Bias isn't always seen:

A review into the ATO's controls for bias in decision-making and disclosures

July 2026

Tax Ombudsman

The Tax Ombudsman acknowledges the Traditional Owners and Custodians of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their Elders past, present and emerging.

Artwork used with permission from Tarni Jarvis,
a Djab Wurrong, Kirrae Wurrong and Peak Wurrong woman.

Structure of the review

10 things to know from our review

1. Bias exists in all organisations and can increase in teams regularly dealing with non-compliance or suspected wrongdoing. This is a known risk in all tax authorities across the Organisation for Economic Co-operation and Development (OECD), and the Australian Taxation Office (ATO) is no exception.

2. Bias and prejudicial conduct can impact tax administration in many ways. For example, officers may depart from procedures or the law to reach a predetermined outcome because they believe they are acting in a "noble cause". Alternatively, investigators can give too much weight to past compliance behaviours instead of looking at current evidence with fresh eyes.

3. A 2025–26 review by our office identified historical bias and prejudicial conduct in a handful of ATO officers who failed to adhere to procedural fairness and objectivity.

4. Some members of the community and tax profession have raised with us their concerns that once a taxpayer is labelled high risk, the ATO assumes ongoing wrongdoing, and it is difficult for the taxpayer to remove that label. This can undermine public confidence in the ATO's impartiality.

5. The OECD encourages all tax authorities to use risk frameworks to identify and assess compliance risks and target resources accordingly. However, these frameworks should not override evidence of a taxpayer's current behaviour in decision-making.

6. The ATO has strengthened its controls to improve decision-making in recent years, in response to weaknesses identified 10 to 15 years ago.

7. Some controls were not specifically designed with bias in mind. Officers and managers are not always prompted to explicitly consider bias in decision-making.

8. Prejudice in language can reinforce or perpetuate bias. How issues are recorded and framed can influence how decisions are interpreted, reviewed and approved, reinforcing bias and contributing to groupthink.

9. Without targeted assurance, the ATO cannot be confident its existing controls are managing bias and prejudicial conduct effectively in practice.

10. There are clear opportunities to strengthen how bias is identified, tested and managed in the ATO's day to day practice, to minimise the impact to taxpayers and help build community confidence.

Why we undertook this review

Everyone carries inherent biases shaped by their experiences and beliefs. Because organisational decisions are made by people, it is critical that they recognise and actively manage the risk of bias, particularly where decisions can have detrimental consequences for the community.

Regardless of a taxpayer's behaviour, the community expects the Australian Taxation Office (ATO) to always act impartially, objectively, and without bias or prejudice.

The risk of bias and prejudicial conduct is heightened in teams whose primary role is to investigate non-compliance or wrongdoing. Repeated exposure to adverse behaviour can influence how information is interpreted. It can increase the likelihood that previous negative labels or assumptions persist, even where new information indicates a positive change in behaviour.

In enforcement organisations, it is a known risk that investigators or enforcement teams can give themselves licence to act outside of due process or the law to secure an outcome on a targeted individual labelled as 'bad' because they believe they are acting in a noble cause.

The ATO's charter states*: "We will treat you as being honest unless we have reason to think otherwise and give you an opportunity to explain".*

- The ATO's website

But we have heard that some taxpayers feel the ATO begins with a presumption of wrongdoing.

- Review submissions

The Organisation for Economic Co-operation and Development (OECD) behavioural insights research recognises that decision-making is shaped by a person's environment, assumptions and mental shortcuts, and therefore highlighted the need for safeguards.

This is also found in Australian research, as highlighted below:

The 1995 University of Melbourne research on police culture found that repeated exposure to offending and danger can make officers more suspicious and alert to risk. Over time, this can shape how they interpret behaviour, assess situations, and respond based on their perception of danger.

Bias can also manifest through prejudicial language, communications and disclosure practices. The way a taxpayer or their behaviour is described can shape how risk is understood and shared between officers and third parties, leading to unfair outcomes.

In a recent investigation examining events from more than ten years ago, we observed biased and prejudicial conduct by ATO officers. While the ATO has since strengthened its control framework, this highlighted the importance of actively managing bias in decision-making in relation to investigations and enforcement action. This review therefore examines whether the ATO's current control framework appropriately mitigates the risk of bias influencing decisions today.

The scope of our review

This review examines the ATO's current controls that are intended to:

1. promote unbiased decision-making in high-risk compliance and enforcement actions
2. support appropriate, proportionate and fact-based communications, including internal information sharing and external disclosures
3. provide assurance that these controls are operating effectively in practice.

