

18 July 2025

By email only: VulnerabilityConsultation@ato.gov.au

Mr Rob Thomson
Assistant Commissioner
Australian Taxation Office

Dear Rob,

Consultation paper – ATO draft Vulnerability Framework

The Tax Ombudsman welcomes the opportunity to provide feedback on the ATO's draft Vulnerability Framework. We have been aware of the ATO's work in this area over the past year and have had the benefit of early insights and briefings as the framework has been developed.

At the outset, we commend the ATO on undertaking this significant and important body of work. Through our complaint handling function, we are aware of many instances where taxpayers have disengaged or faced difficulties meeting their tax obligations because they were experiencing vulnerabilities. In some of those instances the ATO's response to those taxpayers has not sufficiently recognised their vulnerability. That is why this Framework and the subsequent implementation of its principles into practice is essential.

We also recognise that the ATO is constrained in its flexibility to remove or adjust taxpayers' obligations. The Framework needs to work within existing legislation. However, we would encourage the ATO to ensure it is making full use of the statutory discretions conferred by Parliament. Monitoring the application of the Framework may also provide useful analysis to inform advice to Government on whether legislative change is required to meet the needs of Australians experiencing vulnerabilities within the context of tax and superannuation.

As you are aware, it is the view of the Tax Ombudsman that some legislative change should be considered by Government to address the issues in this area. We will be providing further advice to Government, including building on commitments made during the 2025 election campaign.

Guiding principles

We recognise that the framework is intended to serve as a high-level set of design and engagement principles that will guide and inform how different business areas develop products and processes. The six key principles suggested in the draft framework are sound, but we have some feedback and suggestions for additions.

Definition of equity

We suggest that the ATO reconsider or restate the definition of “equity”. In its current form, it may be read that everyone must meet their obligations regardless of their circumstances.

We believe that an alternative statement should focus on the ATO’s commitment to assisting taxpayers to meet their obligations through differential treatment, such as tailored support or adjustments to services. In our view, this is at the heart of what the framework is about — how the ATO will tailor or adjust its engagement, support, services, policies or practices (within its current powers) to meet the needs of Australians experiencing vulnerability.

Additional principles

We suggest some additional areas and principles for your consideration. It may be that you have already contemplated these to sit within the existing 6 principles and, if so, we suggest this be highlighted further.

The framework could include a principle related to information capture and information sharing across different business areas. Key to this principle would be:

- encouraging taxpayers to approach the ATO as early as possible. A consistent theme coming out of consultations in our review was the real and genuine fear that some taxpayers hold when contacting the ATO for help, particularly where there may be other tax issues at play.
- once information has been received, ensuring that it is shared amongst business areas within the ATO that need to know so that appropriate action and support can be provided, or to ensure that any further action by the ATO is appropriately considered within the context of the taxpayer’s particular circumstances.

We have provided a short case study example below to show where effective information sharing could have better informed the ATO about the taxpayer's vulnerabilities and any subsequent actions it may take.

Tax ombudsman complaint case:

The taxpayer had been subject to financial control and was excluded from any business decisions, including access to bank accounts and financial records. Upon dissolution of the marriage, the Family Court ordered that the taxpayer be indemnified against any debts, including taxation debts, arising from the business.

Several years later, the taxpayer was served with director penalty notices (DPNs) relating to their time as a director. The taxpayer lodged a defence with the ATO and provided a copy of the Family Court order. The taxpayer was advised that they are responsible for the debts and that any indemnification was a civil matter between the former directors and that the taxpayer would need to pursue their former partner for the debts. The taxpayer subsequently entered an arrangement to pay off the debt.

Notwithstanding that the taxpayer had notified the ATO of the Family Court order, a further DPN was issued.

The above case highlights the critical importance of ensuring that taxpayers feel safe and confident approaching the ATO with relevant information and that once received the ATO has processes to share the information across different business areas. We also believe it is a good example of where the ATO could have used their powers of discretion to provide relief to the taxpayer.

