



Commonwealth Ombudsman/ACT Ombudsman
Inspector-General of Taxation and Taxation Ombudsman

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How to tell people they owe the government money

Best practice principles for notifying people about debts

Introduction

Being told you owe the government money can be a worrying, traumatic, confusing, frustrating and stressful experience. It can negatively affect peoples' wellbeing. The impact of being told you owe the government a debt can be increased if the debt is unknown, it's old, it's unexpected, or if there is limited information about the reasons for the debt, who to contact for more information or how to challenge the debt.

Agencies must act (and are expected to act) in accordance with the law. They are also obliged to help people and act in the best interests of the Australian community. While the law may require agencies to take certain action, agencies are also responsible for determining how they take that action in a way that minimises distress to affected and impacted people.

Over many years, the Commonwealth Ombudsman (the Ombudsman), Inspector-General of Taxation/Taxation Ombudsman (IGTO) and other oversight agencies have made observations and recommendations on best practices for telling people they have a debt to repay and working with them to arrange repayment of the debt. While time may pass, the general principles remain valid. Agencies should reflect on past lessons to continuously improve their engagement with the Australian community.

During the COVID-19 pandemic, some agencies paused debt collection activities as part of the Government's response to the pandemic. As agencies have now recommenced debt collection activities, it is timely to set out best practice principles for re-raising and notifying people about older debts that have been 'written off' or 'paused'. These principles are drawn from our observations and experience overseeing government agencies' administrative practices. Some of the case studies in this paper do not necessarily relate to debts however they illustrate how some of the principles can be applied in practice.

We encourage agencies to share these principles with staff and consider how they can be applied when raising and collecting debts.



be
accountable



explain
your actions



provide
information



be
accessible



learn
and improve

1. Be transparent and accountable

Being transparent and accountable helps build and maintain public trust and confidence in the agency and its purpose.

How do you do it?

- Start communication on the right foot! If a debt is the result of a human or system error, directly acknowledge the mistake and apologise for it.
- Explain the action taken to rectify the error and any steps being taken to prevent it happening again.
- Ensure verbal and written communication is simple, timely and clearly explains reasons for actions and decisions affecting the individual.



You can find helpful tips for delivering an effective apology in this [factsheet](#).

Case study

In 2023, the Australian Financial and Securities Authority (AFSA) identified its administrative practices had not been consistent with the legislation for 30 years.

While the legislation was amended to retrospectively validate the agency's practices, after seeking views from the Ombudsman about its approach to notifying affected people, AFSA updated its [website](#) with information about the change, acknowledged the complex and challenging circumstances people experience when filing for bankruptcy and apologised for any additional stress caused by the matter.

2. Tell people what the debt is and where it comes from

Think about the person you are communicating with.

How do you do it?

- Provide clear information about:
 - **What the debt is:** Provide a breakdown of the debt and how it is calculated – including interest, indexation, charges or penalties. Make sure calculations are accurate!
 - **Where the debt came from:** Explain why the debt exists and why the agency is required to collect it. If someone has been told the debt was ‘written off’, explain why it has now been re-raised.
- Personalise communication with information specific to the person’s debt. Avoid sending bulk generic communications and information that is not relevant to the person – it is confusing!
- Identify if your audience includes people with vulnerabilities or disabilities and tailor your communication appropriately.
- Use accessible language in all written and verbal communication – think about whether you are using plain English and provide translations to languages other than English.

Case study

In 2009, an Ombudsman [report](#) made specific detailed recommendations on how the Australian Taxation Office (ATO) should improve its communication with taxpayers about decisions to write-off or re-activate old debts. The ATO’s practice of not offsetting very small tax debts was found to be incorrect following an [Australian National Audit Office](#) audit in 2023. The ATO sent around 200,000 letters advising people they owed tax debts, ranging from a few cents to thousands of dollars. At the time, ATO systems did not display taxpayer debts which had been “written off” – deemed uneconomical to pursue. People reported the letters did not explain how or when debts were incurred, causing concern and confusion about their validity. The age of some debts made it difficult to verify or indeed challenge them, as people no longer held relevant records. In response to community concerns, the ATO stopped sending the debt letters and [undertook](#) to review its approach to communicating with people.

It is disappointing this occurred. Such issues may have been mitigated if the ATO had regard to the lessons previously learnt – including recommendations in the 2009 report, feedback from tax professionals and recommendations in a number of IGTO reports about [undisputed tax debts](#) and [taxpayer rights to complain, review and appeal](#). Agencies should have regard to current and past observations and recommendations of oversight bodies. Don’t just re-commit past failings! The community is entitled to expect agencies have a corporate memory.

3. Provide clear information for requesting review, debt waivers and repayment arrangements

Tell people about rights to seek review and waiver, enter arrangements to pay over time and ensure they have access to sufficient information to fully participate in the process.

How do you do it?

- Have a process for people to request a review, request a waiver of the debt (where possible) and enter arrangements to pay over time.
- Provide clear information about requesting:
 - review of the decision to re-raise the debt
 - waiver of the debt owing including where someone may be experiencing serious financial hardship
 - waiver or remission of interest and/or penalties accrued, particularly if the debt was temporarily written off or paused
 - entering into an arrangement to repay over time via instalments or a payment arrangement.

