	3%
	Jun-17	521	28	12	3	5%	2%
Perth	May-17	1	1	0	0	100%	0%
	Jun-17	1	1	0	0	100%	0%
Townsville	May-17	150	12	8	0	8%	5%
	Jun-17	102	8	6	1	8%	6%
Upper Mount Gravatt	May-17	1,137	228	60	10	20%	5%
	Jun-17	1,421	245	82	10	17%	6%

Source: ATO data.³⁷⁵

Note: Column (B) is data from Table A9.1 in Appendix 9.

A9.3 The table above shows that over the May and June 2017 period, the local Adelaide EI unit site had issued a substantially higher proportion of *enduring* garnishee notices (30 and 55% for May and June 2017, respectively), and *enduring* garnishee notices to financial institutions (17 and 43% for May and June 2017, respectively) compared to all other EI unit sites (ranging from 0-36% and 5-23% for May and June 2017, respectively).

³⁷⁵ ATO, 'Email containing information on standard garnishee notices issued by site' (Internal ATO document, 20 February 2019); ATO, 'Email containing additional information on standard garnishee notices issued by site' (Internal ATO document, 22 February 2019).

Table A9.3: Types of enduring garnishee notices issued from May 2017 to March 2018, by month

Site	Month	Total of all garnishee notices issued (A)	Total enduring garnishee notices (EGs) issued (Note1) (B)	EGs issued to financial institutions (Note 2) (C)	EGs issued to trade debtors (Note 2) (D)	Proportion of EGs issued (B ÷ A)	Proportion of EGs issued to financial institutions (C ÷ B)	Proportion of EGs issued to financial institutions (C ÷ A)
ADL	May-17	626	190	108	2	30.35%	56.84%	17.25%
	Jun-17	836	457	357	0	54.67%	78.12%	42.70%
	Jul-17	386	218	158	0	56.48%	72.48%	40.93%
	Aug-17	363	136	96	2	37.47%	70.59%	26.45%
	Sep-17	375	65	47	2	17.33%	72.31%	12.53%
	Oct-17	278	62	32	2	22.30%	51.61%	11.51%
	Nov-17	419	140	115	1	33.41%	82.14%	27.45%
	Dec-17	99	27	22	0	27.27%	81.48%	22.22%
	Jan-18	550	118	94	5	21.45%	79.66%	17.09%
	Feb-18	2,291	601	316	95	26.23%	52.58%	13.79%
	Mar-18	1,682	524	242	92	31.15%	46.18%	14.39%
ALB	May-17	237	86	9	0	36.29%	10.47%	3.80%
	Jun-17	1,212	277	69	8	22.85%	24.91%	5.69%
	Jul-17	761	56	29	3	7.36%	51.79%	3.81%
	Aug-17	562	69	24	0	12.28%	34.78%	4.27%
	Sep-17	525	66	20	3	12.57%	30.30%	3.81%
	Oct-17	521	73	40	1	14.01%	54.79%	7.68%
	Nov-17	452	145	95	18	32.08%	65.52%	21.02%
	Dec-17	77	8	6	0	10.39%	75.00%	7.79%
	Jan-18	443	70	51	5	15.80%	72.86%	11.51%
	Feb-18	1,284	248	183	24	19.31%	73.79%	14.25%
	Mar-18	1,543	371	255	29	24.04%	68.73%	16.53%
DAN	May-17	520	1		0	0.19%	0.00%	0.00%
	Jun-17	297	64	23	0	21.55%	35.94%	7.74%
	Jul-17	238	5	3	0	2.10%	60.00%	1.26%
	Aug-17	132	2	1	0	1.52%	50.00%	0.76%
	Sep-17	347	3	0	0	0.86%	0.00%	0.00%
	Oct-17	338	10	5	1	2.96%	50.00%	1.48%
	Nov-17	182	4	1	0	2.20%	25.00%	0.55%
	Dec-17	56	1	0	0	1.79%	0.00%	0.00%
	Jan-18	101	57	53	0	56.44%	92.98%	52.48%
	Feb-18	874	83	63	0	9.50%	75.90%	7.21%
	Mar-18	134	78	69	1	58.21%	88.46%	51.49%

Table A9.3: Types of enduring garnishee notices issued from May 2017 to March 2018, by month – (continued)

Site	Month	Total of all garnishee notices issued (A)	Total enduring garnishee notices (EGs) issued (Note1) (B)	EGs issued to financial institutions (Note 2) (C)	EGs issued to trade debtors (Note 2) (D)	Proportion of EGs issued (B ÷ A)	Proportion of EGs issued to financial institutions (C ÷ B)	Proportion of EGs issued to financial institutions (C ÷ A)
MELB	May-17	381	5		0	1.31%	0.00%	0.00%
	Jun-17	642	62	35	0	9.66%	56.45%	5.45%
	Jul-17	259	5	4	0	1.93%	80.00%	1.54%
	Aug-17	329	2	0	0	0.61%	0.00%	0.00%
	Sep-17	370	0	0	0	0.00%	0.00%	0.00%
	Oct-17	465	2	1	0	0.43%	50.00%	0.22%
	Nov-17	587	2	1	0	0.34%	50.00%	0.17%
	Dec-17	98	2	0	1	2.04%	0.00%	0.00%
	Jan-18	779	2	1	0	0.26%	50.00%	0.13%
	Feb-18	1,816	8	6	0	0.44%	75.00%	0.33%
	Mar-18	1,393	3	0	0	0.22%	0.00%	0.00%
PEN	May-17	273	9	9	0	3.30%	100.00%	3.30%
	Jun-17	521	28	12	3	5.37%	42.86%	2.30%
	Jul-17	420	47	14	4	11.19%	29.79%	3.33%
	Aug-17	362	25	7	2	6.91%	28.00%	1.93%
	Sep-17	306	8	2	0	2.61%	25.00%	0.65%
	Oct-17	237	10	3	0	4.22%	30.00%	1.27%
	Nov-17	222	9	6	1	4.05%	66.67%	2.70%
	Dec-17	64	1	0	1	1.56%	0.00%	0.00%
	Jan-18	104	12	11	0	11.54%	91.67%	10.58%
	Feb-18	1,109	39	23	3	3.52%	58.97%	2.07%
	Mar-18	719	27	9	0	3.76%	33.33%	1.25%
PER	May-17	1	1	0	0	100.00%	0.00%	0.00%
	Jun-17	1	1	0	0	100.00%	0.00%	0.00%
	Jul-17	2	2	1	0	100.00%	50.00%	50.00%
	Aug-17	4	4	0	0	100.00%	0.00%	0.00%
	Sep-17	6	6	0	0	100.00%	0.00%	0.00%
	Oct-17	3	3	1	0	100.00%	33.33%	33.33%
	Nov-17	9	8	6	0	88.89%	75.00%	66.67%
	Dec-17	1	1	0	0	100.00%	0.00%	0.00%
	Jan-18	3	3	2	0	100.00%	66.67%	66.67%
	Feb-18	1	0	1	0	0.00%	0.00%	100.00%
	Mar-18	0	0	3	0	0.00%	0.00%	0.00%

Table A9.3: Types of enduring garnishee notices issued from May 2017 to March 2018, by month – (continued)

Site	Month	Total of all garnishee notices issued (A)	Total enduring garnishee notices (EGs) issued (Note1) (B)	EGs issued to financial institutions (Note 2) (C)	EGs issued to trade debtors (Note 2) (D)	Proportion of EGs issued (B ÷ A)	Proportion of EGs issued to financial institutions (C ÷ B)	Proportion of EGs issued to financial institutions (C ÷ A)
TOW	May-17	150	12	8	0	8.00%	66.67%	5.33%
	Jun-17	102	8	6	1	7.84%	75.00%	5.88%
	Jul-17	61	7	2	0	11.48%	28.57%	3.28%
	Aug-17	34	7	2	0	20.59%	28.57%	5.88%
	Sep-17	26	0	0	0	0.00%	0.00%	0.00%
	Oct-17	41	4	3	0	9.76%	75.00%	7.32%
	Nov-17	28	13	8	0	46.43%	61.54%	28.57%
	Dec-17	13	3	3	0	23.08%	100.00%	23.08%
	Jan-18	53	14	9	1	26.42%	64.29%	16.98%
	Feb-18	81	26	25	0	32.10%	96.15%	30.86%
	Mar-18	2	1	0	0	50.00%	0.00%	0.00%
UMG	May-17	1,137	228	60	10	20.05%	26.32%	5.28%
	Jun-17	1,421	245	82	10	17.24%	33.47%	5.77%
	Jul-17	893	236	52	7	26.43%	22.03%	5.82%
	Aug-17	655	144	44	3	21.98%	30.56%	6.72%
	Sep-17	513	140	42	2	27.29%	30.00%	8.19%
	Oct-17	613	239	95	15	38.99%	39.75%	15.50%
	Nov-17	630	347	232	34	55.08%	66.86%	36.83%
	Dec-17	158	119	73	21	75.32%	61.34%	46.20%
	Jan-18	818	411	299	20	50.24%	72.75%	36.55%
	Feb-18	1,561	503	399	33	32.22%	79.32%	25.56%
	Mar-18	1,512	493	328	27	32.61%	66.53%	21.69%

Source: ATO data.³⁷⁶

Note 1: data from Table A9.1.

Note 2: data from ATO spreadsheet on financial institution garnishees.³⁷⁷

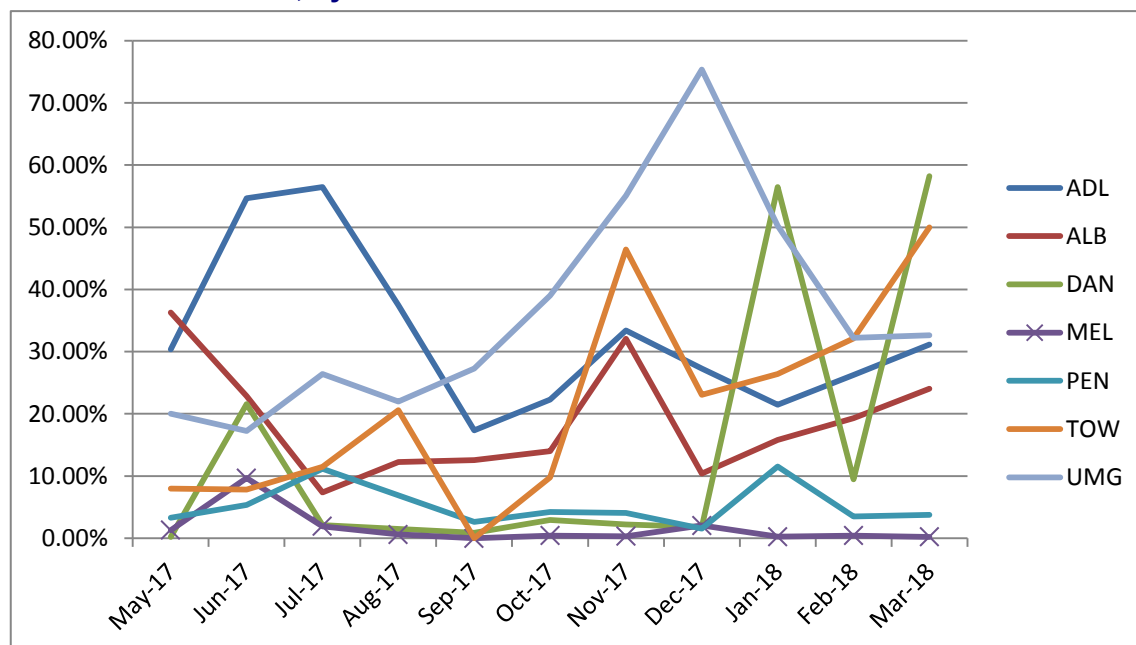
A9.4 Table A9.3 shows the number of *enduring* garnishee notices issued to financial institutions and trade debtors by the local site from May 2017–March 2018. The table also shows the proportion of issued *enduring* garnishee notices to financial institutions against total issued *enduring* and all garnishee notices.

³⁷⁶ ATO, 'Email containing information on standard garnishee notices issued by site' (Internal ATO document, 20 February 2019).

³⁷⁷ ATO, 'Email containing additional information on standard garnishee notices issued by site' (Internal ATO document, 22 February 2019).

A9.5 Figure A9.1 below visually represents the proportion of *enduring* garnishee notices issued by each local EI unit site over the May 2017–March 2018 period, as a percentage of all garnishee notices issued by the local site.

Figure A9.1: Percentage of enduring garnishees issued by local EI unit sites to financial institutions, by month



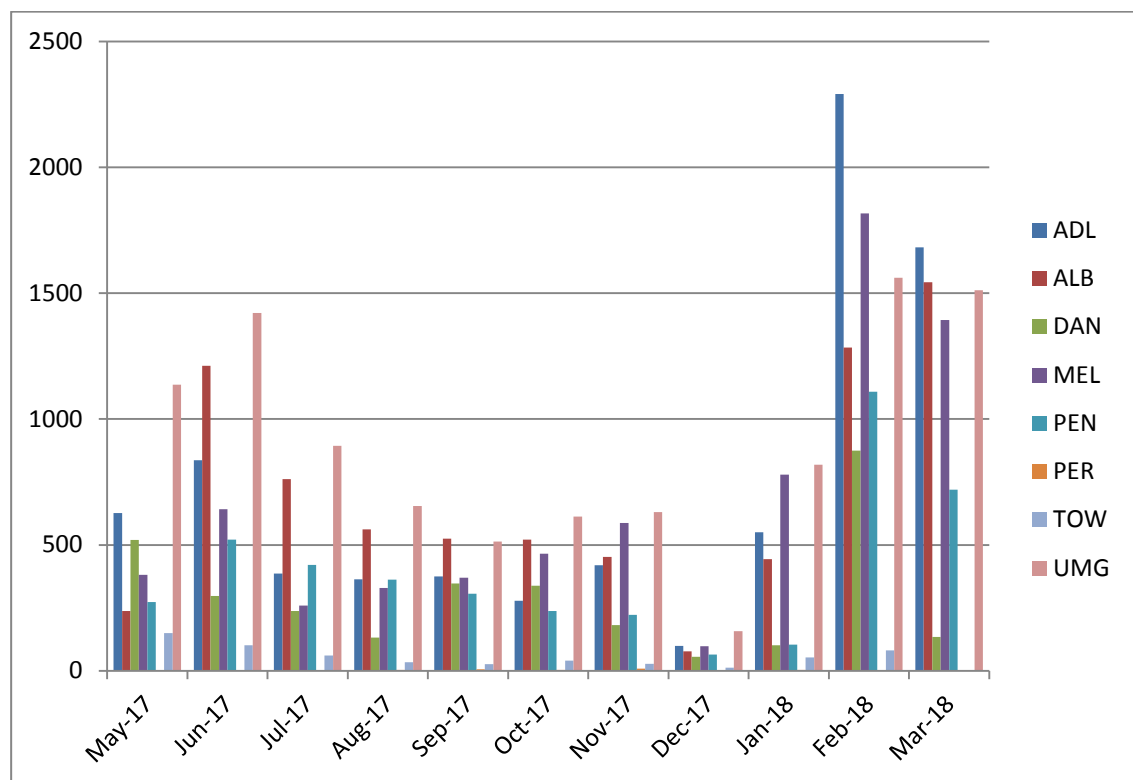
Source: ATO.

Note: The local Perth EI unit site is excluded as it had issued a very small number of garnishee notices in this period.

A9.6 The above figure shows that two local EI unit sites, Melbourne and Penrith, generally maintained lower percentages of *enduring* garnishee notices issued over the May 2017–March 2018 period than other local sites. The percentage rose in all sites in October 2017. However, there were significant rises in four local sites (Adelaide, Albury, Townsville and Upper Mount Gravatt) in both October and November 2017. With the exception of the local Penrith, Dandenong, and Upper Mount Gravatt sites, the percentage dropped in December 2017. Towards March 2018, the percentage generally increased for all local sites, except Melbourne. Following a drop in the percentage rate over December 2017–January 2018 period for these four sites, the percentages again rose towards March 2018.

A9.7 Figure A9.2 below shows the monthly total of garnishee notices issued by each local EI unit over the May 2017–March 2018 period.