The ATO's programs in scope

The risk of bias and prejudice in the ATO is particularly acute in serious non-compliance and criminal matters, where decisions can have immediate and significant impacts on taxpayers. This includes investigations, debt collection or insolvency proceedings.

For these reasons, the review focused on these four ATO programs:

Criminal law program	Investigates alleged criminal offences and refers matters for prosecution	**Evasion response**	Identifies, understands and disrupts serious and emerging non-compliance that threatens tax system integrity
Phoenix program	Targets illegal phoenix activity to stop people who repeatedly misuse company and insolvency rules to avoid paying creditors	**Strategic recovery & insolvency**	Manages complex, high-risk tax debts using tailored recovery actions to secure lodgements and payments

Source: Tax Ombudsman table based on ATO information

Bias defined

This review focuses on biases related to how officers interpret and assess taxpayer behaviour and make decisions in tax administration. It excludes biases linked to personal characteristics such as gender, age, race or religion. While important, these are not the primary risks we are examining.

Examples of the types of bias we focused on include, but are not limited to:

		Illustrative example
Anchoring bias	Relying too heavily on initial information when making a judgment.	An officer keeps the taxpayer flagged as 'high-risk', even after lodgment and payment patterns improve.
Confirmation bias	Seeking or interpreting evidence in a way that confirms an existing belief or assumption.	The ATO identifies an industry/individual as high risk and expects non-compliance. The audit officer then looks for non-compliance and does not consider the possibility of other explanations.
Groupthink	A tendency for teams to settle on a shared view without properly questioning or challenging it.	An audit officer treats the taxpayer as non-compliant. The case passes through several points of review without testing alternatives, reflecting shared assumptions.

Source: Tax Ombudsman table

The role of labelling

In assessing bias, we considered the role of labelling. This refers to the use of categories or assumptions about a taxpayer that shapes how they are perceived and how decisions are made. These labels may arise from:

- compliance history, risk ratings, behavioural profiles, industry or sector, and
- associations with other taxpayers or entities.

They are often reflected in case notes, referrals or conversations, and can influence how officers interpret information, engage with the taxpayer and exercise judgement.

What happens after our review ends

After the review is completed, the ATO responds to the recommendations which it agrees to by developing an implementation plan detailing how and when each recommendation will be implemented. Each quarter the ATO provides us with a progress update on implementation, and we review any slippage or changes in plans. We will publish the ATO's key milestones for delivery and its implementation progress in our Annual Report and on our website. On completion of all agreed recommendations, we will ensure that the actions taken reflect the original intent of our recommendations.

Acknowledgement

We would like to thank all those who have generously shared their time and insights with us. We also thank the ATO officers, who have been involved in this review, for their time, assistance and professional engagement.

List of recommendations

Recommendation 1

The ATO to assure itself and the community that its controls against bias and prejudice in its compliance and enforcement actions and decision-making are working effectively.

Recommendation 2

The ATO to develop and implement a plan to address the identified gaps in bias controls. This includes strengthening explicit bias checks, training, assurance guidance, data and monitoring, and language used in disclosures.

1. The influence of labels

This chapter examines how labels, such as those arising from prior compliance history, are used within the ATO's risk-based compliance model. It considers whether the ATO controls ensure these labels do not disproportionately influence decisions and are balanced by current behaviour and evidence of improved engagement.

Why it matters

The OECD encourages all revenue authorities, such as the ATO, to use a compliance risk management framework. This framework supports the systematic identification and assessment of tax compliance risks. It also enables better resource allocation and decision-making.

"Once you are marked in the system, there is no going back.

There is nothing you can do to show you are handling your affairs differently."

- A review submission

In line with OECD good practice, the ATO uses a risk-based compliance model where inputs such as compliance history or industry risks guide how it engages with taxpayers. This is a sensible, well tested and effective way to target limited resources using known behaviours, patterns and intelligence.

The model primarily supports the ATO and its officers to determine where greater resources or intensity of action should be applied. It is not intended to override the facts of any investigation or audit.

In applying the risk-based model, decisions are required to be based on a balanced assessment of all relevant factors, including the taxpayer's current compliance behaviour, circumstances and evidence of improved engagement. Where labels such as prior history, industry or associates are given disproportionate weight, they can unduly shape how current conduct is interpreted or encourage investigators to unnecessarily pursue targeted taxpayers.

