Australian Council of Social Service

Submission to Department of Employment and Workplace Relations - Digital Protections Framework Consultation

02/10/2026

About ACOSS

The Australian Council of Social Service (ACOSS) is a national voice in support of people affected by poverty, disadvantage and inequality and the peak body for the community services and civil society sector.

ACOSS consists of a network of approximately 4000 organisations and individuals across Australia in metropolitan, regional and remote areas.

Our vision is an end to poverty in all its forms; economies that are fair, sustainable and resilient; and communities that are just, peaceful and inclusive.

Summary

In this submission, ACOSS raises serious concerns about the Government's approach to the requirement to establish a Digital Protections Framework in employment services. We call on the Department to abandon this most recently released draft Digital Protections Framework and revert to the previous 2023 draft circulated to stakeholders as a starting point. The 2023 draft was informed by stakeholder input and offers a stronger platform upon which to put in place essential human rights protections for people using employment services.

We urge the Government to ensure that the Digital Protections Framework is complemented by a robust whole-of-government legislative framework which establishes strong safeguards around the use of automated decision making by government. We further set out principles around the use of technology in employment services, building upon our recent joint letter to the Attorney-General[1].

[1] ACOSS Joint Letter to the Attorney General (2026)

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Ph (02) 9310 6200 E: info@acoss.org.au
www.acoss.org.au

The Department should start from the 2023 version of the Digital Protections Framework

The *Streamlined Participation Requirements and Other Measures Act (2022)* required that a Digital Protections Framework be introduced and that it deal with natural justice, human rights protections, transparency and freedom from bias, privacy and accessibility of technological processes[2]. ACOSS initially proposed and advocated for the introduction of the Framework into the legislation as a condition of our support for the introduction of the online service system, which achieved cross party support. The intent of introducing the Framework was to provide people living in poverty with essential human rights protections from the use of technology in employment services, particularly in relation to social security decisions that affect income support payments.

Harmful failures in the operation of the social security system demonstrate a clear need for concrete safeguards and strengthen the case for a robust Digital Protections Framework. Robodebt had a tragic impact on people receiving social security payments and demonstrated the huge risks where complex social security decisions are left to digital processes and where there are not robust and enforceable protections for people living on a low income. The Robodebt Royal Commission's dedicated recommendations on automated decision-making called for a consistent legal framework in which automated systems are lawful, review pathways are clear and affected people can obtain plain-language explanations[3].

The more recent failures in the administration of the Targeted Compliance Framework further demonstrate the need for essential safeguards around automated processes and for increased transparency around how digital processes are operated by both DEWR and Services Australia. Against that history, retreating from the stronger 2023 draft provided to ACOSS - which more clearly specified what the Secretary had to consider when using technology in employment services - would be a serious mistake.

Recommendation 1

Use the previous draft of the Digital Protections Framework, provided to ACOSS in 2023, as the starting point for consultation and enhancement

The Digital Protections Framework must offer genuine additional protections for people

ACOSS calls for essential safeguards to be included within the Digital Protections Framework, beyond those included within the historic draft. Given the high risk

[2] Streamlined Participation and Other Related Measures Act (2022), Revised Explanatory Memorandum

[3] Robodebt Royal Commission - Full Report (2023)

of the use of digital processes, automation and AI in social security law, it is paramount that there are strong and adequate safeguards in place which go beyond standard protections. Protections should be rights-based and enforceable, with proactive consideration of the impact of human rights required when new processes are established and clear and transparent avenues for review and redress. Discretionary decisions, most critically those which adversely affect a person's vital income support payment, should not be automated.

We also draw the Department's attention towards our recent joint letter to the Attorney-General, developed with the Human Technology Institute (UTS) and a supported by a number of ACOSS members, regarding principles which should be incorporated into the whole of Government Automated Decision-Making framework[4].

Recommendation 2

Urgently implement a strong whole of Government automated decision-making framework, in line with the recommendation made by the Robodebt Royal Commission

Recommendation 3

Discretionary decisions, inclusive of payment suspensions, reductions and cancellations, must always be made by a human decision maker.

Decisions should be made in full possession of the facts about people's relevant circumstances and there should be an opportunity for people to provide information and evidence about their circumstances in advance of a decision being taken.

Recommendation 4

The Digital Protections should require assurance that human rights are protected when implementing new technologies in employment services.

The Digital Protections Framework should require a legal assessment of the proportionality of technological processes which engage the human rights of people using employment services and protect against human rights violations.