Figure A9.2: Total number of garnishee notices issued by local EI unit sites by month

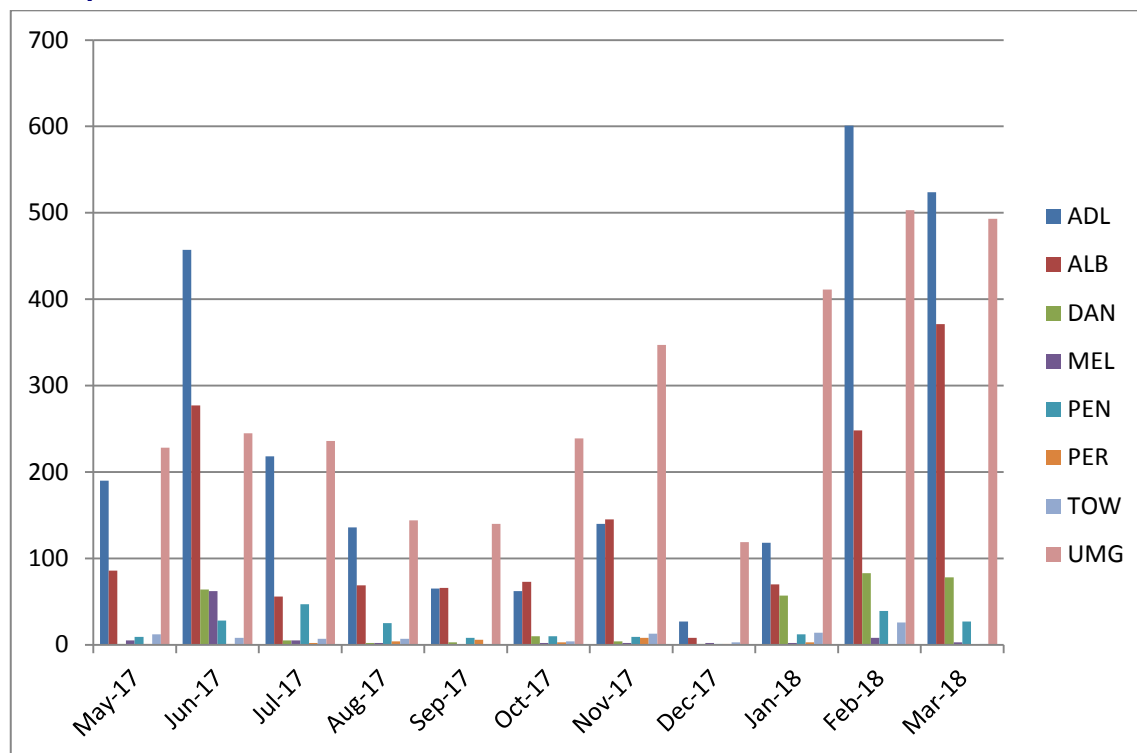


Source: ATO.

A9.8 The above figure shows that a total of 40,730 garnishee notices were issued over the May 2017–March 2018 period. The greatest number of garnishee notices were issued in June 2017 (5,032), February 2018 (9,017) and March 2018 (6,985). After July 2017 (in which 3,020 garnishee notices were issued), the number of garnishee notices issued each month ranged from 2,441 and 2,851 over the August 2017–January 2018 period, with the exception of December 2017 (566) in which the DBL ‘ramped down’ garnish work activities. The local EI unit site in Upper Mount Gravatt issued the most such notices over the May 2017–March 2018 period (9,911), followed by Adelaide (7,905) and Albury (7,617).

A9.9 For the May–June 2017 period, a total of 8,357 garnishee notices were issued, with the local sites of Upper Mount Gravatt issuing the most such notices (2,558), followed by Adelaide (1,462) and Albury (1,449).

Figure A9.3: Total number of enduring garnishee notices issued by local EI unit sites per month

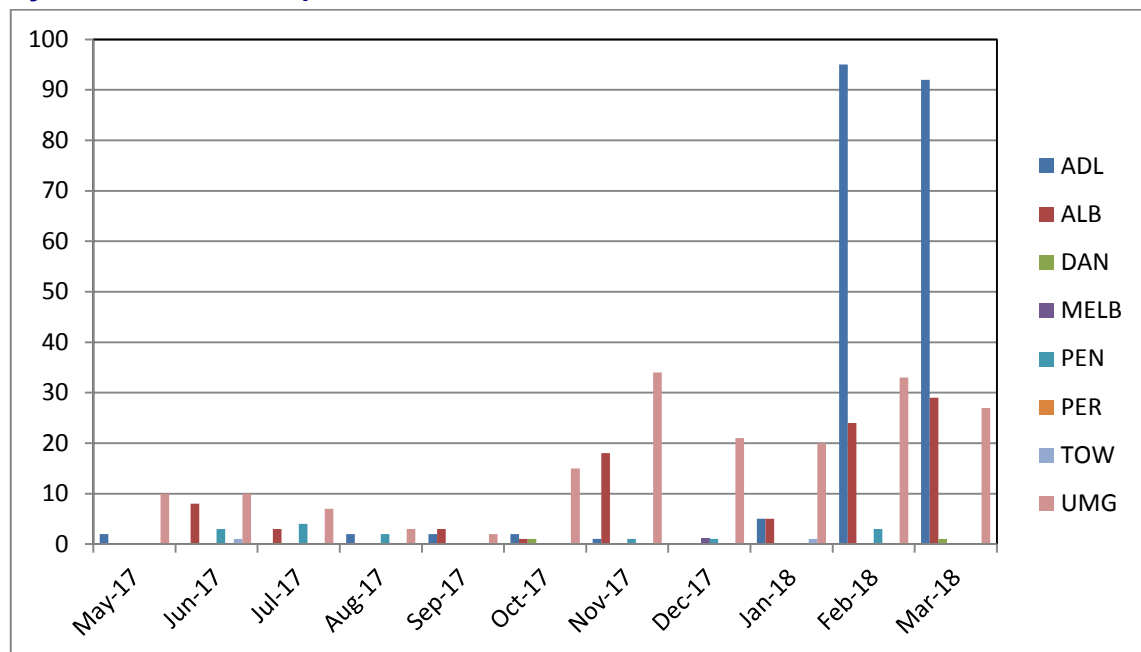


Source: ATO.

A9.10 Figure A9.3 above shows that over the May 2017–March 2018 period a total of 4,516 *enduring* garnishee notices were issued by local EI unit sites. The greatest number of *enduring* garnishee notices were issued in June 2017 (1,142), February 2018 (1,508) and March 2018 (1,497). After July 2017 (in which 576 *enduring* garnishee notices were issued), the number of garnishee notices issued had decreased reaching 288 in September 2017 before increasing again to 403 and 668 in October and November 2017, respectively. The local EI unit site in Upper Mount Gravatt issued the most such notices over the May 2017–March 2018 period (3,105), followed by the local Adelaide and Albury EI unit sites (2,538 and 1,469, respectively).

A9.11 For the May–June 2017 period, a total of 1,674 *enduring* garnishee notices were issued, with the local sites of Adelaide issuing the most such notices (647), followed by Upper Mount Gravatt and Albury (473 and 363, respectively).

Figure A9.4: Total number of enduring garnishee notices issued to trade debtors by local EI unit sites per month



Source: ATO.

A9.12 Figure A9.4 above shows that over the May 2017–March 2018 period a total of 493 *enduring* garnishee notices were issued by local EI unit sites to taxpayers’ trade debtors. The greatest number of such notices was issued in February 2018 (155), March 2018 (149) and November 2017 (54). After July 2017 (in which 14 such notices were issued), the number of garnishee notices issued to trade debtors decreased, reaching 7 in September 2017 before increasing again to reach 19 and 54 in October and November 2017, respectively. The local EI unit site in Adelaide issued the most such notices over the May 2017–March 2018 period (201), followed by the Upper Mount Gravatt and Albury local EI unit sites (182 and 91, respectively).

A9.13 For the May–June 2017 period, a total of 134 *enduring* garnishee notices were issued to taxpayers’ trade debtors, with the local EI unit site of Upper Mount Gravatt issuing the most such notices (20), followed by Albury and Penrith (8 and 3, respectively). The local Adelaide EI unit site issued 2 such notices in these two months.


APPENDIX 10—RELEVANT DBL COMMUNICATIONS

A10.1 The following are images and reproduced text³⁷⁸ of ATO communications to DBL staff.

GARNISHEE PRINCIPLES


A10.2 The following document forms part of the ATO's garnishee procedures and guides staff on what is to be considered in deciding whether to issue a garnishee notice.³⁷⁹

Figure A10.1: Garnishee principles



Garnishee Principles

Empowering staff to make informed decisions




Focus Questions

Client focussed

Contact first


Effective

Client focussed




- > Is the client at the forefront of your thinking rather than just following the process?
- > Will your action prevent the client from reasonably providing for a family or maintaining the viability of a business?
- > Do you understand the consequences of inappropriate/invalid garnishee action for this client?
- > Are you confident the client is aware of the impending action?

Contact first



- > Has every reasonable effort been made to contact the client directly?
- > Would the client benefit from further contact today?

Effective



- > Is garnishee action/maintaining the garnishee the most effective way to engage the client and secure payment?
- > Have you considered other options to collect the debt?
- > Have you checked all elements/information on your notice are legal?

- > Where client is/has requesting a garnishee be withdrawn:
 - Is it appropriate to withdraw the garnishee or should the amount/percentage be reduced?
 - What alternative arrangements have been made for payment?
- > Do client details require updating on ATO systems?

Strategy Implementation – September 2015

³⁷⁸ Reproduced for the purposes of the size of this report

³⁷⁹ Above n 188.

Figure A10.1: Garnishee principles – (continued)

Garnishee Principles

Empowering staff to make informed decisions



The Law, Policy and Myths

The law and policy

The Commissioner has been given a very powerful collection tool in legislation under section 260-6 of Schedule 1 to the Taxation Administration Act 1953.

This allows the Commissioner to issue a notice to a third party who holds funds on behalf of, or owes money to, the taxpayer, and directs the third party to pay the money to the Commissioner instead.

This is colloquially known as a 'garnishee notice'.

There are a few other government bodies that have access to similar powers, such as the Child Support Agency and state enforcement bodies.

All creditors have access to 'garnishee' action, however they firstly have to take legal action and obtain judgment via the Courts. Creditors then have to apply for a garnishee order (different names in different Court jurisdictions).

It is critical that issuing a 'garnishee notice' is not seen as 'just a process to follow'. Staff should be making informed decisions about the appropriate collection action, which may include the issue of a 'garnishee' notice.

The Commissioner provides guidance about the use of the collection powers in Law Administration Practice Statement **PSLA 2011/18**. Paragraphs 97-128 relate to garnishee, including legal precedent.

Myths

Myth	Fact
<i>We have to withdraw a garnishee if the taxpayer asks</i>	Staff should always consider the taxpayer's individual circumstances when they receive a request to withdraw a garnishee. This includes the alternative steps for collection of the debt and/or whether the garnishee should have the amount or percentage varied rather than withdrawing the notice.
<i>The ATO will have to give the money back if the taxpayer becomes insolvent</i>	Money received through garnishee action is immune to preference action.
<i>If the garnishee is withdrawn the ATO can give the money back</i>	Money obtained from a garnishee notice is paid into consolidated revenue. The Commissioner does not have the power to refund money from consolidated revenue unless the funds were received by mistake. For example where the bank has taken funds from an incorrect taxpayer's account (i.e. the incorrect John Smith). Money received as a result of a 'garnishee notice' cannot be refunded simply because, in hindsight, we should not have issued the notice.

Myth	Fact
<i>A garnishee cannot be issued if the property being sold is encumbered (for example has a mortgage)</i>	A garnishee notice may place the ATO ahead of certain secured creditors, including mortgagees. Therefore as a matter of policy, when issuing a garnishee on mortgaged property, the Commissioner would only seek to recover the excess of the purchase price paid to the vendor (or where they direct), after the mortgage has been discharged and reasonable selling expenses have been paid. However, where there is evidence that the purpose of the mortgage was to defeat our debt collection actions, you should not make this exception.
<i>A PIT garnishee can only be issued for 30% of the account balance or funds held</i>	A PIT garnishee is generally issued for 30%. However this is not the only percentage it can issue for. Depending on the taxpayer's sources of income it may be appropriate to issue for more or less.
<i>A garnishee can't be issued to the trustee of a trust</i>	A garnishee notice may issue in respect of money payable to, or held on behalf of, any trustee of an indebted trust, including funds held by a financial institution, salary and wages, proceeds of a property sale, etc.

Strategy Implementation – September 2015

6 MARCH 2017 – NEW GUIDELINES AROUND ENDURING GARNISHEE PERCENTAGE RATES

A10.3 The communication below was circulated by the national S&I unit informing all DBL staff of new guidelines in relation to the percentage rates used for *enduring* garnishee notices.³⁸⁰

FOR INFORMATION – New guidelines around enduring garnishee percentage rates

6 March 2017

Distribution: All Debt Staff

From: Strategy Implementation

Action: For your information

Hello,

³⁸⁰ ATO, 'New guidelines around enduring garnishee percentage rates' (Internal ATO document, 6 March 2017).

Whilst developing an improved enduring garnishee process and taking learnings from the recent Building and Construction pilot we have made changes to the default rate that is applied to Enduring Garnishee.

SMARTlearn has been updated to reflect this change with SMART to update as soon as possible.

Updated recommended rates for Garnishee types

- 15% for Merchant Card facility
- 15% for Other third party (e.g. Debtor)
- 10% for Employer (Salary and wage)

For both the Merchant Card facility and other third party garnishees consideration should be given to issuing at 5% for clients with a good compliance history and a new debt.

There is no change to PIT and Bank standard garnishees.

What does this mean for me?

It is important to note that these are recommended rates. If you believe the customers circumstance warrant, you can increase the rate up to 30%. Rates above this require team leader approval as outlined in SMART.

As of the 6 March, cases with an identified garnishee source through analytics will commence being delivered to staff allocated to this work type. Where a garnishee source has been identified through analytics, specific details of the garnishee source will be included in RMS notes.

As with everything we do, the client should be at the forefront of your thinking and unless particular circumstances indicate otherwise. The expectation is for cases delivered with this note to be issued with an appropriate enduring garnishee as they have met the initial case selection parameters for this action.

Should you have any questions, please contact your manager in the first instance.

Regards

[redacted]

Strategy Implementation

10 MAY 2017 – FOCUS ON HIGHER PRIORITY WORKLOADS

A10.4 The email below was sent to the EI unit regarding the shift in higher priority work for EI teams.³⁸¹

From: [redacted]

Sent: Wednesday, 10 May 2017 11:47 AM

To: EI NAT EL2 Leadership; EI NAT EL1 Leadership

Cc: [redacted]

Subject: For cascading to all EI teams: Focussing on higher priority workloads [SEC=UNCLASSIFIED]

To all Early Intervention teams – focussing on higher priority workloads

Hello everyone,

So far this year Early Intervention has made good progress towards achieving our goals across the breadth of our workloads and the Debt Executive would like to thank you for your commitment and effort.

As you may know, our stock on hand for our stronger action work has been increasing, along with collectable debt. As part of our ramp up strategy for the end of the financial year, we have reprioritised to shift greater focus to higher priority workloads.

This will mean that you and your team may be requested to change your work focus, which could involve refresher training for skills or training in a new workload. Where this is the case, schedules are being updated to reflect the priority work and training to be undertaken.

For casuals, there may be increased shift availability.

In my short time in the role, I have been so impressed by the commitment and cohesion of people across Early Intervention, including willingness to learn new skills, change workloads and deliver good client experiences. Thank you for your continued flexibility and work as we progress toward the end of the financial year.

Regards

[redacted]

Debt Early Intervention

³⁸¹ ATO, 'Copy of email from the Acting Assistant Commissioner of EI to the EI national EL2 and EL1 leadership group about the focus on higher priority workloads' (Internal ATO document, 10 May 2017).

APPENDIX 11—RELEVANT COMMUNICATIONS IN THE LOCAL ADELAIDE SITE

A11.1 The following are images and reproduced text³⁸² of certain local communications to EI unit staff in Adelaide.

8 MAY 2017 – LOCAL ADELAIDE SITE COACH EMAIL

A11.2 The local Adelaide site coaching staff sent the following email to EI unit frontline staff which explained that the focus for allocated work was on *enduring* garnishee work rather than PIT garnishee work and gave guidance:³⁸³

From: [redacted]

Sent: Monday, 8 May 2017 11:35 AM

To: EI ADL All Staff

Subject: Welcome back to Enduring Garnishees! [DLM=For-Official-Use-Only]

Hi everyone,

Welcome back to the Enduring Garnishee work type - I'm sure it has missed you as much as you've missed it!

There is an enduring garnishee context document which is contained within SMART> Debt Management> Garnishee> Enduring Garnishee Strategic Context. If you haven't already, please take a few minutes to read this today. Coaches will be providing an overview of the document and can answer any questions in your next team meeting. On this work type we intend on issuing enduring garnishees rather than PIT garnishees, where we are able.