Effective information capture and sharing will also help to address and minimise the risk of re-traumatising taxpayers through requiring them to retell their story or present evidence of their vulnerability — sometimes across different business lines within the ATO as well as across different government agencies and through different areas within those agencies. As highlighted in our review into the *identification and management of financial abuse within the tax system*, tackling this issue of cross-agency information

sharing is not easy and may require longer term considerations across government and legislative change.

The framework references digital inclusion, which is important. However, addressing the needs of taxpayers experiencing vulnerability (notably those for whom the vulnerability is permanent) requires more than digital inclusion and requires the ATO to ensure accessibility for all, including providing alternative channels for those who cannot engage digitally (not just offering assistance to engage online). This may be an element of the equitable and fairness principle.

One final principle for the ATO to consider is the engagement of third parties and intermediaries and how the ATO will engage with intermediaries chosen by the taxpayer. When taxpayers experiencing vulnerability do not have the capacity or capability to engage with the ATO, it is a vital part of the framework that the ATO can enable an intermediary (including family, friend, community organisation, tax clinic or registered tax agent) to act on their behalf. Making that as straightforward as possible while guarding against security risks should be reflected within the framework.

Implementation of the principles

Beyond the principles, we are keen to see how they will be translated into changes in policy, procedures or practice. It will be important for the ATO to be able to demonstrate what will be different in the experience and outcomes for taxpayers as a result of this framework. At present that is not clear.

For the average taxpayer experiencing vulnerability, the question will invariably be, “what will be different when I contact the ATO?”

We understand that different business areas within the ATO will have responsibility for implementing the framework principles into the design of their services, products and processes. That creates a risk of inconsistent application of the framework or different interpretations of the framework principles because they are pitched at a high level.

We expect there may be a further level of detail prescribed centrally within the ATO to guide implementation by different business areas.

It is not clear from the framework how the ATO intends to monitor the different implementations to ensure that they align with the framework principles.

Until the framework is firmly embedded within the ATO, it will be important for the ATO to have centralised line of sight on different products and processes that are being developed in line with the framework. We expect that during the early implementation phase, there will likely be questions and need for guidance to ensure that products and processes comply with the principles.

As such, we believe there would be benefit in the ATO establishing a process to monitor and advise business areas on compliance. The ATO may wish to consider options such as establishing a centralised team to oversee and advise on the framework, or create a network of “champions” across the ATO to promote, reinforce and advise on the framework. This is connected with our commentary below regarding structures for measuring success and continuous improvement.

Law design and legislative change

We recognise that as an administrator, the ATO must act in accordance with the law and although the ATO does not lead the tax policy and law design function, it is nonetheless a significant contributor to that process.

As administrator, the ATO has a wealth of information and data that would inform the design of new laws to ensure they are able to be administered efficiently and effectively. Under its “design” core focus area, the ATO has indicated one of its areas of work to be “contributing to policy and law design, where relevant”.

We believe that this point could be brought out further to emphasise and focus on a proactive commitment from the ATO to surface and bring to Treasury’s and the government’s attention areas of tax administration that may have unintended, adverse outcomes for taxpayers experiencing vulnerabilities.

Measures of success and continuous improvement

We note the ATO’s comment that “the principles in this framework are designed to last” but how these principles are applied, will continue to evolve. It is not presently clear how regularly the ATO proposes to review the framework or how it will measure the success of the framework and resulting products and processes.

While it is likely that each business area will evaluate and measure the success of their own products and processes, it will be important for the ATO to understand whether the success of those products and processes is the result of aligning with the framework principles, whether the taxpayer experience has changed and what is different in their interaction with the ATO.

We believe there would be a benefit in the ATO designating ongoing and official responsibility for the framework to a senior executive whose team would oversee both compliance with the framework as well as continuous monitoring, engagement and evaluation of the success of the framework, at least in its early years of implementation.

We trust that this feedback is useful and look forward to engaging with the ATO as it implements the framework and the measures that will be designed by different business areas. If you have any questions about any aspects of our feedback, please feel free to reach out to me.

Kind regards



Duy Dam
Deputy Tax Ombudsman – Reviews