This should incorporate consideration of the impacts on marginalised groups.

Recommendation 5

The Digital Protections Framework should establish a clear right for people to access employment services in a non-digital manner.

[4] ACOSS Joint Letter to the Attorney General (2026)

Recommendation 6

The Digital Protections Framework should require that the Department regularly publish documentation of business processes, most critically those which are used to make adverse decisions under social security law.

Recommendation 7

The Department should establish regular meaningful engagement with experts in social security, human rights law and civil society to ensure Departmental processes treat people using the system fairly and that business processes comply with legislation and natural justice. This should include transparent sharing of business processes and Departmental guidelines.

Recommendation 8

The Digital Protections Framework should address the use of AI in employment services and set out specific safeguards around its use by providers and Government.

Protections for people affected by the use of AI should align with the principles set out in our 2024 ACOSS submission.

Discussion

People using employment services require strong protections

Strong rights protections for people using employment services are required due to the fundamental power imbalance in the administration of social security and the level of financial and psychological distress amongst people living on income support payments.

The social security system and employment services are increasingly complex from the perspective of a person who needs to access support. The person must navigate across different Government systems and actors, often engaging with both Services Australia and private employment service providers. They are pressured very quickly into signing job plans which set out their compulsory requirements, given as little as two days to negotiate and agree a plan before penalties start to apply against their income support payment. The system operates on a hair trigger, with immediate action taken against perceived infractions through payment suspensions, which are often enacted inappropriately and without appropriate human oversight. At the sharpest end, people have their income support payments removed for four weeks at a time, removing a vital lifeline from people who in many cases are facing structural barriers to participation in the labour market.

Government policy actively erodes people's capacity to engage with employment services and take steps towards paid work. For decades, successive

governments have kept unemployment payments in Australia below all accepted measures of adequacy – JobSeeker now sits at just 41% of the minimum wage, and Youth Allowance is even worse at 34%. People receiving income support in Australia are likely to eat poorly and lack medical care or social support because they do not have enough money. In our recent Raise the Rate Survey, the overwhelming majority of people receiving income support payments reported that they were socially isolated, with some describing the deep shame and stigma they felt due to living in poverty[5].

Recent data released by the Australian Institute of Health and Welfare found that people receiving unemployment payments had a mortality rate four times the broader working age population[6]. The mortality rate for people receiving unemployment payments has been steadily increasing since 2012, rising by 47%; a trend not seen among other populations. This demonstrates the desperate state of many people locked out of paid work, receiving unemployment payments.

It is in the context of these structural policy failures that the Digital Protections Framework should be placed. People using employment services are living on poverty level payments and are often facing wider challenges that erode their capacity to navigate these systems and advocate for themselves. That is why strong protections are urgent and vital, to protect people from harsh and unfair decisions and uphold the right to social security in Australia.

The Department should start from the 2023 version of the Digital Protections Framework

The Requirement to introduce a Digital Protections Framework was legislated as part of the Streamlined Participation and Other Related Measures Act (SPROM) Act in 2022. The bill was introduced to enable the introduction of the online service in Workforce Australia, and the signing of a Job Plan digitally.

ACOSS supported introduction of the online service system conditional on the insertion of a requirement for the Secretary to develop a Digital Protections Framework. The intent of this provision was to offer protections when technology was used in employment services which were above the level offered by already existing legislation, such as the *1998 Privacy Act.*

The Digital Protections Framework is required in legislation to deal with:

- natural justice;
- human rights protections;
- transparency and freedom from bias;
- privacy; and

[5] ACOSS Raise the Rate Survey 2026

[6] Mortality outcomes among people receiving income support, AIHW (2026)

- Accessibility.

Critical processes, like the signing and amending of job plans and penalties within the Targeted Compliance Framework, must comply with this framework.

In 2022 and 2023 the Department of Employment and Workplace Relations engaged with ACOSS and other civil society groups in the development of a draft Digital Protections Framework to give effect to its legislative obligation. Whilst not perfect, this framework contained specific actions that the Secretary was required to take and offered some accountability in law. The Department was close to implementing this previous draft in 2023, but the framework was not tabled in Parliament. The Commonwealth Ombudsman was highly critical of the Department's delay in introducing this framework, in their report into automation within the Targeted Compliance Framework[7]. ACOSS, having engaged in good faith on the previous draft framework, is deeply concerned that after three years and noted scandals involving the use of technology in employment services, the Government has released a new draft that strips out protections for people.