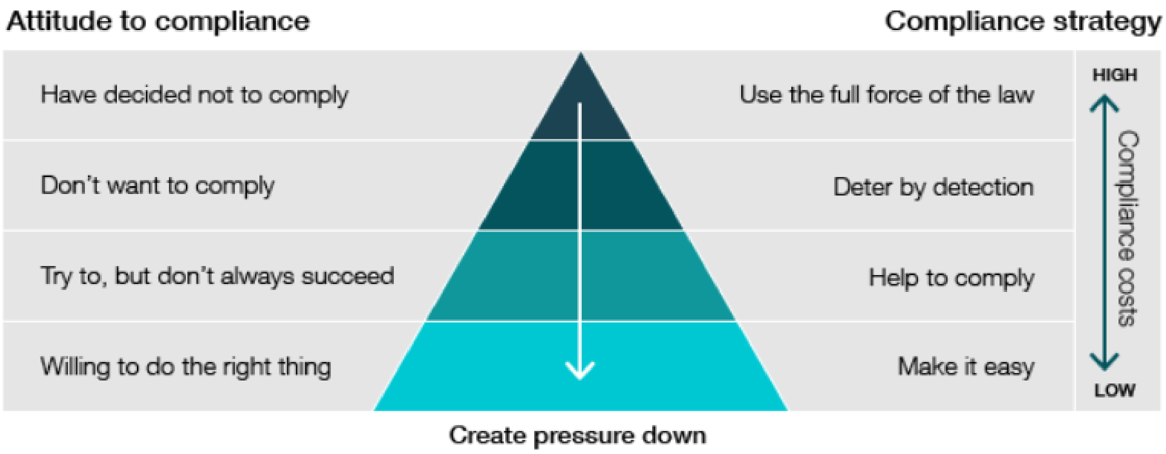
This risk is heightened for taxpayers who are perceived as high risk. In enforcement environments, decision-makers who are highly motivated to stop non-compliance in what they believe to be a noble cause may be at risk of losing objectivity and departing from established processes. This can affect procedural fairness or, in the worst instances, lead to unlawful actions, resulting in the wrong or harmful outcomes.

What we found

The ATO's risk-based compliance model

The community would expect the ATO to direct greater resources and more intensive scrutiny to taxpayers assessed as higher risk. The ATO's risk-based compliance model reflects that expectation. It uses risk-based assessment as one of several tools to help prioritise compliance activities and allocate resources. It draws on information, including tax returns, third-party reporting and observed patterns of behaviour, to identify where the likelihood and consequences of non-compliance may be higher.

This is reflected in the ATO's 'compliance pyramid' below.



Source: ATO diagram

Risk assessments are a starting point for engagement, not a conclusion. They are reviewed by officers, managers and decision-makers to inform how the ATO engages with taxpayers, including the selection of compliance actions.

Movement up the compliance pyramid

Most taxpayers are compliant. They sit at the base of the compliance pyramid and are supported through education, guidance and minimal intervention. The ATO states it starts from a presumption that most people are doing the right thing and complying with their tax obligations. The self-assessment system was established on this presumption.

Compliance history is one consideration, amongst others, in risk assessments which informs the level of ATO engagement. As assessed risk increases, typically reflecting a sustained pattern of non-compliance rather than a single event, taxpayers move higher up the compliance pyramid and may receive progressively more intensive compliance scrutiny.

This means a taxpayer with a continued history of poor compliance may be subject to increased monitoring, more frequent reviews, audits or investigations, greater senior decision-maker involvement and the use of more intensive compliance tools.

How the ATO re-assesses taxpayer behaviour over time

Of the four ATO programs we examined, which involve higher-risk behaviours and significant taxpayer impacts, we found that in three of them, a taxpayer's position on the compliance pyramid is not intended to be permanent and is expected to be reassessed over time.

The extent to which improved behaviour impacts ATO treatment depends on the purpose of the program and the nature of the risk being managed.

The Criminal Law Program is an exception. It focuses on investigating events that have already occurred to determine whether the conduct was criminal at that point in time. As a result, subsequent improvements in compliance may not change the ATO's decision to investigate.

To support fair decision-making based on a taxpayer's current behaviour, the ATO has controls in place, including:

- Case-by-case reassessment at the start of, and throughout, compliance and recovery actions.
- Mandatory profiling that considers current engagement, actions and circumstances alongside historical information.
- Documentation standards requiring decisions to be recorded in a factual, neutral and professional manner.
- Senior review points to provide oversight, challenge and promote proportionate decision-making.

Source: Tax Ombudsman list based on ATO information

The case studies below illustrate how continued non-compliance can keep ATO action at a higher level, while improved behaviour can lead to a reassessment of risk and a de-escalation of ATO actions.