A couple of reminders to get you started:

1. Please attempt phone contact prior to considering collection action on a client.

- Your call is essentially the final effort to engage the client prior to taking collection action - If you do make successful contact, ensure that you have a firm conversation, requesting payment/an arrangement today. If the client is unable to negotiate or you are unable to get through to the client, attempt to issue an enduring garnishee today.

- There should be few instances where phone calls aren't being made prior to considering collection action (i.e. invalid phone numbers or a strong history of defaulted arrangements paired with recently failed phone contact attempts etc.) If you're not sure whether to contact a client, please consult a floorwalker first.

³⁸² Reproduced for the purposes of the size of this report.

³⁸³ Above n 240.

2. Use the 'Garnishee Details' page in RAPT. It is a HUGE time saver when exploring garnishee options. See your floorwalker for tips on how to make the most of it ☺

3. When considering an employer garnishee or a garnishee to a trade debtor (as identified in the 'taxable payments' section in RAPT), ensure that you call the organisation to confirm that the person still works there/ the entity is still subcontracting there. This reduces the number of garnishees that we'll need to follow up and withdraw down the track - less work for you later!

4. If in doubt, ask a coach! We have scheduled extra garnishee-trained floorwalkers for you all week to provide you with local support - in addition to the support hotline.

Please let me know if you have any tips on making the garnishee work that bit easier- we'll work out a plan to share these ideas ☺

Please see your floorwalker if you have any questions about this email.

Thank you,

[redacted]

Coach, Early Intervention, Debt, Service Delivery

11 MAY 2017 – MINUTES OF LOCAL ADELAIDE SITE TEAM MEETING

A11.3 The following is an extract from the minutes of a frontline team meeting held in the local Adelaide site on 11 May 2017.³⁸⁴



Minutes

File ref: [File ref #]

Title:	Team Meeting Minutes		
Issue date:	19/05/2017		
Venue:	[REDACTED]		
Event date:	11/05/2017	Start: 11:30	Finish: 12:30

Chair:	[REDACTED]	Facilitator:	[REDACTED]
Contact	[REDACTED]	Contact phone:	81347

Attendees: names/section	[REDACTED]
Apologies: name/section	[REDACTED]

Item	Time	Topic	Presented by
1.	11:30 to 11:40	Fun Activity	[REDACTED]
2.	11:40 to 11:55	Coaching Corner	[REDACTED]
3.	11:55 to 12:15	*Manager's Update *Mandatory 2 yearly training courses *Process for requiring assistance in support team	[REDACTED]
4.	12:15 to 12:20	AWE Forum Update	[REDACTED]
5.	12:20 – 12:30	Around the Table	All

[INTERNAL/EXTERNAL]
[CLASSIFICATION]

...

³⁸⁴ ATO, 'Team meeting minutes' (Internal ATO document, 11 May 2017).

2. **Coaching Corner:** Provided by [REDACTED]

...

Garnishee Training: We are full swing into end of year debt collection with standard garnishee work being a priority. Further training and support is being organised for any interested parties.

...

3. **Manager's update:**

Team Leader stuff:

- The Leadership Group had a phone hook up with DC Robert Ravanello
- Budget: we have achieved out projected collections for the year.
- Overtime will continue going forward.
- *Purposeful First Action:* there has been an 11% improvement in outcomes.
- Capacity for us to emails to taxpayers: coming soon.
- Mandatory 2 yearly training courses. Please complete ASAP (remind me [REDACTED] <http://myato/myEmployment/Learning/Pages/Mandatory-training-in-the-ATO.aspx>)
- There is now a process for requiring assistance from the support team floor walkers. Please take a ticket number!

...

Debt Book:

- The Debt Book (ATO's total debt holdings) is \$2 Billion larger than last year at this time.
- Email cascaded from Acting Assistant Commissioner Jane Mitchell outlining:
As part of our ramp up strategy for the end of the financial year, we have re-prioritised to shift greater focus to higher priority workloads.
- Jane Mitchell



FW: For cascading to
all EI teams: Focussing

20 MAY 2017 – LOCAL ADELAIDE SITE TEAM LEADER EMAIL TO EI UNIT STAFF

A11.4 In the final hour of overtime held on 20 May 2017, the team leader sent the following email to 12 local staff.³⁸⁵

From: [redacted]

Sent: Saturday, 20 May 2017 2:31 PM

To: [redacted]

Subject: RE: Overtime for Saturday 20th May [DLM=For-Official-Use-Only]

Hi everyone,

The last 'hour of power' is upon us ... That means you still have time to issue another 5 garnishees Right? ☺

Please ensure that you' re packed up ready to go by 3:30.

Have a great weekend! ☺

[redacted], Early Intervention, Debt, Service Delivery

23 MAY 2017 – COMMUNICATION IN LOCAL ADELAIDE SITE ABOUT GARNISHEE CONTEXT

A11.5 The following communication was sent from the local Adelaide site technical support area to local Adelaide site team leaders about the garnishee context.³⁸⁶

FOR INFORMATION – GARNISHEE CONTEXT

23 May 2017

Distribution: Adelaide Debt Team Leaders

From: EI Adelaide Technical Support

Action: For your information and dissemination

As you know, Service Delivery has made garnishee work a priority until the end of financial year.

The process is to conduct a review and make a courtesy call to the client to advise the status of their case. When you contact the client:

- If you speak to someone attempt to negotiate payment in full or a payment plan. If you cannot, do not give extra time but confirm bank and merchant facilities

³⁸⁵ Above n 241.

³⁸⁶ Above n 242.

and give legal warnings. If you have a viable garnishee source then issue a garnishee.

- If you are unable to speak with the client then issue a garnishee. As this is a courtesy call there is no requirement to leave a message and do not grant extra time.
- If there are no garnishee options available then escalate for the next action (as per SMART) – which includes summons, DPN or s459.

Garnishees are considered a highly-effective recovery tool to encourage engagement. These clients have had a number of opportunities to engage and have chosen not to, therefore a decision has been made to take the next best action – issue a garnishee. Doing so will progress the client's case and have an effect, either:

- (1) The ATO will receive some funds to address/reduce the debt.
- (2) The client will contact us to pay the debt and withdraw the garnishee.
- (3) The client will contact us to discuss their circumstances (hardship/business closure) and we will then be able to address the case on its individual merits – which we could have done if they had responded to previous contact attempts.

Remember: it is the client's obligation to address their tax affairs; they would be fully aware that they have a debt and it is not the tax agent's responsibility to pay the debt. Therefore the 'tax agent hasn't contact me' is not a defence any more than I didn't see the 50 sign therefore I shouldn't be hit with speeding fine.

More information on the enduring garnishee concept is available [here](#).

Thank you

Regards,

[redacted]

On behalf of the EI Adelaide Support Team

A11.6 The following communication was subsequently circulated to technical support teams in the local Adelaide site in an email.³⁸⁷

From: [redacted]

To: EI ADL Technical Support

Subject: Green: Garnishee context [DLM=For-Official-Use-Only]

³⁸⁷ Above n 243.

Date: Tuesday, 23 May 2017 1:23:58 PM

Attachments: INFORMATION - Enduring Garnishee work in RMS
SECUNCLASSIFIED.msg

Hi Support Team,

There still appears to be some confusion or animosity in relation to the current garnishee campaign. Below is a statement that was sent to Team Leaders designed to outline our position on it and how these cases should be actioned.

As support staff, please make sure this is the message being given to staff through the hotline/floor walking.

Any coaches attending team meetings please discuss this during Coaches Corner as well and do your best to answer any questions that may arise.

If there are any questions or comments you get that you cannot answer please feed them back for clarification.

Thank you

[redacted]

8 JUNE 2017 – MINUTES OF LOCAL ADELAIDE SITE TEAM MEETING

A11.7The following is an extract from the minutes of a frontline team meeting held in the local Adelaide site on 8 June 2017.³⁸⁸



Australian Government
Australian Taxation Office

Minutes

File ref: 08/06/2017

Title: Team Meeting Minutes		
Issue date: 08/06/2017		
Venue: [REDACTED]		
Event date: 08/06/2017	Start: 11:30	Finish: 12:30
Chair: [REDACTED]	Minute taker: [REDACTED]	
Contact [REDACTED]	Contact phone: [REDACTED]	

Attendees: names/section	[REDACTED]
Apologies: name/section	[REDACTED]

Item	Time	Topic	Presented by	Follow up
1.	11.30 to 11.45	Coaching Update [REDACTED] advised of obligations training which we will all be doing. [REDACTED] discussed garnishee procedures.	[REDACTED]	
2.	11.45 to 11.55	[REDACTED] advised that both IWD and RMS cases if garnishee is appropriate enduring garnishee should be issued. [REDACTED] advised of project streamlining procedures.	[REDACTED] [REDACTED]	n/a
3.	11.55 to	[REDACTED] encouraged everyone to	[REDACTED]	

[INTERNAL/EXTERNAL]
[CLASSIFICATION]

³⁸⁸ Above n 246.

Item	Time	Topic	Presented by	Follow up
	12.15	<p>read the Commissioner's opening statement. [REDACTED] advised [REDACTED] be sending out condensed version.</p> <p>We will be having graduates starting on 4th floor in early August. [REDACTED] will be team leading this group.</p> <p>Vacant spots will be taken up by casuals in the future</p> <p>[REDACTED] stated he was confused by outcomes we are trying to achieve. i.e. are we trying to get willing participation or only debt collection?</p>		[REDACTED]
4.	12:15 to 12.25	<p>AWE forum</p> <p>[REDACTED] advised our team is after Hollywood style props for Movie challenge.</p> <p>We will be having 1and1/2 hours for R & R next week and 1 and 1/2.</p> <p>Please send items for Newsletter.</p> <p>Team photos to be submitted by COB Tuesday 13th June 2017.</p>	[REDACTED]	n/a
				[REDACTED]

[INTERNAL/EXTERNAL]
[CLASSIFICATION]

Item	Time	Topic	Presented by	Follow up
				n/a
5.	12:25 – 12:30	Around the Table [REDACTED] advised tomorrow is his last day in debt [REDACTED] [REDACTED] [REDACTED]		n/a

A11.8 It should be noted that the reference to the Commissioner's opening statement is the 30 May 2017 opening statement to the appearance before the Senate Economics Legislation Committee (Estimates). There is no reference to garnishee notices or debt collection work in that statement, apart from a specific reference as part of Operation Crocodile (Elbrus).

9 JUNE 2017 – MINUTES OF LOCAL ADELAIDE SITE TEAM MEETING

A11.9 The following is an extract from the minutes of a frontline team meeting held in the local Adelaide site on 9 June 2017.³⁸⁹



Team Meeting minutes

Title: Debt Early Interventions	
Issue date: 9 June 2017	
Venue:	
Event date: 9 June 2017	Start: 13:30 Finish: 14:30
Chair:	Facilitator:
Contact	Contact phone: Ext
Attendees: names/section	
Apologies: name/section	
Next meeting 23 June 2017	
Agenda item: 1 – A Word from	
<ul style="list-style-type: none">- A reminder that when our schedules show Orange, our work-type is "Pit Garnishee", delivered via IVD. Whenever it's appropriate we should be issuing Standard Garnishees- A reminder that at our Rewards & Recognition event next week, 15 June, our senior debt executives will be in attendance. There will be a "Speed Debting" session, which will provide a great opportunity to have some fun while asking the debt executives questions.	

[INTERNAL/EXTERNAL]
[CLASSIFICATION]

³⁸⁹ Above n 247.

Agenda item: Leadership Meeting - [REDACTED]

- When our Schedules show Grey, our work-type will be enduring Garnishees taken from RMS. We log in via IWD with break code 9
- Hardship Phones – To make it fairer for all team consideration is being given to a roster for inbound Hardship calls

Agenda item: 3– Coaching Update – [REDACTED]

- No coaching updates, but [REDACTED] asked if we had any questions regarding Garnishee work.
- We asked if he would confirm the correct phone number to provide to clients, based on the different work-types eg. Hardship, Garnishee work, Debt & Lodgement, Resolve and Improve Superannuation, Correspondence etc.

13 JUNE 2017 – LOCAL ADELAIDE SITE TEAM LEADER EMAIL TO TEAM

A11.10 A local Adelaide site team leader sent the following email to 15 staff in their team on 13 June 2017 at 10:11AM. The relevant part of that email provided “Garnishee tips”.³⁹⁰

From: [REDACTED]
Sent: Tuesday, 13 June 2017 10:11 AM
To: EI ADL Team [REDACTED]
Subject: Team Update Tuesday 13/6/2017 [SEC=UNOFFICIAL]

...

Garnishee Tips

As per meeting 8/5/2017 [REDACTED] will be sending out some tips on Garnishee work.
[REDACTED] Pretty straight forward. Hopefully the next report I do on Garnishees

Current Garnishee Process

1) Does a valid warning exist (written or verbal)

- Yes, attempt phone contact
- No, attempt phone contact (new FAWL will need to issue)

2) Was phone contact successful?

- Yes, obtain PIF or PA (no additional time is to be granted, advise we will be continuing recovery action) (get as much info as possible i.e bank details or merchant details)
- No, don't leave a message and continue with next course of action (no valid FAWL has been issued; you will issue a new one via myDCS) (valid FAWL exists, you will continue with the garnishee process)

3) Does a garnishee source exist?

- Yes, issue the Standard Garnishee Notice to that source
- No, next recovery action i.e DPN/Summons/S459e

These clients are not entitled to any additional time and shouldn't be granted any unless they have unbelievably exceptional circumstances.
This can only be judged case by case but 95% of these clients should be having either a FAWL/Garnishee or next recovery action taken on their account.

15 AUGUST 2017 – EMAIL ABOUT ENDURING GARNISHEE NOTICES TO FINANCIAL INSTITUTIONS FROM LOCAL ADELAIDE SITE

A11.11 The national S&I unit sent the following email on August 2017, about the proportion of *enduring* garnishee notices to financial institutions by the local Adelaide site.³⁹¹

³⁹⁰ Above n 248.

³⁹¹ Above n 255.

From: [redacted]

Sent: Tuesday, 15 August 2017 2:28 PM

To: [redacted]

Subject: FW: Garnishee activity description [SEC=UNCLASSIFIED]

Hi [redacted]

Following on from the email history below, I have identified that Adelaide in particular appear to be issuing enduring garnishee's to financial institutions more than any other site.

In addition, it appears that a significant amount of these enduring garnishee's were actually delivered for a PIT.

I am waiting on the outcome from [redacted] regarding his discussion with EWM (to slightly modify the PIT activity description field) however in the interim, have you engaged with staff in Adelaide to identify why this is occurring?

- Was the enduring garnishee strategic context document (including Talk Sheet and case studies) not rolled out as intended?
- Are there conflicting messages being provided within the site?

Some staff have recorded on their notes that they believe an enduring garnishee is the best action given the clients compliance history (and we acknowledge that they are empowered to make a decision) however they do not appear to be considering our strategic position in respect to enduring garnishee's to an FIA.

My perception (rightly or wrongly) is that staff may be choosing to issue an enduring garnishee to an FIA as it forces the client to call in order to have the garnishee withdrawn. While it may prompt engagement, this action severely impacts the clients ability to maintain the viability of their business or provide for their family (which is our overarching garnishee principles).

To reconfirm – if staff are delivered a PIT garnishee and determine that an enduring garnishee to an originating source of income (Employer, TPAR) would be more effective, we have no concerns with this approach. However an enduring garnishee to an FIA should only be issued where it is appropriate to do so i.e. there is evidence of a significant amount of money available in the account which would indicate they have the capacity to pay.

Kind regards,

[redacted]

Business Strategy officer,

21 AUGUST 2017 – EMAIL TO EI STAFF IN THE LOCAL ADELAIDE SITE ABOUT GARNISHEES

A11.12 In response to the issue identified in the email dated 15 August 2017, the following email was sent from the local Adelaide site.³⁹²

From: [redacted]

Sent: Monday, 21 August 2017 8:21 PM

To: [redacted]

Cc: [redacted]

Subject: RE: Garnishee activity description [SEC=UNCLASSIFIED]

Hi [redacted]

I can confirm that the training was rolled out as per the strategic context document and contextually the Talk Sheet and examples were used.

It does however appear that staff might be missing a fundamental step in the process regarding the source of income for the garnishee. I do also acknowledge that we may have 'confused' staff with a site comms that we issued, aiming to clarify the need to NOT make several attempts to contact etc. This doesn't excuse however that training and procedures are very clear and we will take steps to rectify immediately.

