

Monday, 17 July 2023

Nigel Ray PSM
The Treasury
Langton Cres
PARKERS ACT 2600

By email: JobKeeperEvaluation@treasury.gov.au

Dear Nigel

Independent Evaluation of the JobKeeper Payment

Chartered Accountants Australia and New Zealand, CPA Australia and the Institute of Public Accountants (the 'Professional Accounting Bodies' or 'we') together (and with our respective affiliate bodies) represent over 350,000 professional accountants in Australia, New Zealand and around the world. Our members work in diverse roles across public practice, industry, charities, government and academia.

The [Independent Evaluation of the JobKeeper Payment](#) has wide terms of reference. Our joint submission focuses on lessons learnt from the JobKeeper Payment (JobKeeper), and responds directly to questions 1,6, 12 and 14 noting that our comments are relevant to other consultation questions. Our feedback on the evaluation questions is included in the Attachment.

JobKeeper was an important and necessary program that was conceived, designed, implemented and adjusted with unprecedented speed and resources. All involved in this extraordinary process – Government and their staff, Treasury, ATO, the public service, professional and industry associations, intermediaries such as members of the Professional Accounting Bodies, and business owners – should be commended for their co-operative attitude and tireless efforts to help support Australian businesses and their employees. Without the astonishing exertions of these people, JobKeeper would not have been a success.

Our assessment overall is that JobKeeper was an effective and well-administered program that underwent continuous monitoring and evaluation and ultimately protected Australians from the worst economic impacts of the pandemic. The Government's aim to maintain confidence, provide support to Australians and minimise unemployment guided the policy process and the ATO was able to rapidly shift from a collection-focused agency to one making transfer payments. The engagement and communication with business, the tax profession and community was ongoing and responsive, and there was a mutual understanding of the constraints and challenges of the program when decisions were made. When compared against programs in other jurisdictions, JobKeeper stands as a positive example of COVID support policy.

Part of JobKeeper's success was the ongoing engagement with business, professional and industry groups, and the tax profession at all stages of its design and implementation. The well-established and trusted stakeholder engagement processes and networks Treasury and the ATO have developed were critical to ensuring that the program settings were reasonable, the expected outcomes were realistic and that accessing the payments was as simple as possible. Our experience with Federal government consultation was overall positive and constructive, despite sustained pressure and incredibly short timeframes.

The experience has demonstrated the ability of experienced and capable government departments to work with the community in times of crisis and the value of existing trusted relationships between government and key stakeholders such as the profession that can be relied upon in times of crisis.

The key lesson from JobKeeper is the need for a holistic pre-prepared and tested disaster relief package for business and their employees. With the benefit of hindsight, many of the less-than-ideal

aspects of JobKeeper, the Cashflow Boost and state government COVID business support programs may have been avoided had the government had available a well-designed and tested ready-to-implement disaster support program for business.

We found that the Federal government and public service were better equipped to respond to the economic challenges of the pandemic than the States. We observed differences in digital infrastructure, data holdings, technical capability and policy approaches. We commend the Federal and State departments for their efforts to share data and adopt consistent design principles across jurisdictions however the pre-existing fundamental differences in legislative design, taxpayer touchpoints and digital services proved problematic. We therefore recommend that the state governments join the federal government in designing a national ready-to-deploy disaster support program for business. Ideally this would involve standardised and scalable business assistance that can be rolled out using an agreed mechanism by the ATO at the behest of either the Federal or State government, with the costs of that support being attributed to the requesting government.

Advantages of this approach include:

- greater speed and certainty in the delivery of assistance
- support can be adjusted following an agreed formula to match the severity and type of the disaster
- greater integrity due to the immense financial data available to the ATO combined with additional information held by other departments
- coherence in the selection of policy levers, definitions and access across Australia
- consistency in the design and delivery of support between states
- less strain on the public service, and tax practitioners in delivering the support, particularly to small business clients.

When designing such a ready-to-deploy assistance package, consideration should be given to how best to adjust the support to match the scale and type of disaster. A “one-size fits all approach’ will not work. The amount and type of support business needs to vary depending on the nature of the disaster, its impact and length. Factors will include industry, geographic location, turnover, employee count and structure.