Case study

In 2022, an IT system update resulted in the unexpected transfer of thousands of historic student debts from the Department of Employment and Workplace Relations (the department) to the ATO. Further debts were identified as “stuck” in the IT system which were then transferred to the ATO. Thousands of people with study loans between 2009 and 2022 were impacted. Government decided to waive historical indexation and some of the oldest debts. However, many debts remain payable with indexation applying at today's (higher) rates, potentially causing financial disadvantage to some people.

The Ombudsman suggested the department apologise and help people access financial remedies where appropriate. Disappointingly, the department did not apologise and its [website](#) provides only very limited information about financial remedies for individuals. It's important agencies assist individuals to access fair remedies.

- Proactively help people access information they need to seek review or waiver. For older debts, it is reasonable to expect that people may no longer hold documents needed to initiate or participate in a review or waiver process. Keep in mind that any required period for people to retain relevant documents may have elapsed or that records may not have been retained where there was no visibility of the debt (and therefore the need to retain such records).
- Actively turn your mind to whether individual circumstances justify proactively waiving the debt, accumulated interest or penalties on old debts. Help individuals understand where they can access such assistance. This may include situations where pursuing the debt would be unfair, for example where the person was not made aware of the old debt or that it was accruing interest and/or penalties.

Case study

In a recent IGTO investigation, the complainant asked the Commissioner to exercise his discretion to refund the complainant's 2023 tax refund instead of offsetting against his tax debt. The complainant was in urgent need of his refund to prevent an immediate risk of homelessness, which he had provided evidence of.

The complainant's original request was denied. The ATO advised that it was too late. This was because he entered into a payment arrangement after his 2023 income tax credit had been posted to his account (the complainant had called to enter a payment arrangement the day after lodging). The complainant was provided with this advice on at least seven separate occasions by the ATO.

During the IGTO investigation, the ATO provided the IGTO with internal ATO (OPAL) advice that was contrary to their original decision. The advice confirmed the Commissioner's discretion to refund instead of offsetting is available if a complying payment arrangement is entered into before the credit crystallises - when the Notice of Assessment is issued. OPAL also clarified that it is not necessary for a payment to have been made under the payment arrangement for it to be considered compliant.

Despite the OPAL advice, the deciding officers re-considered the complainant's request and maintained their position, in part, on the basis that the complainant had a history of compliance issues. The facts show the complainant had one adverse audit, and the ATO was aware the complainant intended to object to this outcome when they were in a financial position to do so.

The ATO had confirmed on two occasions that the complainant's circumstances fell under serious financial hardship. The deciding officers denied the request by placing great weight on one compliance issue and the resulting advantage compared to compliant taxpayers, but only gave a brief reference to the demonstrated hardship claim that masked the serious and immediate risk of homelessness that would ultimately result.

Following urgent discussions between the IGTO and senior ATO officers, the ATO reversed their decision, and the complainant has since been provided his refund.

4. Provide contacts for people to find out more information

While clear and tailored communication from the beginning goes a long way, there will always be circumstances where people have additional questions, require more information or just need to speak to a person about their situation.

How do you do it?

- Offer multiple avenues through which people can find information and ask questions.
- Provide clear information on your website that is easy to locate and regularly reviewed for accuracy and currency – this should include information about applying for review and waivers, and how to make a complaint.
- Clearly advertise, both publicly and in direct communications, how the person can contact you to ask questions (i.e. agency contact number and email address) – depending on the scale of the debt recovery action, it may be appropriate to set up dedicated phone lines and email addresses.

Case study

In the report [How do you tell someone they have to move?](#), the ACT Ombudsman found a lack of key information online to provide tenants with transparency regarding Housing ACT's Growing and Renewing Public Housing Program, including no specific contact details for the program and no specific information about the exemptions process. Information that was available on Housing ACT's website was difficult to locate and search for.

The ACT Ombudsman made recommendations to Housing ACT to update website content to ensure information is easy to locate, review and update information for accuracy and currency, and publish information about the exemption process.

Agencies should proactively apply lessons learnt from recommendations oversight bodies make to other agencies.

5. Learn and improve

Undertaking a process such as recovery of old debts is a valuable opportunity to identify lessons learnt and implement changes to improve future practices.

How do you do it?

- Use information from complaints received, staff experiences and internal evaluations to improve your approach to managing debt raising, notification and collection activities.
- From our observations and experiences, some lessons are already apparent. As a starting point you should:
 - o ensure any decision not to collect a debt is clearly explained, including where it doesn't mean the debt can't be re-raised for future collection
 - o wherever possible, seek to provide finality to the decision-making process (i.e. waive the debt permanently in the beginning so it cannot be re-raised later)
 - o use clear and commonly understood language in communications
 - o be fair and consistent in your approach
 - o make sure agency business rules for deciding not to pursue debts are consistent with legislative provisions and are regularly reviewed to reflect any legislative or system changes, and
 - o if you identify the application of legislation results in unfair outcomes or unintended consequences, consider whether it is appropriate to pursue legislative change.

Case study

In late 2023, the [media reported](#) an error in the Department of Veterans' Affairs (DVA) systems resulted in debt notices being sent to some veterans over the age of 90. DVA apologised for the error, explaining that while it has a long standing business rule which excludes veterans over the age of 90, the debt notices were sent after transitioning to a new computer system.

Agencies should ensure their business rules are reviewed following legislative and/or system changes.

For more information visit [ombudsman.gov.au](https://www.ombudsman.gov.au) or call 1300 362 072.

For all tax specific information visit [igt.gov.au](https://www.igt.gov.au).