Legislative Assembly for the Australian Capital Territory
Standing Committee on Public Accounts and Administration

Submission Cover Sheet

Inquiry into Home Buyer Concession Scheme Administration

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Submission to the Inquiry into the Administration of the Home Buyer Concession Scheme

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Introduction

This submission provides evidence and my lived experience in response to the Committee's inquiry into the Home Buyer Concession Scheme (HBCS) and its administration. It focuses on the disproportionate and distressing impact the current application of the HBCS has had on individuals navigating family law separation and recovering from domestic violence, and advocates for systemic changes.

It calls attention to serious flaws in how the ACT Revenue Office (ACTRO) assesses and administers concessions, particularly when distinct life circumstances are evaluated under a single policy framework designed without the flexibility or compassion required for cases of hardship, trauma, or legal obligation.

Background:

In late 2019, my then partner and I bought a house to bring together our blended family.
In early 2020 this resulted in us each selling our respective houses and moving in together in April 2020.

Despite believing this would be our home for the long term, I soon saw a side of my partner that I had not experienced in the two years prior. The relationship quickly became emotionally abusive and whilst invisible to many, the subtle coercive control and emotional abuse soon took over my life. Still, hoping and believing things could change, I held on for two years before finding the courage to leave that relationship resulting in the sale of the house in mid-2022.

I was worried about the financial impact of this decision on my ongoing ability to support my 3 school aged children. Not to mention the long-term financial impact it would have on me in my mid 40's, with limited time to recover. In fact, that, more than anything saw me hold on as long as I did.
However, I managed to work with my then partner to get financial consent orders through the courts which ensured I would be able to retain much of equity I brought into the relationship and secure concessional stamp duty on our respective future independent purchases. Neither one of us could afford to buy the other out, nor needed a house of that size independently. The sale of two houses, purchase and then sale of a joint house, followed by us each independently purchasing our own homes again (in a 3-year period) saw the ACT Revenue Office benefit to the tune of $300,000 in stamp duty.

After 4 months living in temporary accommodation with my three children, I was able to secure a new home for us in December 2022. Receiving (what I believed I was entitled to) concessional stamp duty on a portion of my purchase and paying the remainder. I commenced an extensive healing journey, moving on with my life as best as I could. That was until late March 2024 (nearly 16 months after I had settled on my new home) when, on the eve of Good Friday and the Easter long weekend, I received a letter from the ACT Revenue Office stating that my purchase was being 'investigated'. I felt like a criminal and was immediately sent into an anxiety fuelled spiral taking me back to the emotionally distressing time I had been working so hard to heal from.

From there, I have spent the last 16 months fighting punitive measures which are both unfair and unjust and most certainly without any compassion. I have appealed no less than 4 times to the Minister and ACT Revenue Office and spent countless hours and days writing responses to a government. A government who was only too happy to use my extensive research and recommendations to make amendments to the legislative instrument yet still refused to reconsider their decision to remove my access to a concessional duty payment.

1. Effectiveness and Appropriateness of the Self-Assessment Process

The self-assessment model underpinning the HBCS is **fundamentally ineffective** when applied indiscriminately to vastly different circumstances such as first home purchases versus those made resulting from a family law separation. This model:

- Assumes a level of financial and legal sophistication that many individuals under duress—especially those recovering from trauma and or abuse—do not possess.
- Provides no clear warnings or flags for applicants whose eligibility may be borderline, particularly in relation to complex criteria such as gross vs taxable income or court-ordered settlements.
- Offers no real-time support or assessment for individuals applying under sensitive legal or family circumstances.

As shown in the case outlined in this submission, the application of the same instrument to both first home buyers and individuals under family law orders creates ambiguity and results in perverse outcomes that retraumatise rather than assist.

2. Fairness, Transparency and Financial Impacts of Reassessments

The reassessment process, particularly when delayed for up to 18 months, imposes **severe and unjust financial penalties** on individuals who reasonably believed they had complied with the law.

- The penalty I was issued (over $48,000) was more than **four times the amount by which I exceeded the income threshold** ($11,304), despite my timely payment of the remaining amount which was not covered by the concession.