While the consultation paper refers to reviews of JobKeeper by Treasury and the Australian National Audit Office, it does not refer to the reviews by the Inspector-General of Taxation and the Taxation Ombudsman (IGTO). Consideration of the IGTO reports on Jobkeeper, namely [“an investigation into the ATO’s administration of JobKeeper enrolment deferral decisions”](#) and [“a report on aspects of the Australian Taxation Office’s administration of JobKeeper and Boosting Cash Flow Payments for new businesses”](#) may aid the independent evaluation. Liaison with the current independent review of Commonwealth Disaster Funding may also be helpful.

If you have any questions on this submission, please contact Gavan Ord, Senior Manager - Business and Investment Policy at CPA Australia on gavan.ord@cpaaustralia.com.au , Susan Franks, Senior Tax Advocate at CA ANZ on susan.franks@charteredaccountantsanz.com and Tony Greco, General Manager Technical Policy at IPA on tony.greco@publicaccountants.org.au.

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ATTACHMENT

Questions are presented in order of priority according to the Professional Accounting Bodies.

Question 14 – How could the experience of JobKeeper inform future policy developments?

Many experts are predicting that pandemics like COVID are likely to occur with greater frequency in the future¹. Australia is also expected to face more regular and severe natural disasters such as droughts, floods, bushfires, and cyclones. The probability of human-made disasters such as significant cybersecurity incidents and conflict also are increasing. Government support is likely to be needed to help businesses adversely affected by such disasters.

JobKeeper had many positive elements that are useful for future policy developments. In short, it was the economic 'security blanket' Australia needed at the start of the pandemic. Its size, speed of delivery and focus on business and employees helped avert a major economic slowdown and positioned Australia for a quick rebound.

As noted in the consultation paper, using employers as the channel to make the payments to their employees kept Australia's unemployment rate significantly lower than what it could have been. It also meant that employees remained on the books of employers, facilitating a quicker recommencement to their operations. The size of the payment provided a significant boost to the economy and confidence at the time it was needed most, and it kept many businesses afloat that may have otherwise had to close. Underpinning all the above was the speed at which JobKeeper was stood-up.

The decision to allow initial eligibility for JobKeeper to be based on projected declines in turnover has raised questions about access and integrity. We were supportive of the use of projected declines in the policy design as urgent delivery of support was necessary and it was not appropriate to delay disbursement for up to three or even four months when actual turnover declines would be known. It should also be noted that the integrity measures built into JobKeeper largely worked, especially in comparison to similar programs².

The Government is currently undertaking a review of Commonwealth Disaster Funding. The Professional Accounting Bodies will make a submission to that review recommending that the government work with the state and territory governments to prepare a standard business support program for future disasters.

COVID business support payments were provided by both federal and state governments. Unfortunately, there was little co-ordination between governments, resulting in confusion, delays, constant changes, and differing levels of support across state borders. This was particularly evident in highly populated areas of the borders between states. We found that the federal government was better equipped to respond than state governments.

Businesses and advisors in those areas needed to be across multiple support schemes with often different approaches to the same issue such as calculation of turnover, whether the business owner qualified for payment and whether advisers such as accountants could apply on behalf of their clients.

There were many challenges in the design and delivery of state government COVID business support programs following the end of JobKeeper. For example, state governments

- lacked access to key financial data on businesses to ensure the integrity of their COVID assistance programs
- lacked expertise to apply the income tax and GST concepts they used in their COVID assistance packages
- did not have established communication lines to key intermediaries in the COVID assistance delivery process.

¹ [Duke University](#), [National Institutes of Health](#), [Centre for Global Development](#),

² For example, the Office of Inspector General within the US Small Business Administration (SBA) [estimates](#) that over US\$200 billion of the US\$1.2 trillion COVID business support it disbursed (the Economic Injury Disaster Loan (EIDL) and the Paycheck Protection Program (PPP)) was potentially fraudulent. NSW Police established [Strike Force Sainsbery](#) to investigate potential fraud of the NSW's governments 2021 COVID-19 micro-business grant. Service NSW was forced to pause the payment of that grant 'while anomalies in some applications were investigated'.