This draft framework is a substantial and disappointing retreat from the previous draft. This new framework offers few binding requirements on the Secretary, largely requiring the Secretary merely to 'promote' many of the principles set out in the legislation (e.g. human rights, privacy). As defined in the Explanatory Memorandum, this does not place a robust requirement on the Employment Secretary to take action to protect people and therefore provides little opportunity to hold technological processes and decision makers to account.

In some cases, most acutely in the privacy section, this framework simply requires the Secretary to promote adherence with existing legislation. This fails to meet the policy intent of the framework, to provide people using employment services with additional protections.

Recommendation 1

Use the previous draft of the Digital Protections Framework, provided to ACOSS in 2023, as the starting point for consultation and enhancement

Principles for the use of technology in employment services

Discretionary decisions must not be automated

Within the Social Security Administration Act and the operation of the Targeted Compliance Framework, there are many discretionary decisions that adversely affect people using employment services. The most important of these are

[7] Automation in the Targeted Compliance Framework, Commonwealth Ombudsman (2025)

decisions which affect people's income support payments, including payment suspensions, reductions and cancellations.

Payment suspensions are enacted at an inappropriately large volume against people. Many of these suspensions are enacted entirely automatically by the online system. In the case of people in the penalty zone, suspensions are enacted immediately without any resolution time, as highlighted by the Commonwealth Ombudsman in his 2025 report[8]. Provider suspensions are enacted purely on the recommendation of a private employment service provider, with no input from decision makers in Services Australia.

Automated elements of these decisions have already led to wrongful decisions under the Targeted Compliance Framework, with many people having their income payments reduced or cancelled unlawfully. This highlights the risk of automation of decisions which require balancing and careful consideration of a person's circumstances.

The Digital Protections Framework should also provide for enhanced opportunity and accessibility for review of decisions, including those which are not decisions under social security law. This should include the application of demerit points and decisions to move a person between the different zones in the Targeted Compliance Framework.

Our view is that discretionary decisions, particularly those which have adverse impacts, must not be automated and must always be made by a human decision maker. This principle is well-understood: several Government authorities including the Commonwealth Ombudsman and the Australian Human Rights Commission have cautioned against automating discretionary decisions[9]. This also aligns with the principles outlined in our joint letter to the Attorney-General regarding the whole of Government automated decision making framework, which was developed with the Human Technology Institute (UTS) and supported by a number of ACOSS members.

Recommendation 2

Urgently implement a strong whole of Government automated decision-making framework, in line with the recommendation made by the Robodebt Royal Commission

Recommendation 3

Discretionary decisions, inclusive of payment suspensions, reductions and cancellations, must always be made by a human decision maker.

Decisions should be made in full possession of the facts about people's relevant circumstances and there should be an opportunity for people to provide

[8] Fairness in the Targeted Compliance Framework, Commonwealth Ombudsman (2025)

[9] Automated Decision Making – Better Practice Guide, Commonwealth Ombudsman (2026)

Human Rights and Technology, Australian Human Rights Commission (2021)

information and evidence about their circumstances in advance of a decision being taken.

Strong rights-based protections should be embedded

Employment services engage the right to social security and the right to work, amongst other human rights. Rights issues also arise by virtue of the over-representation of disadvantaged and marginalised communities, most prominently including people with a disability and First Nations people, compelled to engage with the employment services system.

Our recent review of Mutual Obligation outlined our view that conditionality in social security is incompatible with Australia's human rights obligations under the International Covenant of Social, Economic and Cultural Rights (ICESR)[10]. ACOSS followed the analysis that CESR itself conducts when assessing whether states have upheld the right to social security, assessing the proportionality of the current penalties under the Targeted Compliance Framework. Our analysis found that the present regime of suspensions and payment cancellations should be considered disproportionate for the purposes of international human rights law, given penalties encompass 100% of the income support payment and no additional provision is made within the system to address financial hardship.

The Parliamentary Joint Committee on Human Rights, when considering the Welfare Reform Bill which introduced the Targeted Compliance Framework, found that some actions under the Targeted Compliance Framework are likely incompatible with the right to social security[11]. That these measures went forward unamended is cause for great concern and demonstrates the need for additional human rights safeguards within legislation.

The Deloitte Assurance review identified that *'complex cases'* were the most likely to be adversely impacted by the automation of key decisions. This reinforces the need for the Digital Protections Framework to consider the impact of digital processes on marginalised groups and those facing additional barriers to paid work, and for there to binding obligations on the Secretary to do so.