- Reassessment letters were delivered at psychologically vulnerable times (e.g., late on the eve of public holidays), compounding distress and limiting access to support services.
- The process lacks transparency—no warnings were given, no additional documentation was requested upon application, and there was no opportunity to clarify or amend the application before penalties were imposed.

3. Appropriateness and Proportionality of Penalties and Interest Charges

The **penalties and interest imposed were grossly disproportionate**:

- $48,552.92 in penalties, based on a modest income misalignment (which was confusing at best given that NO other Government organisation including the Australian Tax Office or Child Support Agency assess income as GROSS rather than taxable. Adding investment income on without adjusting for cost is illogical and can only be described as a blatant attempt to ensure ineligibility) and during a period where the Revenue Office admitted to a backlog and 'compliance freeze' leading to extensive delays in processing.
- Penalties were charged retroactively from the purchase date despite reassessment delays being entirely within the ACTRO's control.
- No discretion was applied despite court orders and clear evidence that the home purchase was the result of a family law separation—not a typical concessional transaction.

This level of punitive enforcement mirrors patterns observed in the Robodebt scheme: strict technical compliance enforced without regard to fairness or context, leading to emotional harm.

4. Scope and Exercise of Administrative Discretion

The ACT Revenue Office representatives stated on record that they **do not have discretion** to consider personal or legal circumstances. If true, this is not only inappropriate, but **potentially unlawful**, given administrative law principles and procedural fairness expectations.

Furthermore, family law orders (provided at the time) and hardship context were dismissed out-of-hand—contradicting public service principles and the ACT Government's broader commitments to supporting victims of family violence.

In my request for a Debt Waiver to be considered I was advised that there were three grounds under which this could be considered:

1. The legislation is producing an unforeseen or perverse outcome;
2. The Territory has contributed through action or inaction of its agencies, to the liability or value of the debt; or
3. A fair and just result can be brought about only by a waiver

To point One: Using one instrument to assess two distinctly different sets of circumstances (First Home buyers v family law splits) inherently leads to unforeseen and or perverse outcomes. In response to this I made a series of recommendations with regards to:

- **Income assessment** – Which saw the methodology be adjusted to assess based on *Taxable* rather than *Gross* income. Acknowledging that the previous assessment method was neither standard practices nor considerate of all relevant factors.
- **Income Threshold for Eligibility** – This threshold was significantly increased, indicating a shift in the original rationale that the scheme was designed for lower-income individuals and or that the criteria did not consider all of the relevant factors. For family law splits this threshold should be irrelevant as the scheme is not being accessed to purchase a first home and this is both known and acknowledged.
- **Exemption for Prior Property Ownership**: Provisions were introduced for those affected by family violence or subject to court orders under the *Family Law Act 1975,* allowing them to qualify or being exempt from meeting prior property ownership requirements.

- **Family Violence-Specific Criteria**: Which saw new eligibility criteria be introduced including:
    - The ability to be exempt from not holding property within the past two years.
    - Applying for a waiver based on family violence, with the provision of adequate evidence.
    - Using the appropriate concession code for assessment (a new code of FVC24 being introduced in addition to HBCS to better articulate the two separate circumstances by which an applicant may apply) and
    - Applications under this criterion being assessed in real time rather than self-assessed with a later review. Providing greater certainty for individuals applying under the duress that often accompanies these circumstances.

When I asked to be considered under the same grounds as these changes (which I had recommended and was ecstatic to see changes made) I was asked to provide evidence, which I went to great lengths to do, only to be told several months later told I could not be assessed under new criteria retrospectively. Another failure, leading someone on to believe that a reasonable assessment would be undertaken, requesting extensive and invasive details, only to be told a reassessment was not possible.

To point two: It was entirely **t**he Territory's action/ inaction that led to the liability and increased value of the debt.

To point three: The government committed to explore further concessions for individuals undergoing family separations, including those involving domestic violence, and they did. However, as the individual who brought the research and evidence to their attention and whose recommendations were all accepted and introduced, I was still subject to the previous punitive measures. How is that a fair and just outcome? The governments response to this question was that it would not be fair to other taxpayers who did not qualify under the scheme, to provide a waiver in my circumstances. I would argue that they should look to reassess ALL other parties who were impacted in similar circumstances.