COVID-19 has highlighted the importance of federal/state co-operation on disaster support for business. This is needed to ensure:

- *assistance is delivered without putting unnecessary strain on both government and private sector resources.*

JobKeeper was designed and implemented incredibly quickly. All involved in this process worked extremely long hours. Approximately 16 per cent of Treasury's workforce was redeployed internally to help in this response³ and over 10,000 ATO staff were reassigned to support the six COVID economic response measures⁴.

Accountants worked incredibly hard to help their small business clients during this period. They had to learn JobKeeper's continuously changing rules and state government COVID support programs, shift to working fully online, and aid clients comply with the obligations attached to COVID support payments. Being the trusted adviser of many businesses, accountants were also expected to handle clients who were suffering significant financial, personal and mental health issues. The combination of these issues also impacted the mental wellbeing of many of our members. Having a ready-to-deploy disaster support program that is understood by advisers should reduce unnecessary workload pressures during a disaster.

- *consistent assistance is delivered quickly to those businesses in need without unnecessary compliance requirements and duplication.*

During the implementation of JobKeeper there was:

- initial uncertainty over using projected declines in turnover to decide eligibility for JobKeeper. There was concern that if reasonable projections later proved to be wrong it could result in the business having to make repayments to the ATO. The ATO later clarified that this would not be the case. A pre-prepared package that utilises up to date data could alleviate the need to rely on projections. We note that the timeliness of business reporting will continue to be enhanced through developments such as the proposed 'payday super' and ATO digital initiatives.
- confusion over the ever-changing rules and how to calculate turnover, including whether cash or accruals could be used. This could also be decided in advance if there was pre-prepared disaster assistance.
- anxiety over lodgment deadlines for JobKeeper, such as requiring the monthly declaration by the 7th day of the following month. Lodgment deadlines were extended.
- *integrity in the distribution of state-based assistance.*

The federal government through the ATO has access to the financial information of businesses, some of which in almost real time. State governments do not have the same level of access, making it more difficult for them to design and administer their COVID support programs. The NSW Police set up a Strike Force to investigate allegations of wide-spread fraud committed to gain NSW COVID assistance⁵.

Such risks could be ameliorated by either changing the tax secrecy provisions and allowing the states access to ATO data or the ATO administering nationally consistent disaster support programs on behalf of the states, with the states covering the ATOs administration costs. The Professional Accounting Bodies prefer the latter approach.

Increasing the flow of information through amending the secrecy provisions has several downsides. Firstly, transmission of data increases the risk of breaches of privacy or misuse including that information being stolen. Secondly, state public servants will have to be upskilled to

³ Footnote 52 of the ANAO report 39 2022-3 "Implementation of the Government's response to the Black Economy Taskforce Report"

⁴ ANAO, The Australian Taxation Office's Management of Risks Related to the Rapid Implementation of COVID-19 Economic Response Measures, Auditor-General Report No.24 2020-21 Performance Audit, https://www.anao.gov.au/sites/default/files/2022-09/Auditor-General_Report_2020-21_24.pdf

⁵ <https://www.nsw.gov.au/customer-service/media-releases/service-nsw-and-nsw-police-announce-strike-force-sainsbery-to-investigate-grant-fraud>

help them understand the nuances of the information they receive and federal tax law concepts (income tax and GST concepts were built into the requirements of many state COVID support programs). Thirdly, the ATO has significantly more appropriately trained employees than state governments to deliver such programs and support businesses and their advisers. Fourthly, the ATO and Treasury have well established formal and informal stakeholder engagement processes with professional advisers, software companies and businesses to identify and work through systemic issues – state governments do not. Finally, it increases the number of systems needed to deliver the assistance. A centralised approach using ATO systems and resources would be more efficient and effective in delivering support to affected businesses.

Question 6 - What were the lessons learned from the implementation of JobKeeper?

The other key lessons we learned from the implementation of JobKeeper were:

- *Delivering assistance through the tax system brought businesses in the shadow economy into the system.*

An unexpected benefit of delivering JobKeeper through the tax system was that businesses that were operating outside of the tax system had an incentive to enter the tax system. Maintaining the active involvement of these businesses within the tax system is an ongoing challenge.