The trainer whom rolled out the majority of the sessions returns tomorrow and we will brief with them to try and identify gaps so we can tailor our next action. We will brief team leaders and issue site comms which will be followed up by short sessions during learning and development this week to reinforce the message. We will roll this out this week.

This will include clearer notes to indicate reasons why (if) a standard was issued over a PiT.

Happy to discuss further

³⁹² Above n 256.

29 AUGUST 2017 – EMAIL TO EI STAFF IN THE LOCAL ADELAIDE SITE

A11.13 After training given to EI staff in the local Adelaide site as a result of the issue identified on 15 August 2017, an email was sent from the local Adelaide site coaching staff about the garnishee strategic context.³⁹³

From: [redacted]

To: EI ADL All Staff

Subject: Garnishee Strategic Context [SEC=UNCLASSIFIED]

Date: Tuesday, 29 August 2017 5:06:00 PM

Hi All,

Thanks to all who attended the recent L&D sessions where I discussed the garnishee strategic context.

I really hope you found these sessions worthwhile and they assist with your decision-making when trying to achieve the best outcomes for the taxpayer, ATO and the community.

Key messages from the business strategy team:

- The business strategy team have identified that Adelaide in particular appear to be issuing enduring garnishees to financial institutions more than any other site. In addition, it appears that a significant amount of these enduring garnishee's were actually delivered for a PIT garnishee to issue.
- It appears some staff may be making a decision to issue a standard garnishee to a financial institution based on the client's compliance history, or to try and force the client to engage with the ATO. When making a decision to issue a garnishee, the officer must refer to the ATO's Garnishee principles and justify their decision.
- If staff are delivered a PIT garnishee activity and determine that an enduring garnishee to an originating source of income (Employer, TPAR) would be more effective, the business strategy team have no concerns with this approach. However an enduring garnishee to an FIA should only be issued where it is appropriate to do so i.e. there is evidence of a significant amount of money available in the account which would indicate they have the capacity to pay. If this is not the case, then issuing a PIT garnishee to a financial institution is appropriate as it may recover funds and prompt engagement without freezing the taxpayer's account and placing them in hardship.

Key points to consider when issuing garnishees:

³⁹³ Above n 222.

- One of the key strategic initiatives within Debt is to support willing participation by addressing unfair financial advantage.
- We want the community to have confidence in our ability to address non-compliance and ensure the tax and superannuation systems are fair for everyone. For those clients who are not willing to do the right thing, we need to utilise all available tools and analytics to encourage willing participation, or address the behaviour by taking stronger action.
- Issuing an enduring garnishee to the originating source of income is likely to be more effective as it prompts the client to evaluate their circumstances and reinforces the natural withholding and payment systems.
- Generally, the expectation is that cases delivered for an enduring garnishee will be issued an enduring garnishee.
- Staff should identify garnishee sources available for the client, and evaluate which will be the most effective in recovering the debt (in the long term) and positively influencing the client behaviour.
- A PIT garnishee does not need to be issued before considering an enduring garnishee.
- Evaluate each case on its merits and justify your decision taking into consideration the garnishee principles and the need to address non-compliance and unfair financial advantage.
- TPAR data and wages should be utilised wherever possible to try and collect the debt from the originating source of income.

Resources

Procedures Tab > Debt management > Garnishee > Enduring garnishee strategic context

If you require any further clarification, please let me know.

Regards,

[redacted]

12 FEBRUARY 2018 – EMAIL TO EI STAFF IN THE LOCAL ADELAIDE SITE WITH GARNISHEE FREQUENTLY ASKED QUESTIONS

A11.14 After further training, the following email containing a frequently asked question document was sent to all EI staff in the local Adelaide site.³⁹⁴

From: [redacted]

Sent: Tuesday, 12 February 2018 12:47 PM

To: EI ADL All Staff

Subject: Garnishee L&D FAQs [SEC=UNCLASSIFIED]

Hi everyone,

Thanks so much for your participation in last week's L&D sessions.

As promised, we've prepared an FAQ with the answers to all your common questions and more! Keep in mind that the FAQs are based on today's procedures – continue to consult SMART to be aware of any changes.

We hope that you now have a sound understanding of:

- Our major focus; to make effective decisions to appropriately move these cases forward.
- Our current strategies when actioning garnishee work
- What's changed in the world of garnishees since we first begun actioning the work
- How you can make a contribution; including making fast decisions and taking effective action.

As mentioned, the coaching team are here to support you in the garnishee work. Please see your Team Leader if you would like some 1:1 coaching assistance and email EI Adelaide Coaches if you need a garnishee letter checked (i.e. if it's your first TPAR and you're uncertain, etc.)

We've just received word that SMART is about to be updated to:

- Include PIT and Standard Garnishees as legal warnings *already updated*
- Enable you to update the review date of an effective garnishee for review in 60 days where you are confident the debt will be repaid as a result of the garnishee and no further action is required to manage this debt case within the next 60 days. Please continue to review the scripting for more information. Your team leader will discuss this further in your next team meeting.

³⁹⁴ ATO, 'Copy of email with garnishee L&D FAQ' (Internal ATO document, 12 February 2018).

Debt Systems have taken action to stop debt cases being sent for review prior to the review date set by the actioning officer – thank you to everyone who has provided valuable feedback to enable these updates!

Please take a look at the FAQ document and let us know if you have any questions.

Thanks again,

[redacted] and [redacted]

On behalf of EI Adelaide Coaches

LOCAL ADELAIDE SITE REPORTS

A11.15 The following is an extract from the local Adelaide site report for July 2017.

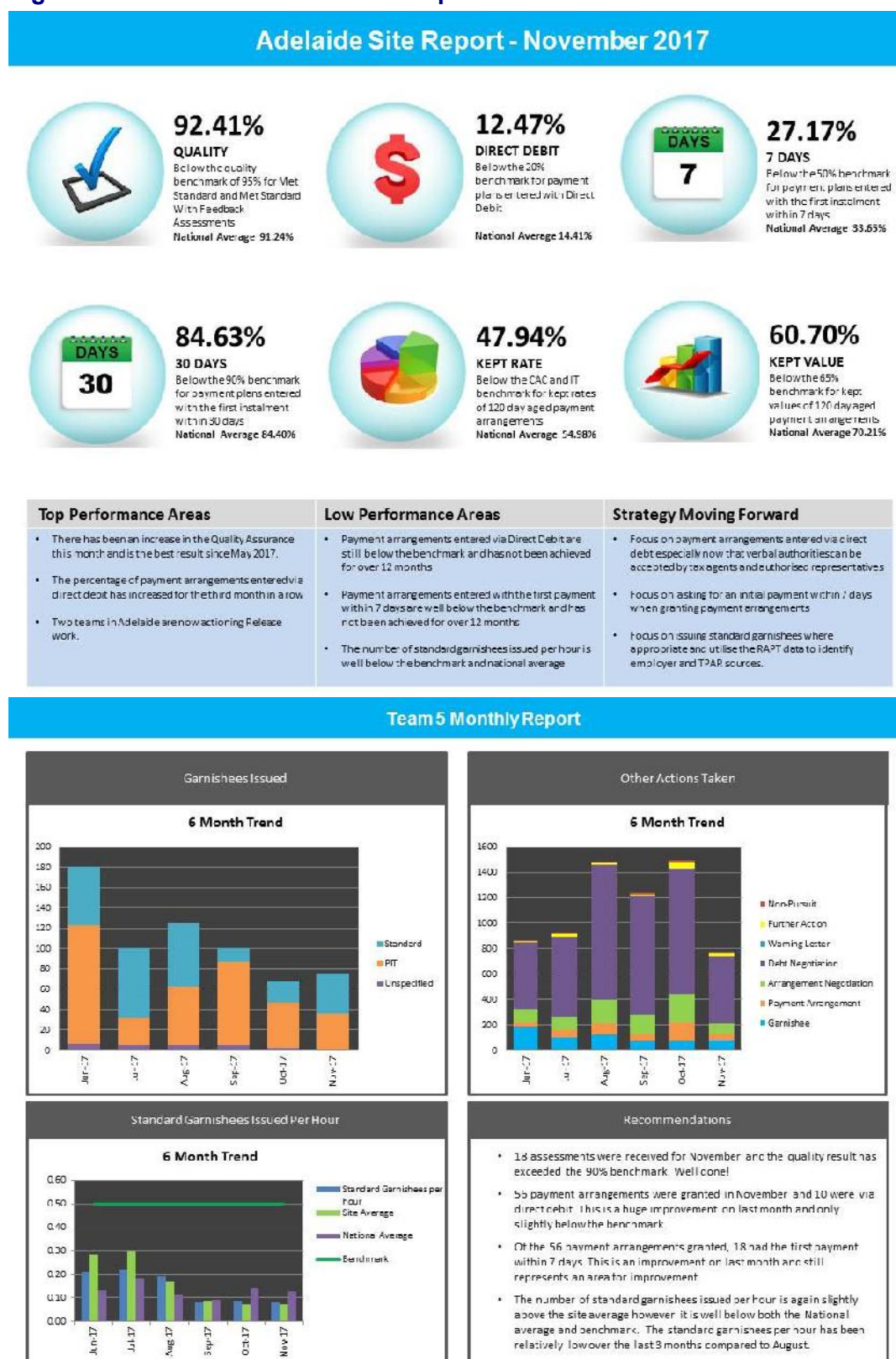
Figure A11.1 – Local Adelaide site report July 2017



Source: ATO.

A11.16 The following are extracts from the local Adelaide site report for November 2017.

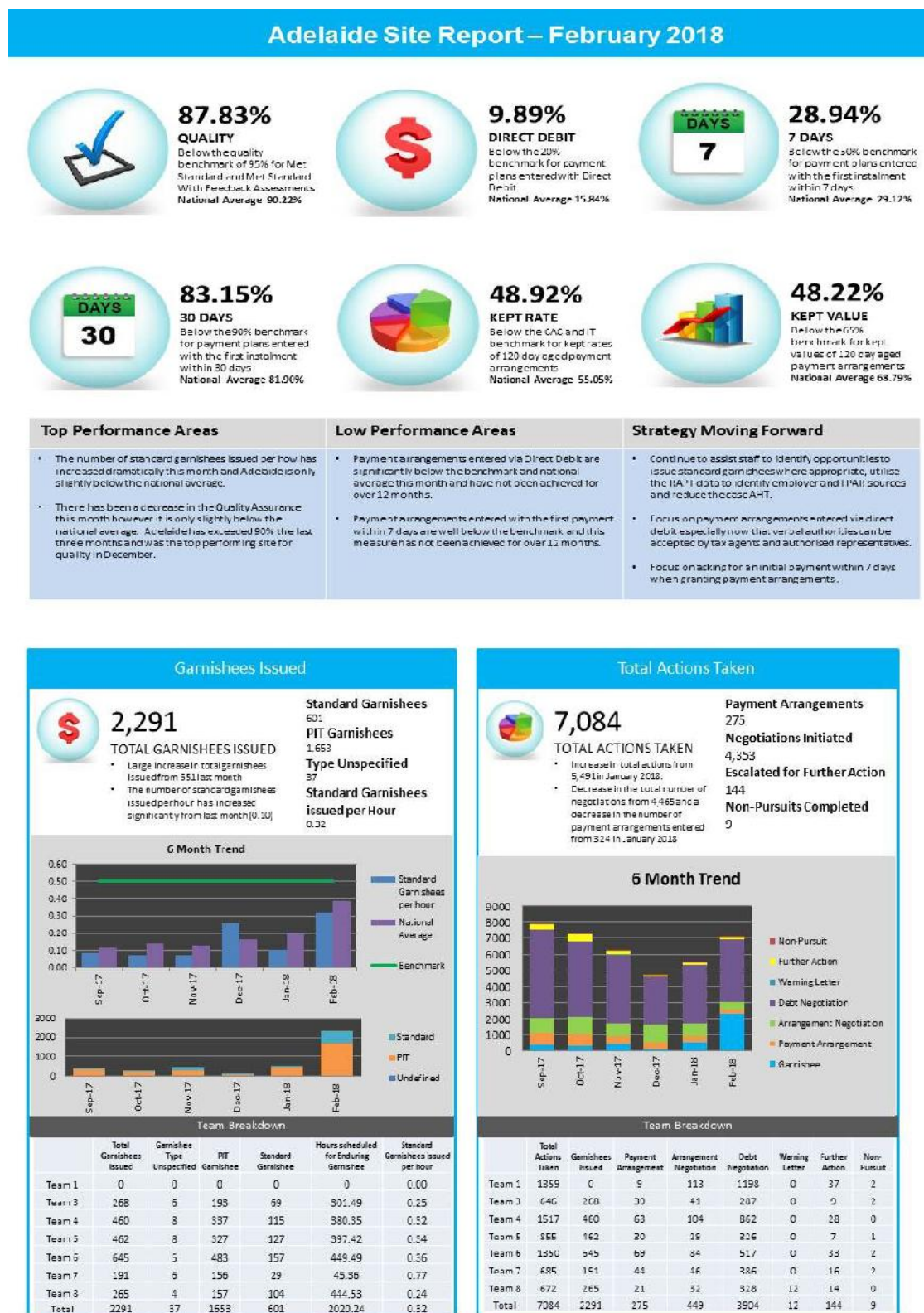
Figure A11.2 – Local Adelaide site report November 2017



Source: ATO.

A11.17 The following are extracts from the local Adelaide site report for February 2018.

Figure A11.3 – Local Adelaide site report February 2018



Source: ATO.

APPENDIX 12—RELEVANT COMMUNICATIONS IN OTHER LOCAL ATO SITES

A12.1 The following are images or reproduced text³⁹⁵ of particular local site communications to DBL staff that are referred to in Chapter 2.

12 MAY 2017 – TECHNICAL ADVICE EMAIL TO SDM UNIT TEAM LEADERS

A12.2 The following email containing technical advice about garnishee sources was sent to SDM unit team leaders in local Brisbane and Parramatta sites.³⁹⁶

Technical Advice Email

Advice Number: 1

Issue Date: 12 May 2017

To: SDM Res BRI and PAR Team Leaders

Author: [redacted]

Topic: Garnishee sources

Advice:

This advice is to provide guidance to your team to identify effective garnishee options in the lead up to the Enduring Garnishee surge.

As the collection action on the accounts allocated may have already included a garnishee on the taxpayer's bank account, another garnishee issued to that source may not yield a dividend. We are not just looking for one garnishee to be issued on each account but receiving the maximum dividend possible, so please consider targeting other sources.

We ask that you inform your staff to keep in mind the useful garnishee information retained in the RAPT system. RAPT has information pertaining to bank accounts, rental properties, dividend and interest payments and taxable payments (trade debtor information). Some matters to keep in mind:

1. Always consider the income flow;
2. If a dividend amount is minimal the likelihood of a tangible recovery under a garnishee is questionable;

³⁹⁵ Reproduced for the purposes of the size of this report

³⁹⁶ Above n 231.

3. For corporate entities the information about taxable payments is very beneficial and as you know trade debtor garnishees are more likely to result in recovery and engagement as opposed to bank garnishees. Furthermore if there are recent financial statements on record these are probably an even better source of trade debtor information due to their currency; and

4. For individuals consider issuing garnishees to their employer.

It is acknowledged that having to search for information will mean the process may take a little longer however there is the potential for it to yield a better outcome in terms of \$\$\$\$ recovered.

Remember the APS5, 6's and EL1's are available to provide guidance at any time.

Consolidated Client View



The following is an indication of income for a taxpayer:

Please be mindful of the restriction in issuing garnishees to credit card merchant facilities if that source is identified from this source. (The ATO undertaking to the Privacy Commissioner).

Further by clicking on the following (in red) may assist in identifying other garnishee targets:

Debt

[Debt Indicators](#)

[Debt Snapshot](#)

[Garnishee Details](#)

[General Interest Charge \(GIC\) and Failure to Lodge \(FTL\)](#)

[Remissions](#)

[Insolvency](#)

Income Tax

[Dividend Income](#)

[Employee Summary](#)

[Government Benefits](#)

[Income Tax - Ratio Analysis](#)

[Income Tax Return \(ITR\) - Lodgment Status History \(latest assessment only\)](#)

[Income Tax Role Postings](#)

[Interest Income](#)

[Loads Income Tax Return Profile](#)

[Net Business Income Chart \(legacy only\)](#)

[Open CAS Refund Report](#)

[Partnership and Trust Distributions - Visualisation](#)

[PAYG Employee Wages](#)

[PAYG Payment Summary](#)

[Rental Property](#)

[Transfer pricing - S25A Ratio Analysis](#)

GARNISHEE SURGE 2017 – FREQUENTLY ASKED QUESTIONS

A12.3 A frequently asked questions document was distributed amongst the SDM unit team leaders in relation to the SDM unit's assistance with *enduring* garnishee work activities towards the end of the 2016–17 financial year.³⁹⁷

Decision-making

Q: Do I issue standard garnishees, PIT garnishees or both as part of this project?