5. Adequacy of the Objections and Appeals Process

The objections process lacks procedural fairness:

- No opportunity was provided to respond to reassessment before a final decision was issued.
- Letters were heavily laden with intimidating legal precedents, arguably designed to discourage any challenge or objection/appeal.
- Support services were not offered despite documented disclosures of trauma and suicidal ideation resulting from the correspondence.
- Time delays in being notified of an outcome of an appeal were lengthy and led to considerable additional stress.

The failure to triage or flag sensitive or complex cases in a trauma-informed manner represents a systemic shortcoming that requires urgent review. How many other people must suffer because of this inadequacy?

6. Potential Legislative or Policy Reforms

Recent reforms implemented on 1 July 2024, including:

- Introduction of new concession codes (e.g., FVC24 for family violence cases),
- Assessment based on **taxable income** rather than gross income,
- Substantial increases to income thresholds, and
- Real-time assessment for family law applicants,

underscore a clear acknowledgment by government that the prior system was producing **unjust and discriminatory outcomes**. Yet still in my case there was no compassion to reassess or right wrongs.

Recommendation: The Committee should recommend that any individual assessed under the previous regime, particularly those whose hardship was caused by family separation or domestic violence, be reassessed under the new, fairer guidelines—retrospectively if necessary. These parties were not attempting to disguise their purchase as a 'First Home Buyer' accessing a concession scheme. They were acting upon consent orders issued as a result of a family law separation.

7. Reassessment Process, Timeframes, and Use of Business Intelligence

- The delay in reassessment (up to 18 months) is inexcusable, especially where applicants, based on the time lapsed would reasonably assume their cases were complete.
- Interest and penalties should **never be applied** where a backlog or internal freeze causes reassessment delays. This is entirely outside of an individual's control.
- Business Intelligence should be used **proactively** to identify hardship cases, not punitively and reactively, as was the case here.

8. Other Relevant Matters

- The case reveals the **coercive nature of correspondence** from ACTRO, including practices to repeatedly send correspondence later in the day and (aggressive) legal framing.
- The current system discourages self-representation and trust in government systems, especially among survivors of domestic violence.
- Comments from ACTRO staff (e.g., "You have a roof over your head") are patronising and irrelevant and reflect a culture of insensitivity that must be addressed through training and accountability. The lack of awareness of the impact of their trivial statements is astonishing.

Conclusion and Call for Action

The application of the Home Buyer Concession Scheme in its previous form created disproportionate hardship, especially for individuals escaping domestic violence. The rigid application of technical rules, absence of discretion, and punitive follow-up—despite admitted administrative delays—are clear evidence of a system that failed those it should have protected.

The legislative reforms introduced on 1 July 2024 validate the concerns I raised in this case and represent a step forward. However, justice has not yet been done for those unfairly assessed under the earlier system.

I respectfully call on the Committee to consider:

1. **Retrospective application** of new guidelines to those penalised under the old framework due to family law circumstances and who were clearly NOT applying under a first home buyer concession scheme.
2. A **waiver of debt** for those who would now qualify under the amended rules.
3. An **independent review** into the reassessment practices and correspondence protocols of the ACT Revenue Office.
4. Ongoing training and reform to embed trauma-informed, fair, and human-centred decision-making.

In conclusion, it is fundamentally unjust to expect those who have been unfairly treated to simply accept their circumstances without resistance, especially when there has been an acknowledgment of the previous injustices. The absence of a class action against the ACT Revenue Office is both surprising and telling, likely a reflection of their use of coercion and scare tactics to suppress potential challenges. It is heartbreaking to consider how many more lives must be adversely affected and how much undue stress must be endured before meaningful action is taken. I would not wish this ordeal on anyone, yet my experiences with the individuals involved made me feel like just another case number. Only through systemic and genuine reform can we hope to see an end to these unfair practices and restore fairness and dignity to affected individuals.