The Digital Protections framework is intended to cover the full range of employment services programs delivered in Australia, including Inclusive Employment Australia and the Remote Employment Service. Therefore, it is vital that the unique impacts of technology in those other services be given consideration.

The impact of technological processes on human rights should be required to be assessed via whether the intended process serves a legitimate aim and whether it is a proportionate action, following established legal analysis in international

[10] ACOSS Mutual Obligation Policy Position Paper (2026)

[11] Report 11 - Human rights scrutiny report, Parliamentary Joint Committee on Human Rights (2017)

human rights law. Under these conditions, it is our view that the present policy settings would be found to incompatible with the right to social security.

Recommendation 4

The Digital Protections should require assurance that human rights are protected when implementing new technologies in employment services.

The Digital Protections Framework should require a legal assessment of the proportionality of technological processes which engage the human rights of people using employment services and protect against human rights violations.

This should incorporate consideration of the impacts on marginalised groups.

People must always have an alternative to digital processes

Whilst the use of technology can be beneficial and help people to better engage with services, it should never be the only way for people to engage with services. People living on income support payments will often have limited access to the internet or mobile phone use. They may experience challenges engaging with Government services and may have had previous negative experiences in engaging with employment services and Services Australia.

The draft 2026 instrument only charges the Secretary to offer a choice about technological processes, if any, 'where appropriate'. There is no further explanation in the Explanatory Memorandum in what circumstances it may be appropriate to offer a person choice or alternatives over the use of digital processes.

Recommendation 5

The Digital Protections Framework should establish a clear right for people to access employment services in a non-digital manner.

Digital Processes should be transparent and accessible

A clear issue with the use of technology in employment services is the lack of transparency around where processes like automation are being used and public scrutiny of algorithms and business rules. Recent issues in the operation of the Targeted Compliance Framework, specifically related to the use of I.T systems, demonstrate the importance of ensuring that processes are both understood by people using services and available for scrutiny by the broader community.

The Commonwealth Ombudsman in his 2025 report into the Targeted Compliance Framework, found that there was a lack of understanding in Government Departments as to how social security law should be operationalised into Services Australia practice and business rules[12]. The Deloitte

[12] Automation in the Targeted Compliance Framework, Commonwealth Ombudsman (2025)

report into the operation of the Targeted Compliance Framework found that there was an absence of documentation of business processes, and that it was therefore unable to validate business rules against legislative requirements. These two reports suggest a need for a higher level of transparency around how operational processes are implementing social security law.

We recognise the draft instrument included a provision in paragraph 5(g) which charges the Secretary to promote '*reporting on how the Employment Secretary's use of technological processes…. complies with this Part*'. The explanatory memorandum also states that it is intended to that there will be a Monitoring and Reporting Register, which is intended to ensure decisions are effective and meet legislative requirements. No further detail is given on this register, including the specific information it should contain and whether the Register will be made public.

In our view, this is an insufficient mechanism to enable scrutiny of digital processes.

Recommendation 6

The Digital Protections Framework should require that the Department regularly publish documentation of business processes, most critically those which are used to make adverse decisions under social security law.

Recommendation 7

The Department should establish meaningful engagement with experts in social security, human rights law and civil society to ensure Departmental processes treat people using the system fairly and that business processes comply with legislation and natural justice. This should include transparent sharing of business processes and Departmental guidelines.

The Framework should incorporate explicit protections where AI is used

The potential use of Artificial Intelligence in Employment Services, whilst providing opportunity to improve services, carries substantial and growing risk for people using employment services. This risk is most acute where AI is used in decisions involving people's social security rights.

ACOSS is currently unaware of the extent that artificial intelligence (as distinct from automated decisions) is presently being utilised in the delivery of employment services. We therefore see this framework as an opportunity to ensure safeguards are in place for people largely in advance of implementation, and that any new systems established are charged with proactive consideration of human rights and procedural fairness.

ACOSS has previously set out principles in our 2024 submission to Senate Select Committee on Adopting Artificial Intelligence[13], which included recommendations to ensure that AI is designed with people directly affected, that it is implemented fairly, that adverse decisions are made by humans, and that there is accountability and that any harms are redressed.

Recommendation 8

The Digital Protections Framework should address the use of AI in employment services and set out specific safeguards around its use by providers and Government.

Protections for people affected by the use of AI should align with the principles set out in our 2024 ACOSS submission.

Contact

John Stainsby
Senior Advisor
john@acoss.org.au | 0400 900 054

[13] ACOSS Submission to the Senate Select Committee on Adopting Artificial Intelligence (2024)