A: ONLY standard garnishees will issue as part of this project.

Q: Do I consider whole of client in relation to this garnishee, or just the largest debt?

A: All debts are to be taken into account for this project, including RBA debts, superannuation and income tax.

Q: Do I issue garnishees to banks, trade debtors or both?

A: Garnishees are to issue PREFERABLY to non-bank sources, based on the fact that garnishees to non-bank sources are generally more successful, both in receiving revenue and prompting a taxpayer to get in touch with the ATO about their debt. Therefore, we should be looking at non-bank garnishees first. If these can't be located, then please action a bank garnishee.

Q: How many garnishees should issue per client, if I find multiple sources?

A: based on the volume of taxpayers referred for garnishee action in this project, only one garnishee per taxpayer is to issue.

Guidance on locating garnishees sources can be found in the Technical Advice Email issued on 12 May 2017 found here .

Q: I have located several trade debtors, which one do I use?

A: Using system information identifiable on ATO systems (an example of which is the TPIR information identifiable through ICP) locate the trade debtor with the highest amounts owing and issue the garnishee to that source.

Q: I have located a merchant facility, do I issue a merchant facility garnishee?

A: Based on SMART scripting located here, issuing a merchant facility garnishee would not be appropriate for the surge project. However, if no other garnishee sources are identifiable (or as current) then it may be reasonable to suspect that a taxpayer holds bank accounts in the same institution that holds the merchant facility, and thus a bank garnishee could issue if the case officer believes this may be the case.

³⁹⁷ Above n 232.

Q: Do I issue a copy of the garnishee to a last-known tax agent for the tax debtor, as well as to the tax debtor?

A: Where applicable, yes. The SMART scripting on this topic is here.

Q: Do I still issue a garnishee to a bank electronically (via email or fax) as part of this project?

A: Yes. The email/fax available to use for this purpose are here.

Q: Can I include liabilities that are not yet due in my garnishee?

A: It is possible to issue garnishees for amounts that have resulted from a lodged BAS or income tax return and are not yet due. The same goes for audit assessments that have been issued but are not due. The decision on whether these debts are to be included in the garnishee notice is up to the case officer, and should be based on a risk assessment of the taxpayer.

Q: Do I have to give legal warnings prior to issuing a garnishee notice?

A: SDM Res has been advised that SDM Res business as usual (BAU) procedures are to be used in relation to the issuing of garnishees as part of this project. Thus a search should be conducted to see if the client is aware of their debt (looking for statements of account in Siebel, and using the "RH" code on the ACC screen to determine if a RBA has issued to the client). If the case officer is satisfied that the taxpayer is aware of their liabilities, a garnishee can issue without legal warnings issuing within the last 180 days. Please refer to SMART scripting here, in the section titled "Determine if a legal warning is appropriate".

Q: Do I issue garnishees for 100% of the debt?

A: Garnishees are to issue in the same amount as SDM Res BAU procedures. This means you would adopt the same methodology for garnishee percentages on these garnishees as you would when issuing garnishees as part of actioning your own cases.

Q: How many garnishees am I to issue a day?

A: You are to issue garnishees in relation to two allocated taxpayers per day.

Q: How do I get my garnishees checked?

A: Garnishees are to be placed in the blue tray located at workpoint 12.058 by 3pm each day. The garnishees will then be taken from this tray by APS5s and APS6s for checking, and will be returned to you.

Q: I am not sure of the naming convention for the tax debtor to be included on the garnishee notice, where can I get assistance?

A: Information is contained on SMART here. If more information is required, please see your team APS5 in the first instance.

Systems

Q: If I can see that it is inappropriate to issue a garnishee to a client as they have been contacted recently, what do I do?

A: In this instance, change the RMS codes to the following:

WORK TYPE: NEGOTIATION

ACTION: AWAITING INFORMATION

If there is a different action on the account that you believe is stopping you from issuing a garnishee, please see your APS5 in the first instance.

Q: What code do I use in RMS when I have issued a garnishee?

A: Please see SMART scripting here. You shouldn't have to change these codes if you enter the garnishee schedule as per the following response.

Q: When I have issued a garnishee, do I have to enter the garnishee details into the RMS schedule where I key RMS payment arrangements?

A: Yes, as per SMART scripting here. If you do this BEFORE you change RMS codes, the saving of this schedule will automatically change the codes for you.

Q: What do I do if I can't locate garnishee sources?

A: If the taxpayer has received legal warning, please change the RMS project code to DRN T6 pool Non-individual or individual, and depending on the entity type:

Company:

PROJECT CODE: DRN T6 pool Non-individual

WORK TYPE: NEGOTIATION

ACTION: ESCALATE TO PRE LEGALS TEAM

Individual:

PROJECT CODE: DRN T6 pool individual

WORK TYPE: NEGOTIATION

ACTION: ESCALATE FOR SUMMONS

If the taxpayer has not received legal warnings, please change the RMS project code to DRN T2 and the following RMS code (regardless of entity type):

WORK TYPE: NEGOTIATION

ACTION: ISSUE GARNISHEE WARNING LTR (or) CLIENT CONTACT

Q: What case officer details do I put on the garnishee notice?

A: As this is a project, and the taxpayer liabilities being addressed are not case owned, your individual details are not to be included on the notice. The phone number to include on the notice is 1300 303 570.

Service/narratives

Q: Do I need to place narratives on the garnishee activity?

A: Yes. Garnishees narrative examples are as follows:

TO ISSUE:

Please use the narrative as guided by SMART here. At the end of the narrative, please included the following as a separate narrative:

The garnishee notice attached to this activity has issued pursuant to the May 2017 Garnishee project. This debt case is not case owned, and the issuer of the garnishee is not be contacted by the taxpayer in relation to the issuing of this garnishee. Please refer to your business-as-usual procedures if contacted by the taxpayer in relation to the issuing of this garnishee.

SERVICE NARRATIVE:

Remember to always include a service narrative, as per the SMART guidance here.

Further information:

Garnishee Principles

"Issue garnishee notice" SMART procedure

19 JUNE 2017 – LOCAL UMG SITE SUPPORT TEAM UPDATE

A12.4 The following is an extract of a fortnightly update that had been sent by the local UMG site support team to the local UMG site EI unit.³⁹⁸



Fortnight beginning: 19 June 2017

...

7.

Multiple Garnishees

It has been noted that staff are issuing multiple garnishees to debtors or bank accounts regarding the one client. This is not an EI function and is SDM function only.

³⁹⁸ Above n 233.

30 JUNE 2017 – MINUTES OF NATIONAL SUPPORT NETWORK MEETING

A12.5 The following is an extract from the minutes of the National Support Network in all relevant local sites held on 30 June 2017.³⁹⁹

NSN Meeting minutes

File ref: [File ref #]

Title:	June 2017 National Support Network Meeting		
Issue date:	30 June 2017		
Venue:	Video Conference		
Event date:	30 June 2017	Start: 13:00 AEST	Finish: 14:00 AEST
Chair:	██████████	Facilitator:	██████████
Contact	██████████	Contact phone:	██████
Attendees: names/section	Adelaide, Albury, Dandenong, Melbourne, Moonsee Ponds, Penrith, Perth, Townsville and Upper Mount Gravatt		
Apologies: name/section	██████████ ████████		

Agenda item: 1 – Business Manager Update

Delivered by EI Business Manager

- Garnishees
- Recently all sites reviewed the strategic intent document in relation to the decision making to and purpose of issuing garnishees.

UNCLASSIFIED

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Agenda item: 1 – Business Manager Update

- Standard Garnishees to banks are not resulting in money coming in and can cripple business while the garnishee is in place
- Staff are to consider all sources, as the intent of Standard Garnishees is to recover some funds.
- Staff are to use the recommendations in the RMS cases and Seibel activity.

...

Agenda item: 3 – Around the Sites

Delivered by Each Site

...

- Albury
- Feedback about SDM issued Garnishee notices.
 - The expectation is that they follow the same procedure in SMART as Firmer action.
 - Staff are encouraged to send Peer Feedback.

³⁹⁹ Above n 234.

APPENDIX 13—IGTO ANALYSIS OF LOCAL ADELAIDE GARNISHEE COMMUNICATIONS REFERRED TO IN THE FOUR CORNERS PROGRAM

A13.1 There were a number of communications which were referred to in the ABC Four Corners Program as evidence of a ‘cash grab’ during the 2016–17 financial year. The IGTO’s analysis on these specific communications is set out below. Further details on the relevant events and communications are set out in Chapter 2, together with their evidentiary bases. Reproductions of these relevant communications are also extracted in Appendix 11.

Local Adelaide team leader email (20 May 2017)

A13.2 In the ABC Four Corners program⁴⁰⁰, an email was presented which was thought to encourage staff to issue more garnishee notices before the end of their overtime shift:⁴⁰¹

The last hour of power is upon us...That means you still have time to issue another five garnishees... Right ☺?

A13.3 The IGTO has obtained a copy of that email and verified that the header of that email states that it was sent at 2:21pm on Saturday 20 May 2017 by a local Adelaide EI unit supervising team leader to 12 EI unit staff in that local site. The team leader was supervising an overtime session in which those staff were conducting *enduring* garnishee work activities. The email is reproduced in Appendix 11.

A13.4 The IGTO investigation team has interviewed the author and obtained copies of other emails drafted by them for the purpose of comparison. Other EI unit staff at the local Adelaide site were also interviewed.

A13.5 At the time the email was sent, staff had the impression that there were high expectations regarding staff output as management communications had been received regarding the large amounts of undisputed collectable debt. An *enduring* garnishee strategy had been developed and resources were increased across the EI unit to carry out focused attempt to conduct the numbers of activities which had not been conducted earlier in the year as a result of a number of unexpected events and the backlog of the ATO systems outages.

A13.6 EI unit team leaders in the local Adelaide site were aware that one focus for their garnishee work was to increase the proportion of *enduring* garnishee notices issued.

⁴⁰⁰ ABC (online), Transcript of the 9 April 2018 Four Corners Program ‘Mongrel bunch of bastards’ (9 April 2018) <www.abc.net.au>.

⁴⁰¹ ATO, ‘Copy of email to staff about the end of the day during overtime’ (Internal ATO document, 20 May 2017).

This was an area marked for improvement on the local Adelaide EI unit's site report for the month of May 2017.

A13.7 In interviews with the IGTO's investigation team, Adelaide EI unit staff have recounted that it was apparent to many local Adelaide EI unit staff at that time that the work activities that were being allocated to them for *enduring* garnishee consideration had comprised a substantial number which did not warrant garnishee action. This is corroborated by the average number of *enduring* garnishee notices that were issued per scheduled hour from the local Adelaide EI unit site in May 2017. This average was 0.07 *enduring* garnishee notices issued per scheduled hour. This metric equates to a staff member, on average, issuing one *enduring* garnishee notice for every two days of scheduled *enduring* garnishee work. At that rate, it would take a local Adelaide EI unit staff member approximately 2 weeks of work to issue 5 such notices.

A13.8 In these circumstances, any statement which suggested that five such notices could be issued in the next hour would have been far removed from an EI unit officer's experience.

A13.9 In the IGTO's view, the statement in the email was conveyed as an ironic⁴⁰² remark. The style of communication is corroborated by the style used in other communications of the author that the IGTO investigation team examined shown in Appendix 11. For example, the author had sent to all EI unit staff in the local Adelaide site guidance material and reminders in an email on the day that the site was began conducting *enduring* garnishee work activities, 8 May 2017. That email commenced with the phrase "Welcome back to the Enduring Garnishee work type – I'm sure it has missed you as much as you've missed it!"

A13.10 Each manager in any organisation has their own style of communication which is adapted to suit the work environment. The IGTO's investigation team heard a number of local EI unit team leaders emphasise the importance of maintaining an engaging work environment for their staff to counter the impact that a highly scheduled environment can have on staff. The need for creating such an environment is corroborated by the contemporaneous records of feedback which frontline staff had provided to DBL management as part of its Debt People First project (see Chapter 2 above). Also, during on the interview with the author, the IGTO investigation team observed that the author's style of communication was consistent with a view that the statement made in the 20 May 2017 email was an ironic statement. Accordingly, such a statement would be reasonably understood by those who interacted with the author as such.

A13.11 It is possible, however, that the intent of the comment in the 20 May 2018 email may have been misunderstood, for example, by those who were unaware of or unfamiliar with the author's style of communication. In such a case, it would be unfortunate if the comment had caused confusion regarding its intention. With the benefit of hindsight, the intention could have better expressed to avoid any question that such a comment was intended to be taken literally or to increase staff output.

⁴⁰² As defined by the Macquarie Dictionary (online): "a figure of speech or literary device in which the literal meaning is the opposite of that intended, especially, as in the Greek sense, when the locution understates the effect intended, employed in ridicule or merely playfully."

Local Adelaide EI unit team meeting (8 June 2017)

A13.12 The Four Corners Program also referred to a 'directive' that was given to an Adelaide team during a team meeting which was said to require staff to issue *enduring* garnishee notices in almost every case. Reference was also made to a related email that was sent in the following week which provided instructions on how to escalate debt recovery from taxpayers who owed money.

A13.13 In the IGT's view, a conclusion that such a directive was given to DBL staff cannot be sustained when the totality of DBL corporate and local Adelaide site communications are considered, together with the selection criteria that were used for the relevant garnishee priority focus of work and related performance statistics. The reasons for this view are set out below.

A13.14 The IGTO investigation team has confirmed that the meeting referred to in the Four Corners Program was a meeting that was held on Thursday 8 June 2017 from 11:30am to 12:30pm in which nine of that team leader's team members attended. The minutes of that meeting were prepared by a team member who was on their second last day in the DBL. The relevant text of the minutes state:

1. 11.30 to 11.45 Coaching Update

[redacted] advised of obligations training which we will all be doing. [redacted] discussed garnishee procedures.

2. 11.45 to 11.55 [redacted] advised that [for] both IWD and RMS cases[,] if garnishee is appropriate[,] enduring garnishee should be issued. [redacted] advised of project streamlining procedures

3. 11.55 to 12.15 ... [redacted] stated that he was confused by outcomes we are trying to achieve. i.e. are we trying to get willing participation or only debt collection?.⁴⁰³

A13.15 The IGTO investigation team has checked the electronic properties of the electronic record of that document and confirmed that the last modification to that record was on 8 June 2017 by the staff member who was tasked with taking the minutes of that meeting.

A13.16 The IGTO's investigations team has also obtained a copy of the email referred to in the Four Corners Program and verified that the header of that email states that it was sent at 10:11AM on Tuesday 13 June 2017 2:21pm by an EI unit team leader in the local Adelaide site to their team of 15 staff members (the '13 June 2017 email'). The relevant part of that email is reproduced in Appendix 11. In the 13 June 2017 email is a section entitled "Current Garnishee Process" which provides instructions. If followed, these instructions would require a staff member to:

- attempt to make contact by phone with the relevant taxpayer;
- not leave a message if the phone contact was not successful;

⁴⁰³ Above n 246.

- issue a FAWL if a valid warning did not exist (e.g. no FAWL had been issued or there was no record on file of a relevant verbal warning having been given within the last 6 months) and no payment arrangement had been agreed or payment in full obtained;
- not provide the taxpayer with any additional time if a payment arrangement cannot be agreed or payment in full obtained;
- if a valid warning existed, there was no payment arrangement agreed, no payment in full obtained and a source for garnishment existed, then “issue the [*enduring*] Garnishee to that source”; and
- if source for garnishment existed, to take the “next recovery action i.e DPN/Summons/S459e”.

A13.17 Such an email does not purport to be a comprehensive statement of requirements, for example, it omits a number of fundamental legislative requirements that staff must follow. Accordingly, it should be read together with the relevant garnishee procedures and policies.

A13.18 It should also be remembered that the garnishee work that the local Adelaide EI unit site was scheduled to conduct were PIT and *enduring* garnishee work as part of a priority focus on *enduring* garnishee work for cases in which:

- over \$100,000 in tax remained unpaid;
- that tax debt was undisputed and collectable;
- the taxpayer did not have a formal payment arrangement in place with the ATO; and
- the ATO had previously sent formal correspondence warning of intended legal action or firm action, such as garnishing money from their source.