While not part of this evaluation, one possible approach to keeping such taxpayers engaged in the system could be extending the government procurement requirements for a statement of tax record to other taxpayers and only providing government support to those who have an adequate statement of tax record.

- *Up to date, quality data is important*

Given the need for rapid design and implementation, the Government, Treasury, ATO and other government agencies worked closely with the profession to develop practical policy on a massive scale that leveraged existing infrastructure and data. The integration of data from Single Touch Payroll, Business Activity Statements and the Australian Business Register into the program design provided clarity and integrity, albeit with some known trade-offs in terms of access to support.

Australia was in the fortunate position of having heavily invested in digital tax infrastructure, enabling the ATO to deliver what were essentially social security payments through the tax rather than the transfer system. The use of businesses, supported by tax practitioners, to distribute the payments enabled a more efficient delivery system by leveraging existing employment relationships through which to route payments and minimising the burden on individual Australians of having to apply themselves. This also accelerated the business adoption of digital services, improved tax lodgment and reporting compliance and reduced opportunities for fraud.

The importance of accessing quality data more regularly was highlighted in the pandemic. While some data was accessible to the government in close to real time, such as single touch payroll, other data was subject to substantial delays, for example quarterly business activity statements for small and micro businesses. This information was critical as it had information on turnover. Encouraging necessary accounting and tax data to be available to government efficiently through natural accounting systems in a timely manner could aid the targeting of future support. It may also reduce the need for estimates/forecasts and clawback mechanisms.

We support efforts by the ATO and the government more generally to digitise and recommend that the government fund investment into programs including Modernising Business Registers to ensure the necessary digital infrastructure is in place to improve the quality and timeliness of data.

- *Businesses need support to transitioning to back to normal operations.*

The nature of government support for businesses affected by a disaster needs to vary throughout a disaster. Direct financial support, such as JobKeeper is usually necessary in the early phases of a disaster as businesses may face reduced sales and increased expenses. As the impact of disasters lessen and businesses move from response to recovery, they face different challenges. Cutting off all government support early in the recovery may have negative impacts on business and the economy.

During the recovery phase, businesses are more likely to benefit from access to advice. As part of developing a ready-to-deploy disaster support program for business, the government should consider including incentives for impacted businesses to access advice from their existing adviser. Such support should become available as direct financial disaster support is removed.

Loss carry back was a great initiative which should be a permanent feature of the tax system to help once profitable entities to recover.

- *Information about the self-employed and small business is limited.*

JobKeeper was possible due to the existence of Single Touch Payroll (STP). STP is designed to allow real time reporting of employment related information to the ATO for traditional employees. STP is not designed to supply information about self-employed individuals.

Whilst the small business sector employs 42 per cent of private sector workforce⁶, problems arose as many of these 'employees' are sole traders⁷ and thus did not fit the traditional definition of employment and are not included in STP.

This had the effect that JobKeeper:

- only allowed one partner in a partnership to access the payment
- only allowed one active participant in a business that was not remunerated through wages to access the payment
- excluded unit trusts owned by a discretionary trust from the payment.

Government should consider what other data it has about the self-employed and how that data can be better integrated in disaster assistance.

- *Business structures are varied and complex.*

We understand the need for policy to draw a bright line on which entities are covered and which are not, however business structures can be varied and complex and that anomalous outcomes should be avoided. For example, it is not unusual for a group of entities to engage employees through a service entity. Such entities were initially excluded from JobKeeper. Adjustments were however made to accommodate this form of employment.

- *Tax practitioners and accountants should have been classified as essential workers.*

Tax and BAS agents were essential to the delivery of JobKeeper and other COVID business support payments. Yet state governments did not classify them as essential workers. For some tax and BAS agents, their inability to access their offices made it difficult for them to help their clients access COVID support payments and meet their obligations under such payments.

We recommend that the government's ready-to-deploy disaster support program for business include a strong recommendation to state authorities that intermediaries essential to supporting business access such a program be classified as essential workers.