A13.19 It is reasonable for staff to assume that but for the risk of procedural error, such as FAWL correspondence being sent to an incorrect address, taxpayers had been previously advised of their debts and had opportunity to initiate negotiations with the ATO for the repayment of the debt. Also, any previous discussions that taxpayers have had with DBL staff regarding their debt would be accessible to EI unit staff as all DBL staff are required to keep records of contact made with taxpayers. These records are reviewed as part of the DBL's quality assurance process (see Chapter 2).

A13.20 The IGTO's investigation team also obtained copies of the relevant procedures and policies as well as other relevant communications sent between staff in the local Adelaide EI unit site (reproduced in Appendix 11) and corporate DBL communications. These documents include Practice Statement PSLA 2011/18 (available from the ATO's website), the 'garnishee strategic context' document (reproduced in Appendix 7) and the ATO's Garnishee Principles' document (reproduced in Appendix 10) which are all discussed further in Chapter 2.

A13.21 ATO Practice Statements are lawful directions given to APS staff which are legally enforceable by the Commissioner. A breach of a Practice Statement by an ATO staff member may constitute a breach of the APS Code of Conduct. The relevant Practice Statement requires ATO staff to have regard to the impact on the taxpayer, including that of the viability of the business, when considering the exercise he garnishee power.⁴⁰⁴

A13.22 Before a garnishee notice can be issued, the Garnishee procedures⁴⁰⁵ require staff to consider a number of issues (which are summarised in the ‘Garnishee principles’ document), determine if a legal warning is needed, review the RAPT for details of potential garnishee sources and confirm relevant details, evaluate the most appropriate source for garnishment, determine the garnishee amount, confirm authorisations and prepare the notice. The ‘Garnishee Principles’ require staff to consider whether it is appropriate to issue a garnishee notice in the circumstances, including the consequences of inappropriate garnishee action for that taxpayer.⁴⁰⁶

A13.23 The strategic context document, another corporate DBL communication, expressed an expectation that an *enduring* garnishee notice would issue if the work activity was delivered to the staff member with a ‘garnishee source note’ (see Chapter 2 for further details). However, the accompanying Talk Sheet corrects the potential for any misunderstanding as it clarifies that the “current exclusion rules and considerations identified within the procedure should be used to guide an appropriate decision”. The Talk Sheet also states that, as a guiding principle for this focus of work, following any unsuccessful contact with the taxpayer, staff “should exercise [their] judgement to determine and undertake the *next best action*”[emphasis added]. Further consideration of these documents is set out in Chapter 2.

A13.24 There is text in the localised Adelaide site communications which, if read in isolation of the above corporate documents, could give rise to a perception of the directive described above. Localised Adelaide EI unit site communications instructed frontline staff in that site to not afford more time, as that would have the effect of staying recovery action, without receiving payment or reaching agreement on a formal payment arrangement. In such cases, and where there was evidence on file that the taxpayer had received a written or verbal warning within the previous six months, staff were advised by the local coaching and support staff to “attempt to issue an *enduring* garnishee today”⁴⁰⁷ and “[i]f you have a viable garnishee source then issue a garnishee”.⁴⁰⁸ In one localised broadcast communication, the local Adelaide EI unit coaching and support unit advised local frontline staff that:⁴⁰⁹

These clients have had a number of opportunities to engage and have chosen not to, therefore a decision has been made to take the next best action – issue a garnishee.

⁴⁰⁴ Above n 187, para [102].

⁴⁰⁵ ATO, ‘Issue garnishee notice’ (Internal ATO document, 6 December 2017).

⁴⁰⁶ Above n 188.

⁴⁰⁷ See, in Appendix 11, the 8 May 2017 email from the local Adelaide EI unit coaching staff to all local Adelaide EI unit frontline staff.

⁴⁰⁸ See, in Appendix 11, 23 May 2017 email from the local Adelaide EI unit coaching staff to all local Adelaide EI unit frontline staff.

⁴⁰⁹ Ibid.

A13.25 It could be argued that the previous statement is a directive to issue *enduring* garnishee notices, however, such a narrow interpretation of this intention would be inconsistent with other instructions set out in this email, for example, “[i]f there are no garnishee options available then escalate for the next action (as per SMART) – which includes summons, DPN or s459.”⁴¹⁰ It could be said that this latter instruction is limited to situations where no sources for garnishment were identified. However, it must be remembered that the DBL management’s strategic context document stated that “cases will be delivered with a note which identified known garnishee sources”.

A13.26 Furthermore, a number of other team leader and coaching staff in the local Adelaide EI unit communications use conditional language when referring to expectations regarding the issue of garnishee notices – for example, the expectation to issue *enduring* garnishees is qualified by the words “where appropriate”.⁴¹¹

A13.27 Also, a number of localised communications sent by local Adelaide EI unit coaching staff to local frontline staff in that site stated, for example, “[w]henever it’s appropriate we should be issuing [*enduring*] Garnishees”⁴¹² and “if garnishee is appropriate [an] *enduring* garnishee should be issued”.⁴¹³ However, these statements were made in the context of expressing an intention to issue “*enduring* garnishees rather than PIT garnishees, where we are able.”⁴¹⁴

A13.28 It could be argued that the relevant written documentation and communications may not, in fact, reflect actual staff practice. However, such an argument cannot be reasonably sustained when the EI unit’s performance statistics are taken into account. They indicate that, on average, for every 100 *enduring* garnishee work activities that were allocated to staff for consideration, only 8 *enduring* garnishee notices were issued (i.e. an 8% conversion rate). The conversion rate for PIT garnishees was approximately 40 per cent. Further detail on the relevant performance statistics is discussed in Chapter 2 and details are provided in Appendices 5 and 9.

A13.29 In the IGTO’s view, there is a risk that an inexperienced officer who read localised communications in isolation of the relevant policies and procedures may have misapplied the generalised instructions that were issued by coaching staff and team leaders and may have misunderstood them as being directive in nature. As discussed in Chapter 2, with the benefit of hindsight, provision of all related documentation to all DBL staff would have assisted to minimise this risk. As the facts and evidence demonstrate this risk did not eventuate in the DBL generally (see, for example, Appendix 9).

Local Adelaide Learning and Development meeting (24 August 2017)

A13.30 The third communication identified in the Four Corners Program was a reference to a meeting held in August 2017 in which it was said that the Adelaide site had been issuing too many *enduring* garnishees and that this was possibly

⁴¹⁰ Ibid.

⁴¹¹ Above n 380.

⁴¹² See, in Appendix 11, the 9 June 2017 minutes of an EI unit team meeting in the local Adelaide EI unit site.

⁴¹³ See, in Appendix 11, the 8 June 2017 minutes of an EI unit team meeting in the local Adelaide EI unit site.

⁴¹⁴ Above n 406.

inappropriate. Reference was also made to doubts concerning the stated purpose of the meeting and that it was thought that the only explanation in this case was that there was ulterior motive.

A13.31 The IGTO investigation team has confirmed that the meeting referred to in the Four Corners Program was a “Learning & Development” session, titled “Garnishee Strategic Context”, that was held on 24 August 2017 from 11:30 am to 12:30pm and conducted by one of the Adelaide site’s more experienced training staff. It was one of a number of similar sessions held at the site in that week.

A13.32 In the light of the relevant facts and context, which are discussed in detail in the “Garnishing bank accounts” and “Particular localised communications and site reporting” sections, the IGTO is of the view, that the purpose of this meeting was to correct a misunderstanding that had been formed by some local Adelaide EI unit staff over the previous two months that led to their departure from the ATO-endorsed procedures regarding *enduring* garnishee notices issued to financial institutions.

A13.33 Whilst it is concerning that such an error was made by some staff and that it took a period of time for the error to be detected in the Adelaide site, there is no evidence to reliably sustain a conclusion that the practice was as a result of a DBL-wide directive. In fact, the existence of a local staff misunderstanding regarding the appropriate use of a bank account as a source for *enduring* garnishment was clarified in a corporate DBL communication (the Talk Sheet) and one of the scenarios in the Case Studies document as well as being corroborated by localised communications in three other sites and the discussion of all coaches on 30 June 2017.

A13.34 Furthermore, the performance statistics regarding the number and proportion of *enduring* garnishee notices issued to financial institutions confirm that the issue, at a site level, was localised to the Adelaide EI unit site for a period approaching 3 months.

APPENDIX 14—IGTO GUIDANCE ON INDEPENDENT APPROACHES MADE BY ATO OFFICERS

OFFICE OF THE INSPECTOR GENERAL OF TAXATION AND TAXATION OMBUDSMAN

Managing approaches from ATO officers (current or former)

When a current or former ATO officer contacts us

The IGTO office welcomes input to IGTO Reviews from all interested parties.

ATO officers are able to contribute to a Review where they are directly engaged in that process of part of their management or operational employment responsibilities. The IGTO encourages open engagement in these situations to facilitate a full and candid assessment of issues and potential solutions.

In a given Review context, it may also be helpful to ensure all ATO staff have the opportunity to contribute independently and privately on a disclosed or anonymous basis, whether or not they are engaged directly in the review process or otherwise. This is normally facilitated by way of notification from the Commissioner who provides authorisation and assurance in relation to disclosures to the IGTO review team for that purpose.

Approaches by current or former ATO officers taking this independent course provides assurance that access to information was fulsome and not restricted in seeking to address the tax administration matters subject to review. Importantly, there are certain rights and limitations that may be relevant to an ATO employee seeking to make an independent disclosure in this context.

As a matter of policy and in the following manner, IGTO officers are required to ensure that ATO officers (current or former) are made aware of their relevant rights and limitations before making any independent disclosure:

- Consideration should be given as to whether the disclosure is a *public interest disclosure* pursuant to the PID Act as the IGT Act does not ordinarily provide them with protection against victimisation/detriment or threats of victimisation/detriment in the manner provided for in the PID Act where they wish to avail themselves of the protection afforded by the PID Act. The PID Act provides the current intra government *whistleblowing protections* for disclosers.
- The disclosure of any official written records (physical or electronic) or materials that are the properly the property of the Commonwealth that are not provided in their responsible current employment capacity may potentially attract serious civil and or criminal sanctions.

- Matters relating to human resources are expressly excluded from the IGTO's jurisdiction by legislation and cannot be considered as part of the review.

IGTO officers are to ensure the relevant ATO officer is provided with this information so that they may be able to make an informed choice of their own as to whether they wish to raise the concern as a tax administration matter or consider other options, such as making a PID. For completeness it is noted that IGTO officers are not to seek to exert any influence on the ATO officer's decision.

On the current or former ATO officer making a decision, the IGTO officer is to inform them that if they:

- wish to avail themselves of the protection under the PID Act:

To make a disclosure to an ATO authorised officer, you can send your disclosure to PublicInterestDisclosure@ato.gov.au. Only officers authorised to receive disclosures have access. Alternatively, call the ATO's People Helpline on 13 15 50 and asked to be transferred to authorised officer. You can remain anonymous but the ATO has the discretion not to investigate if you cannot be contacted.

You may also wish to approach the Commonwealth Ombudsman's office for advice if you consider making the disclosure to the ATO authorised officer is not appropriate.

- do not wish to avail themselves of the protection under the PID Act or otherwise advise that they understand that right but wish to make a disclosure in any event (as a person who is a discloser under the PID Act is not required to advise anyone of that action); then the IGTO officers may advise that:
 - they may make an anonymous complaint or submission to the IGT for potential future IGT review or,
 - they may lodge a complaint with the IGT for investigation and agree to have their identity disclosed to the ATO during the investigation.

The IGTO officer should make ATO officers (current and former) aware of their right to seek independent legal advice, before making any such disclosure, regarding any protection or consequence that might arise for them in their specific circumstances.

Where an ATO officer is proposing to, or otherwise indicates, that they will be making a more serious disclosure or allegation, the IGTO officer is only to accept that disclosure if the ATO officer (current or former) has legal representation present at any meeting or discussion for that officer's own legal assurance and protection. The IGTO officer must advise the Deputy IGTO or General Manager of such a request in advance and may only proceed if it is approved by them in writing.

Background information/contextual information

Public Interest Disclosure Act 2013

The *Public Interest Disclosure Act 2013* (PID Act) provides a means for protecting public officials, and former public officials ('whistle-blowers'), from adverse consequences ('reprisal action' or 'victimisation') of disclosing information that, in the public interest, should be disclosed. The protection includes:

- immunity from liability;
- offences and civil remedies for reprisals taken against disclosers; and
- offences for disclosure of the identity of disclosers.⁴¹⁵

A discloser concerned about the making of a PID to the relevant agency may contact the Commonwealth Ombudsman.

For the purposes of the PID Act a 'public interest disclosure' is a disclosure of information,⁴¹⁶ by a public official, that is:

- a disclosure within the government, *to an authorised internal recipient or a supervisor*, concerning suspected or probable illegal conduct or other wrongdoing (referred to as "disclosable conduct"); or
- a disclosure *to anybody*, if an *internal disclosure of the information has not been adequately dealt with, and if wider disclosure satisfies public interest requirements*; or
- a disclosure *to anybody* if there is *substantial and imminent danger to health or safety*; or
- a disclosure to an *Australian legal practitioner* for purposes connected with the above matters.⁴¹⁷

Inspector-General of Taxation Act 2003

Section 39 of the *Inspector-General of Taxation Act 2003* (IGT Act) only provides protection against victimisation/detriment or threats of victimisation/detriment against a person who gives information the IGT pursuant to section 9 of the *Ombudsman Act 1976* ('a section 9 notice') or is the subject of a report by the IGT that relates to an investigation.

⁴¹⁵ *Public Interest Disclosure Act 2013* s 7.

⁴¹⁶ Disclosable conduct includes: a contravention of the law; corruption; perverting the course of justice; maladministration; an abuse of public trust; falsifying scientific research; wastage of public money; or conduct that is a danger to health, safety or the environment: *Public Interest Disclosure Act 2013* s 29.

⁴¹⁷ *Public Interest Disclosure Act 2013* ss 25, 26.

APPENDIX 15—GARNISHEE COMPLAINTS

A15.1 Through the 2015–16 to 2017–18 financial years, the ATO received a total of 810 complaints about garnishee notices,⁴¹⁸ whilst the IGTO received a total of 241. In comparison, the ATO issued a total of 115,190 garnishee notices during this same period of time,⁴¹⁹ with approximately 14,000 garnishee notices to small businesses in the 2016–17 financial year.⁴²⁰ Table A15.1 below sets out the numbers of such notices and complaints over the past 4 financial years.

Table A15.1: Number of garnishee complaints as a proportion of total ATO garnishee notices issued from 1 July 2015 to 30 June 2018

Financial Year	Total garnishee notices issued	Total ATO garnishee complaints	Percentage of ATO complaints	Total IGT garnishee complaints	Total number of small business garnishee complaints	Percentage of IGT garnishee complaints	Percentage of IGT garnishee complaints
	(A)	(B)	(B ÷ A)	(D)	(Note 1)	(D ÷ A)	(D ÷ B)
2014–15	55,741	231	0.41%	21	7	N/A	N/A
2015–16	40,406	251	0.62%	80	56	0.20%	31.87%
2016–17	23,712	177	0.75%	51	34	0.22%	28.81%
2017–18	51,072	382	0.75%	103	45	0.20%	26.96%
TOTAL	170,931	1,041	0.61%	234	135	0.14%	22.48%

Source: IGTO analysis of ATO and IGTO data.

Note 1: Total number of complaints is comprised of complaints resolved through first contact with the IGTO and complaints which require further IGTO investigation. A small business taxpayer includes individual business owners, tax practitioners, legal practitioner and organisations such as accounting firms.

Note: The IGTO started receiving complaints on 1 May 2015.

A15.2 The above table shows that garnishee complaints were lodged with either the ATO or the IGTO in relation to less than one per cent of garnishee notices issued, from 1 July 2015 to 30 June 2018. The total number of garnishee complaints received by the IGTO as a proportion of that received by the ATO was 32 per cent in 2015–16, and this decreased to 29 per cent in 2016–17 and 27 per cent in 2017–18.

A15.3 In relation to the 2016–17 financial year, the ATO saw a minimal increase in the proportion of garnishee complaints as a percentage of the total of such notices issued (from 0.62% (n=251) in the 2015–16 financial year to 0.75% (n=177). The proportion of small business complaints lodged with the IGTO also increased (from 0.619% (n=25) in the 2015–16 financial year to 0.886% (n=21).

A15.4 Although there may be a small proportion of complaints raised regarding garnishee notices, an inappropriately issued notice can unfairly cause financial harm. In some cases, it can have a devastating impact on small business and vulnerable individuals.

⁴¹⁸ ATO, 'Email with ATO Complaints Unit data for debt complaints' (Internal ATO document, 7 January 2019).

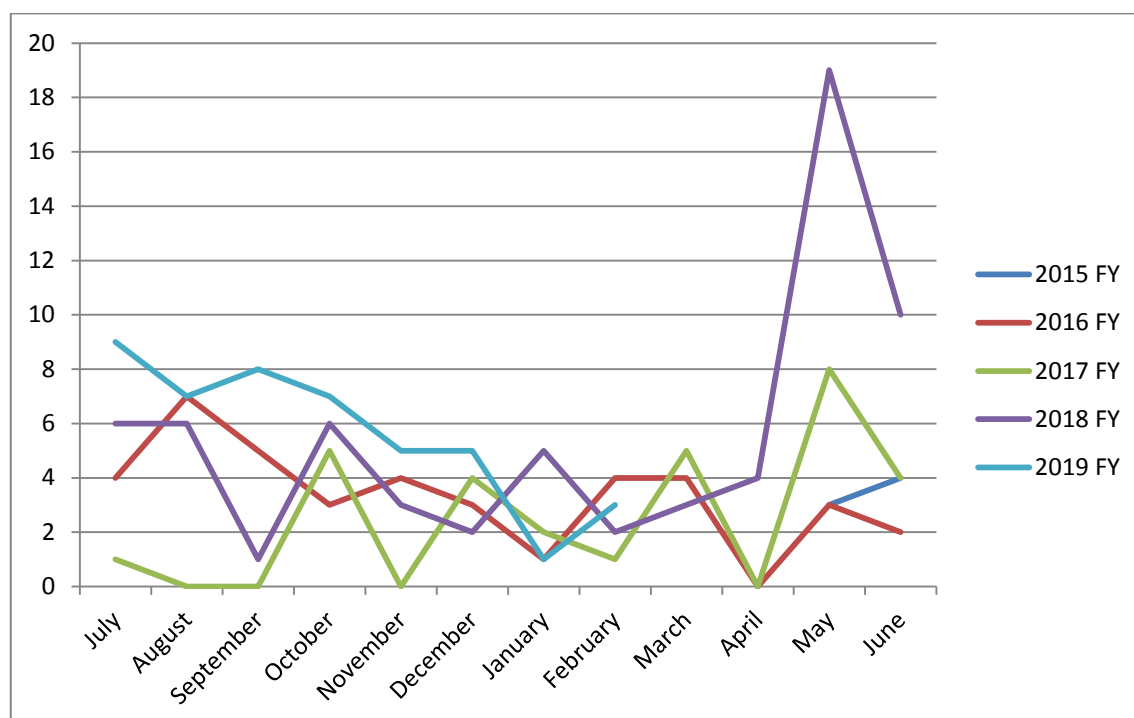
⁴¹⁹ Above n 68.

⁴²⁰ Above n 129.

A15.5 A garnishee notice can disrupt cash flow, cause a creditor to withdraw their credit, have reputational impact and contribute to emotional distress. The timeframe in which such impacts may be mitigated are short, particularly with the implementation of the National Payments Platform which provides for almost instantaneous payment transfers.

A15.6 Figure A15.1 below shows the number of garnishee complaints lodged by small businesses with the IGTO regarding the ATO's garnishee actions from inception of the IGT complaint handling function on 1 May 2015 to 28 February 2019.

Figure A15.1: Number of small business garnishee complaints lodged with the IGTO from 1 May 2015 to 28 February 2019



Source: IGT complaint data.

Note: Data for the 2018–19 financial year includes the June 2018–February 2019 period.

A15.1 The figure above shows that the number of ATO garnishee complaints made to the IGTO by small business varies between one to eight complaints per month between the 1 May 2015 to April 2018 period. Between May 2018 and August 2018, the numbers of such complaints significantly spiked compared to the previous levels. Thereafter, between September 2019 and December 2019 the complaint numbers per month returned to within the historical range. However, they remained higher on average until the January 2019 when the numbers of garnishee complaints receded.

A15.2 Table A15.3 below shows the number of complaints lodged with the IGTO by small businesses regarding the ATO's garnishee actions for the financial years between 1 July 2015 to 30 June 2018.

Table A15.3: Garnishee complaints lodged by small businesses with the IGTO, by issue and outcome, from 1 July 2015 to 30 June 2018

Financial year	Total number of garnishee complaints investigated by the IGTO that were lodged by small business'	Concerns raised by small business in complaints (Note 4)					Outcomes of the IGTO's investigation				Remedy as a result of the IGTO's investigation
		The ATO should not have issued the garnishee notice at all e.g. no debt	The ATO should not have issued an enduring garnishee notice e.g. the notice froze my bank account	The ATO should not have issued garnishee to that source e.g. trading account	The ATO should not have issued the garnishee as I was trying to enter into a payment arrangement or was in one already	I did not receive prior warning from the ATO	The IGTO facilitated ATO resolution directly with the small business (Note 5)	IGTO investigation sustained small business' concerns	IGTO investigation independently assured the ATO's actions	Proportion of complaints with outcome sustained against the total number of complaints investigated	
2015–16	56	20	3	12	19	17	16	20 ⁴²¹	20	36%	Note 1
2016–17 ⁴²²	34	7	10	15	10	7	15	10 ⁴²³	9	26%	Note 2
2017–18	45	10	3	9	11	15	23	7 ⁴²⁴	15	33%	Note 3
TOTAL	135	37	16	36	40	39	54	37	44	33%	

Source: IGT complaint data.⁴²⁵

Note 1: Remedies as a result of the IGTO's investigation included the ATO agreeing to withdraw the garnishee notice based on the taxpayer's circumstances, such as due to financial hardship, a payment plan was entered into and after the objection was finalised; requested further information to consider withdrawing the garnishee notice, including payment plan proposal; returned the garnished amount; and provided an apology to complainant for incorrectly entering him into a payment plan, which led to its cancellation and subsequent garnishee action. However, as the ATO was unable to return the garnished amounts.

Note 2: Remedies as a result of the IGTO's investigation included the ATO agreeing not to pursue the taxpayer's remaining tax debt but was unable to return the garnished amounts as taxpayer had an existing debt with the ATO; withdrew the garnishee notice, and issued an apology to the taxpayer for issuing the garnishee notice before the taxpayer's objection period was over. However, the ATO was unable to return the garnished amounts.

Note 3: Remedies as a result of the IGTO's investigation included the ATO issuing an apology to the taxpayer for issuing a garnishee notice with an incorrect debt amount, without prior contact with the taxpayer to negotiate a payment arrangement, after issuing a further action warning letter to the taxpayer (i.e. taxpayer was not given time to respond to demand for payment); agreed to withdraw the garnishee notice after the taxpayer had entered into a payment plan; and agreed to not pursue the taxpayer's debt due to their circumstances.

Note 4: Each complaint investigated by the IGTO may raise multiple concerns.

Note 5: Complaints which have been transferred to the ATO may be further investigated by the IGTO if the complainant is unsatisfied with the ATO's handling of their complaint. If the complainant does not return to the IGTO, then it is expected that their concerns were addressed.

⁴²¹ Above n 274.

⁴²² 17 cases received from July to November 2017 which relate to the 2016–17 financial year.

⁴²³ Ibid.

⁴²⁴ Above n 274.

⁴²⁵ Ibid.

A15.3 The table above shows that the IGTO investigated 56 small business complaints about the ATO's garnishee actions in the 2015–16 financial year, and this reduced to 34 complaints in 2016–17, before increasing to 45 in 2017–18. In 36 per cent of complaints investigated in the 2015–16 financial year, the IGTO agreed with the complainant that it was inappropriate for the ATO to issue a garnishee notice under the circumstances. This percentage decreased to 26 per cent in 2016–17 and then increased to 33 per cent in 2017–18.

A15.4 In cases where the outcome of the IGTO's investigation sustained the taxpayer's concerns that the garnishee notice was inappropriately issued, the main themes were that small businesses were attempting to negotiate payment arrangements for their debts with the ATO before the garnishee notices were issued or they had not received warning about the ATO's intention to issue a garnishee notice beforehand.

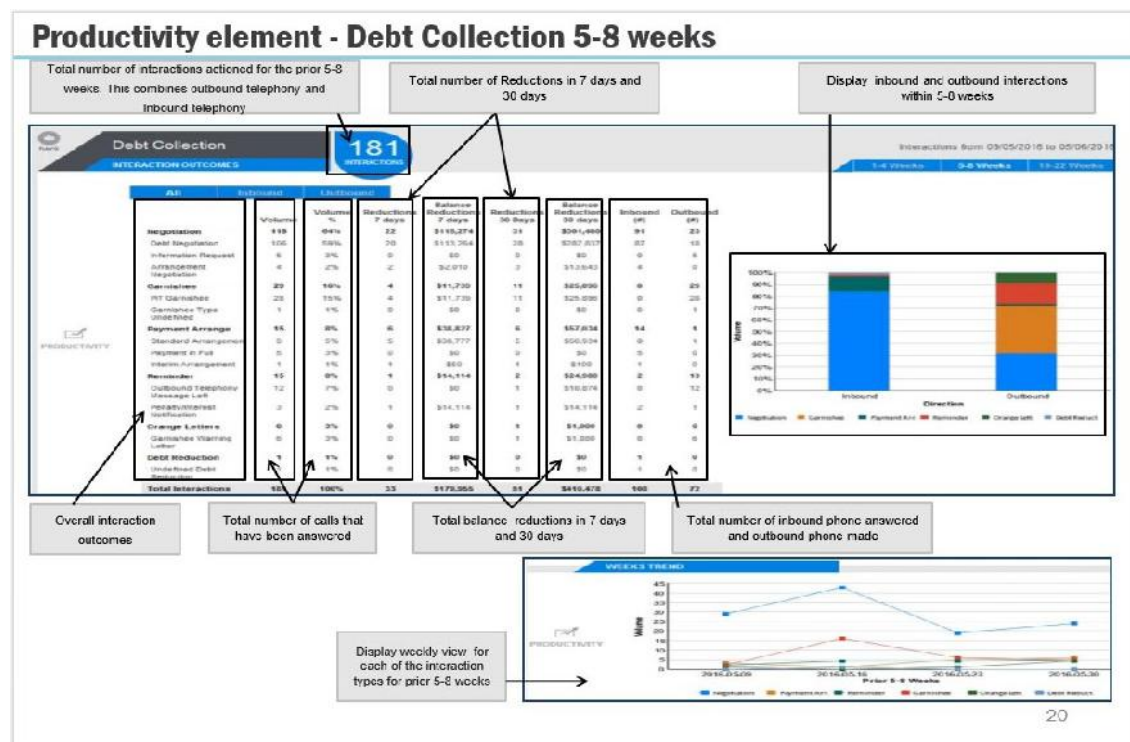
A15.5 In ten cases, the IGTO investigation had found the underlying debt amount to be incorrect due to ATO systems errors or that taxpayers had paid amounts shortly before the garnishee notices were issued. In the latter circumstances, the ATO generally agreed and provided an apology to the taxpayer and was able to return the overpaid funds. In other cases, where the debt amounts were correct, the ATO generally apologised for the errors but was unable to return the funds due to legislative limitations. There were cases where the ATO was able to withdraw *enduring* garnishee notices and cease the capturing of additional funds.

A15.6 In many of the cases in which the IGTO independently assured the ATO's actions taxpayers were attempting to negotiate payment arrangements with the ATO. In these cases, the ATO's requirements to enter into a suitable payment arrangement were not reasonably met, for example, the taxpayer had not lodged required returns, not responded to ATO attempts to engage or had not provided critical information to demonstrate the capacity to make the repayments which were proposed by the taxpayer.

APPENDIX 16—MY CONTRIBUTION TOOL AND OUR CONTRIBUTION TOOL

A16.1 Figure A16.1 below shows the EI unit frontline staff view of the My Contribution tool with respect to certain debt activities.

Figure A16.1: Example of EI unit frontline staff view of the My Contribution tool or certain debt activities



Source: ATO, 'Service Delivery Coaching Technology User Guide: My Contribution' (Internal ATO document, February 2017).

A16.2 Figure A16.2 below shows the EI unit team leader view of the Our Contribution tool with respect to certain debt activities.

Figure A16.2: Example of EI unit team leader view of the Our Contribution tool

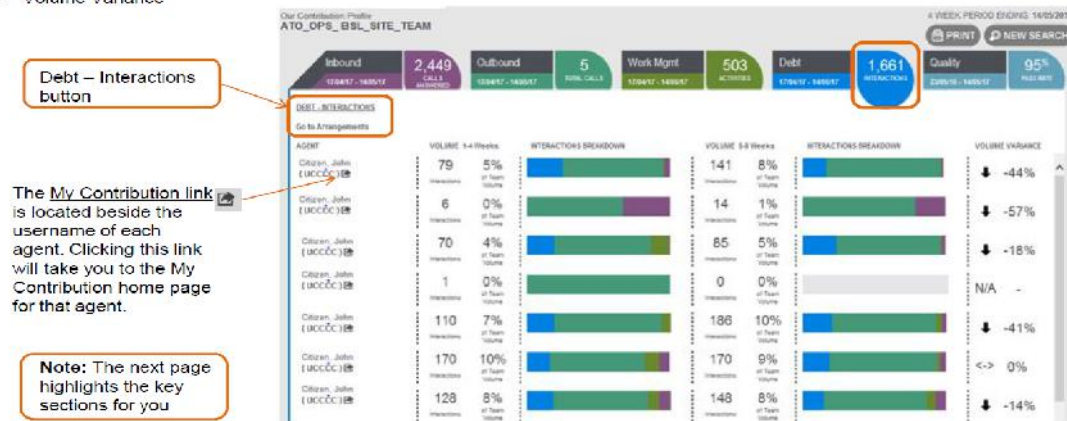
10. Debt

10.1 Drill down through the domains – Debt Interactions

The Our Contribution tool provides timely business intelligence and performance information for leaders, including the ability to navigate through various views to see specific data associated with a team's interactions.

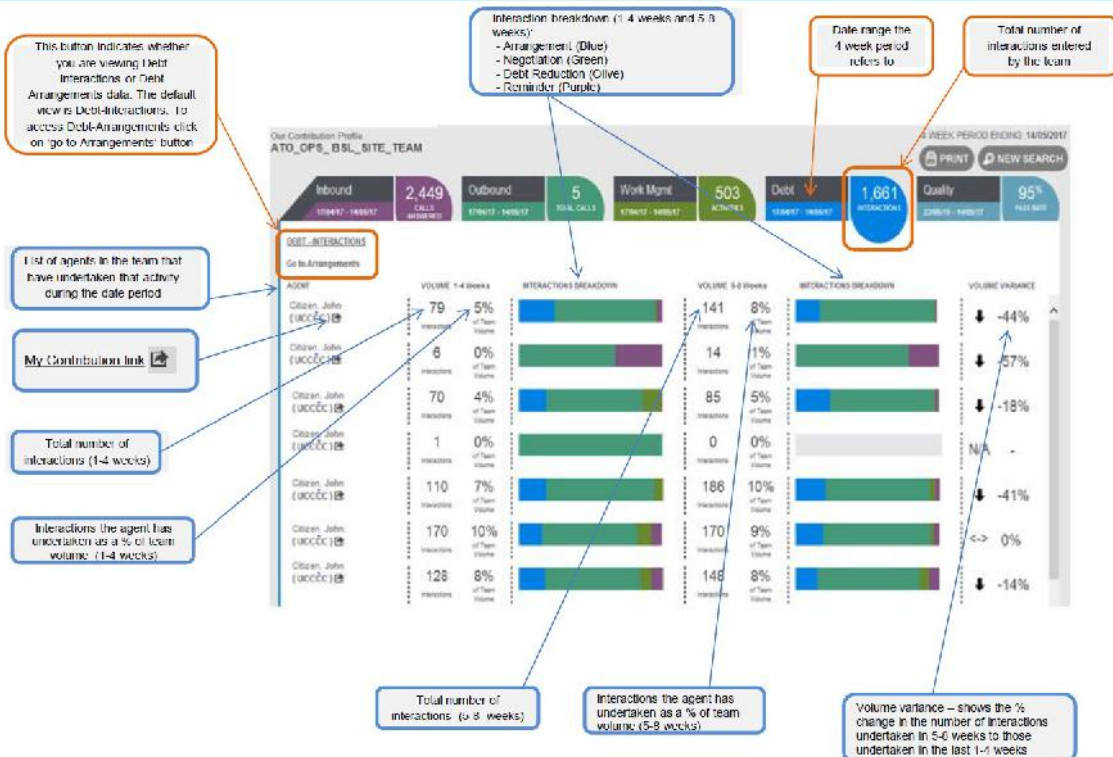
Clicking on the Debt tab in the header will show the statistics for Debt Interactions for the selected team. The page has 6 key sections:

- Agent
- Volume 1-4 weeks – with this report you can view each agent's % of calls against the team volume on a single screen
- Interactions Breakdown (1-4 weeks)
- Volume 5-8 weeks
- Interactions Breakdown (5-8 weeks)
- Volume Variance



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Debt Interactions – Team view



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Source: ATO, Service Delivery Coaching Technology User Guide: Our Contribution – Service Delivery Coaching (2018).