⁶ https://www.asbfeo.gov.au/sites/default/files/2023-06/Contribution%20to%20Australian%20Employment_June%202023_0.pdf

⁷ See chart 2 at https://www.asbfeo.gov.au/sites/default/files/2022-08/Contribution%20to%20Australian%20Business%20Numbers_August%202022%20_0.pdf

Question 1 - Were the key design features of JobKeeper well communicated?

The Professional Accounting Bodies were actively involved in the implementation and rollout of JobKeeper.

Tax practitioners are usually members of the Professional Accounting Bodies, and 94 per cent of small businesses using tax agents to lodge their income tax returns⁸. We were therefore a key disseminator of information on JobKeeper and spent significant time and effort upskilling our members so they could advise their clients. We also amplified messages on JobKeeper from the government, Treasury and ATO and were looked to as a “source of truth”.

We also wish to recognise the dedicated support that Treasury and ATO gave to the profession and businesses. We found that they were receptive and responsive to feedback. Examples include greater clarification of definitions and rules in legislation and regulations, the accompanying production of law guidance from the ATO, the adjustments made for service entities and the ongoing maintenance of extensive website guidance. There was almost daily engagement between government and the profession to provide feedback, co-design solutions and address issues.

Our observation is that the level of awareness of JobKeeper was high, which we take to mean that the communications from government, us and professional advisers was effective. The key challenge, as always was understanding the detail and applying it to different circumstances, however in our view the ATO generally gave enough guidance for advisers to help their clients.

The speed that JobKeeper was created and implemented meant that constant rule changes were unavoidable. Communication of these changes could have been improved by:

- *Having a ‘single source of truth’ website.*

To ensure maximum reach, JobKeeper changes were often contained on several government websites. This however led to some confusion as the websites were updated at different times and occasionally there were differences between sites. We recommend there should be a single source of truth which the multiple government websites could refer to rather than duplicate.

- *Creating an ‘update’ page.*

It is important that future business support programs have an ‘update’ page where intermediaries, such as accountants and businesses can easily see what has changed since they last interacted with the support mechanism. This update page should have what was updated and when, as decisions were being made with uncertain information. We were aware of some members taking screenshots of the information available at a point in time to protect themselves against claims their advice was later found to be incorrect due to rules or guidance changes. We recommend that there should be an update page.

Question 12 - Were there unanticipated effects associated with the design and implementation of JobKeeper?

- *Positive impacts:*
 - The ability of a broad range of stakeholders to work together, make decisions, resolve issues and communicate to the public in a very efficient and constructive way under high pressure
 - The speed at which JobKeeper was designed and deployed demonstrated the capability of the Australian public service. To do this, they leveraged existing systems and data, and worked closely with advisers
 - The importance of tax practitioners to policy delivery was recognised. Tax practitioners form an important part of the system and a key touchpoint between government and the public

⁸ Speech by Deborah Jenkins, ATO Deputy Commissioner Small [Business ‘How the ATO is addressing risks in the small business market’](#) 26 May 2021

- *Impact on tax and BAS agents:*

The implementation of the JobKeeper Payment created significant workload pressures on tax and BAS agents. At the same time, tax and BAS agents:

- were expected to keep up to date with their existing compliance obligations to regulators such as helping clients meet their tax lodgment requirements
- experienced a jump in business clients seeking advice on how to respond to the pandemic
- were required to move to new ways of working as they and their employees were confined to their homes
- found it difficult to recruit employees to help them meet this large jump in work due to the profession facing a long-term skills shortage.

We heard many stories of members facing mental health issues due to these unprecedented work pressures.

- *Impact on employees:*

- short-term casuals (less than 12 months), some classes of visa holders and Australian based employees of entities owned by foreign governments did not qualify for JobKeeper.
- non-residents were excluded from JobKeeper and some were unable to return to their home country during the pandemic.
- there were reports that JobKeeper payments reduced the willingness of some employees to work, especially amongst employees that received more than they were being paid as employees.

- *Impact on business:*

- cashflow issues arose for some businesses due to the need for businesses to pay their employees before receiving the payment.
- some businesses that were already not viable pre-COVID kept operating just so the owner/s could receive JobKeeper.