Figure A16.2: Example of EI unit team leader view of the Our Contribution tool – (continued)

Debt Interactions – Agent breakdown

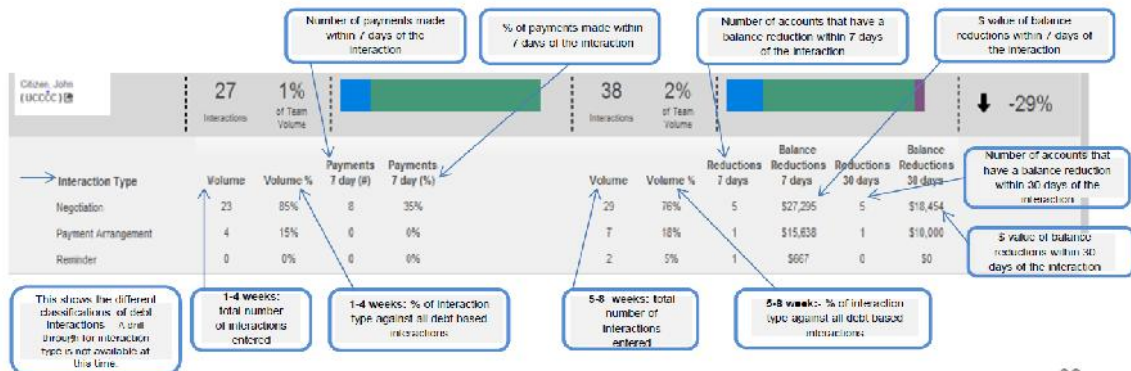
When an agent's row is clicked a drop down will open showing a breakdown of the total figures by interaction type.

Tip: When you hover over an agent's name the row turns grey with the cursor becoming a hand symbol. You click the row to show the drop down data. To go back click on the agent's row again.

The information displayed is similar to the information in the agent's My Contribution Debt first screen. The drop down data is broken up into 11 different sections, split into two different time periods – 1-4 weeks and 5-8 weeks:

- | | |
|----------------------|------------------------------|
| 1-4 weeks: | 5-8 weeks: |
| • Interaction Type | • Volume |
| • Volume | • Volume % |
| • Volume % | • Reductions 7 days |
| • Payment 7 day (#) | • Balance Reductions 7 days |
| • Payments 7 day (%) | • Reductions 30 days |
| | • Balance reductions 30 days |

For a full list of the Debt Interaction types refer to the glossary.



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10. Debt continued

10.2 Drill down through the domains – Debt Arrangements

The Our Contribution tool provides timely business intelligence and performance information for leaders, including the ability to navigate through various views to see specific data associated with a team's interactions.

Clicking on the **Debt** tab in the header will show the statistics for Debt arrangements for the selected team. The page has 5 key sections:

- Agent
- Volume – with this report you can view each agent's % of team volume on a single screen
- Benchmarks
- Arrangement Breakdown
- Kept percentages

Debt – Arrangements button

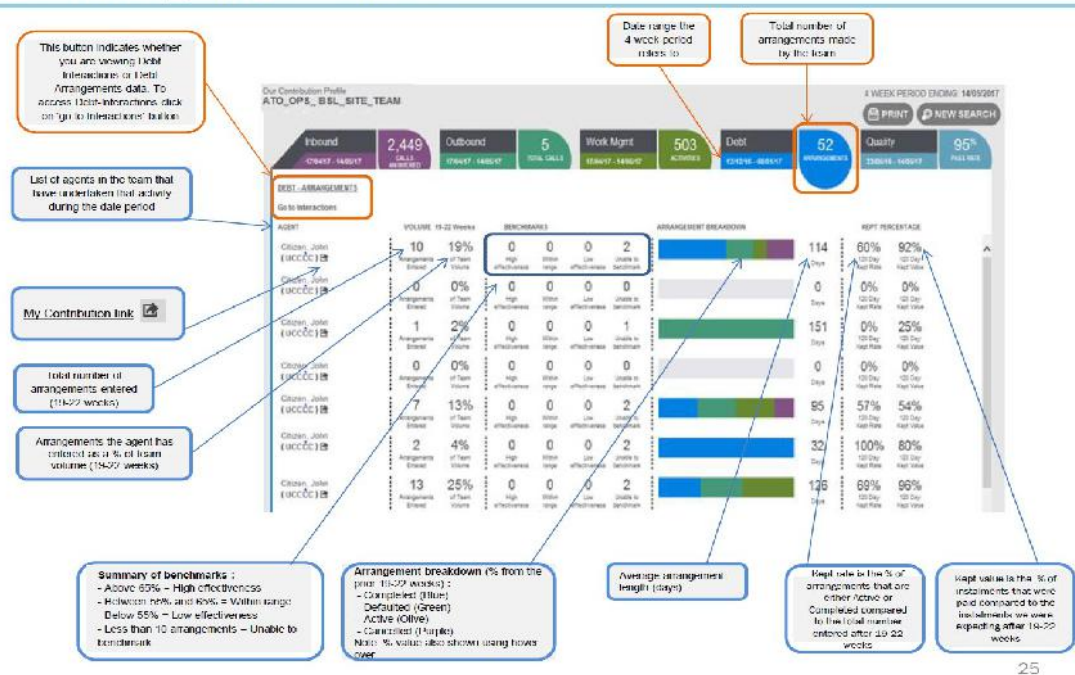
The **My Contribution** link located beside the username of each agent. Clicking this link will take you to the My Contribution home page for that agent.

Note: The next page highlights the key sections for you



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Source: ATO, Service Delivery Coaching Technology User Guide: Our Contribution – Service Delivery Coaching (2018).

Figure A16.2: Example of EI unit team leader view of the Our Contribution tool – (continued)**Debt Arrangements – Team view****Debt Arrangements – Agent breakdown**

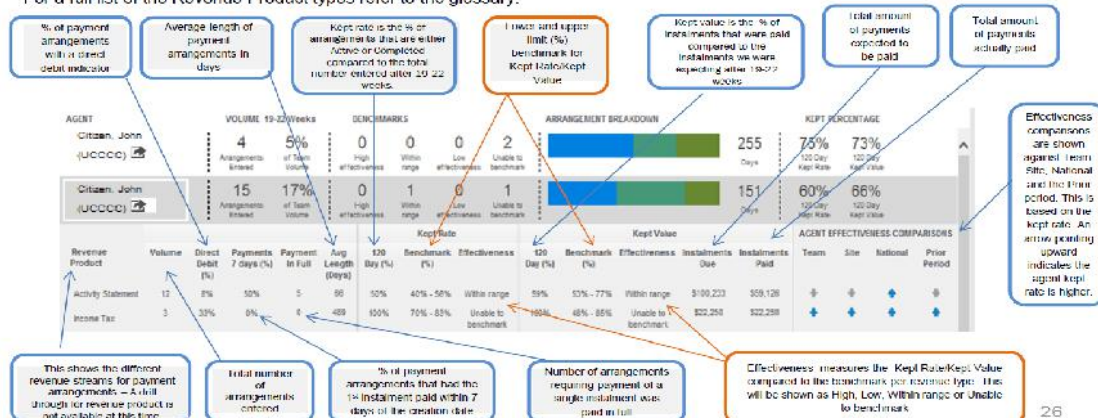
When an agent's row is clicked a drop down will open showing a breakdown of the total figures by revenue product.

Tip: When you hover over an agent's name the row turns grey with the cursor becoming a hand symbol. You click the row to show the drop down data. To go back click on the agent's row again.

The drop down data is broken up into 9 different sections:

- Revenue Product
- Volume
- Direct Debit (%)
- Payment 7 days (%)
- Payment in full
- Avg Length (days)
- Kept Rate:
 - 120 Day (%)
 - Benchmark
 - Effectiveness
 - Instalments Due
 - Instalments Paid
- Kept Value:
 - 120 Day (%)
 - Benchmark
 - Effectiveness
 - Instalments Due
 - Instalments Paid
- Effectiveness Comparisons

For a full list of the Revenue Product types refer to the glossary.



Source: ATO, Service Delivery Coaching Technology User Guide: Our Contribution – Service Delivery Coaching (2018).

APPENDIX 17—STRATEGIC CONTEXT CASE STUDIES DOCUMENT

A17.1 The following case studies⁴²⁶ document was provided by the national S&I unit to EI team leaders and coaches in all sites during the 2016–17 financial year along with the *enduring* garnishee strategic context document and talk sheet in Appendix 7.



Case studies – enduring garnishee

What you need to know

- Case study 1
- Case study 2

Find out more

- PS LA 2011/6 - Risk management in the enforcement of lodgment obligations and debt collection activities
- PSLA 2011/12 - Remission of General Interest Charge
- PS LA 2011/14 - General debt collection powers and principles
- PS LA 2011/16 - Insolvency - collection, recovery and enforcement issues for entities under external administration
- PS LA 2011/17 - Debt relief
- PS LA 2011/18 - Enforcement measures used for the collection and recovery of tax-related liabilities and other amounts
- SMART Procedures
- Debt Case Leadership
- Guidelines for Effective Case Management

Case study 1

⁴²⁶ ATO, 'Case studies – enduring garnishee' (Internal ATO document, undated).

A client has an Income tax debt of \$27,000.00 and all lodgments are up to date.

A debt officer has attempted to contact the client verbally on two occasions to negotiate payment of the debt. The client has not returned the calls.

A Firmer Action warning letter was issued 6 weeks earlier and no response has been received.

As every reasonable effort has been made to contact the client and they appear to be disengaged from negotiations, the issue of a garnishee would be reasonable in these circumstances.

Within the Garnishee details tab in RAPT you identify the client:

- has a payment summary which shows he receives a salary or wage totalling \$93,000pa, and
- earned interest income totalling \$37 from the ANZ financial institution.

Which garnishee source would you target?

Have you considered the effectiveness in regard to payment of the debt, the client's likelihood to reengage and any implications of issuing a garnishee to each of the above sources?

Interest income from ANZ

As the client is only receiving a small amount of interest, it is unlikely that he has substantial funds held within his financial institution accounts.

An enduring garnishee may prompt the client to re-engage into payment negotiations however, the client would be prevented from accessing his accounts. This would significantly impact his ability to meet basic living expenses and may cause serious financial hardship.

Salary and wage

If you were to issue a garnishee notice to his employer at a rate of 10% of his gross wage, you would secure an ongoing flow of income. This approach also reinforces the withholding relationship and may prompt the client to consider if he is having sufficient tax withheld from his salary in order to prevent future debts.

You will see from the above considerations that a garnishee to the client's employer emerges as the most effective option to recover the debt with the least adverse implications.

Case study 2

A sole trader in the building and construction industry has an activity statement debt of \$53,000.00 and two outstanding quarterly activity statements.

A debt officer had contacted the client two months earlier and they requested time to prepare a payment proposal and to lodge the outstanding activity statements. The client was provided verbal legal warnings and was asked to respond within 5 days.

The client subsequently failed to respond with a payment proposed or lodgment. A debt officer has since tried to contact the client to negotiate payment of the debt, however the client has not responded to the call.

As a reasonable effort has been made to contact the client and they appear to have disengaged from negotiations, the issue of a garnishee would be reasonable in these circumstances.

Within the Garnishee details tab in RAPT you identify the client:

- is a contractor who received income which was reported through Taxable Payment Annual Reporting (TPAR) data totalling \$398,556, and
- has a merchant facility with the Westpac financial institution (total net sales \$21,000).

Which garnishee source would you target?

Have you considered the effectiveness in regard to payment of the debt, the client's likelihood to reengage and any implications of issuing a garnishee to each of the above sources?

Taxable Payment Annual Reporting (TPAR)

If you were to issue a garnishee notice at a rate of 15% to the business that pays the client for his contractor services, you would secure an ongoing flow of income. The client would be able to continue to trade, albeit on a tighter budget, and would be prompted to re-engage to negotiate payment of the debt (if he would like the garnishee withdrawn).

Merchant facility

Based on the total net sales of \$21,000, it would appear that the client receives a small income from credit and debit card payments. If you were to issue a garnishee notice at rate of 15% to the merchant facility, the likelihood of return would be minimal in comparison to the potential return from his contracting services.

You will see from the above considerations that a garnishee on the client's TPAR data emerges as the most effective option.

APPENDIX 18—ATO RESPONSE



Australian Government
Australian Taxation Office

Mr Andrew McLoughlin
Avg Inspector-General of Taxation & Taxation Ombudsman
GPO Box 551
SYDNEY NSW 2001

Dear Andrew

Review into the ATO's use of garnishee notices

Thank you for the opportunity to comment on your final draft of your report on the review into the ATO's use of garnishee notices.

As the report recognises, the allegations made in the ABC 4 Corners program regarding the ATO's use of garnishee notices as a tool to meet revenue targets are without merit. We appreciate your acknowledgement that no evidence was found of ATO management directing staff to issue standard garnishee notices as a 'cash grab' towards the end of the 2016-17 financial year; nor is there any evidence that we set targets and assessed staff performance based on the level of debt collected. We further appreciate your acknowledgement that ATO staff were found to have used their judgement appropriately in issuing garnishee notices.

More specifically, your review has provided the opportunity to look at improvements to help refine:

- our existing debt collection procedures
- our related planning and case selection
- our communications with staff and the community
- the support we offer to our debt collection staff.

As such we agree with all of the report's recommendations and believe they offer the ATO an opportunity to improve on the good work we are already doing in this space. We believe these improvements will help build understanding and community confidence in our processes. Our detailed response to the recommendations is contained in Annexure 1.

We consider it is important to make some observations relating to the communication sent to internal staff which allegedly directed staff to issue a certain amount of garnishee notices in an hour. As acknowledged by the IGTO it was clear that this communication was simply made in jest and reflective of the author's particular tongue-in-cheek communication style. As such it was improbable that any staff member would have taken the communication seriously especially considering the impossible targets it referenced.

Finally, I would like to acknowledge the efforts of all involved in undertaking this review.

If you require further information on our response, please contact [REDACTED]

Yours sincerely

Chris Jordan AO
Commissioner
Australian Taxation Office
11 March 2019

[To minimise space, the annexure to the ATO's response has not been reproduced here, but has been inserted into the text of this report underneath each of the recommendations to which that text relates.]

SHORTENED FORMS

ABC	Australian Broadcasting Corporation
AHT	average handling time
AIS	ATO Integrated System
ANAO	Australian National Audit Office
APS 6	Australian Public Service Level 6
APS 6 Leadership Forum	See Appendix 6 and paragraphs 2.193
ASFP	Activity Statement Financial Processing
ATO	Australian Taxation Office
Broadcast communications	See para 2.199
Bucket based approach	See paragraph 2.170
Bulk FAWL process	See paragraph 2.63
Bulk note process	See paragraph 2.137
Collectable debt ratio KPI	See paragraph 2.21
Commissioner	Commissioner of Taxation
CRF	Consolidated Revenue Fund
DBL	Debt business line
Debt People First project	See paragraph 2.188
Disputed debts	See paragraph 2.9
DL6	Debt Level 6, see paragraph 2.45
DPN	Director Penalty Notice
EI	Early Intervention
EI operational efficiency review	See paragraph 2.151
EL	Executive Level
EWM	Enterprise Workforce Management

FAWL	Firmer Action Warning Letter
Financial and collection systems changes	See paragraph 2.36
Frontline staff	See paragraph 2.193
FTE	full-time equivalent
Garnishee source note	See paragraphs 2.298 and 2.299
ICP	Integrated Core Processing
HRSC&R	House of Representatives Standing Committee on Tax and Revenue
IGTO	Inspector-General of Taxation and Taxation Ombudsman
IWD	Intelligent Workload Distribution
IT	information technology
KPI	key performance indicator
Major ATO IT systems outages	See paragraphs 2.49 to 2.53
NBA	Next Best Action
PFA	Purposeful First Action
PIT	Point-in-time
RAPT	Risk Assessment Profiling Tool
RMS	Receivables Management System
S&I	Strategy and Implementation
SD	Service Delivery
SDM	Significant Debt Management
SES	Senior Executive Service
Strategic context document	See paragraphs 2.201
UMG	Upper Mount Gravatt
WFM	Workforce Management

IGTO



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