Case example 1: continued non-compliance leads to stronger ATO action

The ATO audited a taxpayer after identifying large GST refund claims, later expanding the audit to include additional periods when the same claims continued during audit.

The ATO found the claims did not meet the legislative requirements and denied them. In determining penalties, the ATO considered the taxpayer's prior compliance history and recent behaviour, including the continuation of the same conduct while being audited. The ATO applied significant penalties for intentionally disregarding the law, including an extra 20% increase for the later periods.

This example shows that continued non-compliance can lead to a stronger ATO response.

Case example 2: current facts and cooperation can change the outcome

The ATO audited a taxpayer who had outstanding income tax and GST returns, and a potential phoenix risk due to links with another individual. Unexplained transfers between them also raised concerns.

The taxpayer cooperated throughout the audit, showing the transfers were legitimate and lodging the outstanding returns.

With the phoenix risk resolved, the audit was finalised with no adverse findings, and no further audits were undertaken.

This shows that while compliance history and associations inform initial risk assessment, the ATO also considers current facts and taxpayer cooperation when reaching decisions.

2. Bias controls in ATO decision-making

This chapter sets out how the ATO manages bias in areas where decisions can significantly affect taxpayers.

What we found

Strengthening controls over time

The ATO promotes fair and impartial decision-making through multiple layers of checks and controls. Many of these controls were progressively introduced and strengthened over the past 10 to 15 years (especially between 2014 to 2018). This was done in recognition of some systemic weaknesses the ATO identified that highlighted a need for stronger governance, clearer accountability and tighter oversight.

The ATO continues to review and update these controls through regular monthly or annual review cycles, and through ad hoc updates in response to legislative change, shifts in practice or identified risks.

"They [ATO] went on a hunt, they had fraud on their mind, that shows bias... they have an outcome they want, and they work towards getting that outcome."

- A review submission

We did not identify any internal risk assessments or assurance in the past 5 years that specifically reviewed how effective the ATO's controls are at managing bias.

The ATO's risk register recognises the risk of unlawful or unethical staff conduct, with a strong focus on fraud and corruption. It also recognises corruption as a distinct risk. The ATO's 'Fraud and Corruption Control Plan 2026' lists biased decision-making by officials and "noble cause" as examples of corruption. However, bias in decision-making is not explicitly recognised as a specific risk.

Similarly, the ATO has recently completed an internal audit of its current tax crime investigation and decision-making processes. The audit focused on whether those processes were operating as intended rather than on bias or prejudicial decision-making. It found that these processes are largely sound and identified opportunities to improve how the effectiveness of controls is evidenced.

Overview of the ATO's controls

The ATO has established a set of controls that guide how decisions are made and reviewed, including:

The ATO's controls	
Structural	
How roles and responsibilities are set up	• Clear rules about who can make different decisions • Separation of key functions, including risk assessment, civil audit, criminal investigation, objections and debt recovery • Independent oversight of enterprise governance and assurance by the Audit & Risk Committee (at least 3 members must be external, with a majority independent of the ATO) • Rotation and periods away from high-risk roles (for 6 months every 5 years or 4 weeks every 2 years) and additional integrity checks
Procedural	
How decisions are made and reviewed	• Guidance and procedures requiring decisions to be made in good faith and evidence to be presented objectively • Regular oversight of actions and decisions by team leaders and directors • Mandatory escalation of certain high-impact decisions for review and approval by a panel of senior officers • Internal audit periodically reviews ATO policies, procedures and risk management practices and provides assurance on their effectiveness (but not in relation to bias)
Human & cultural	
How people are trained and supported	• The ATO Charter, APS Values and Code of Conduct sets behaviour expectations • Mandatory training includes unconscious bias awareness • Leadership programs reinforce expected standards

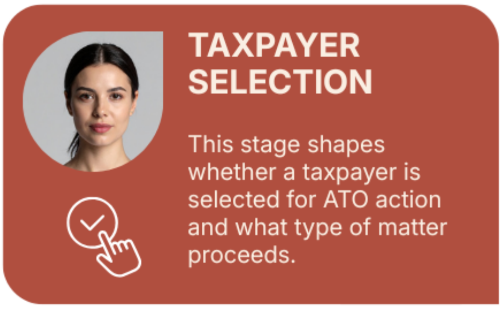
Source: Tax Ombudsman table based on ATO information

The four programs we reviewed have additional targeted safeguards. Many of these safeguards have been introduced in the last five years. These include program-specific training and more prescriptive procedures for complex or high-impact decisions.

How the controls apply to a taxpayer

The current controls apply across the life cycle of the ATO's compliance activities in relation to all taxpayers. Compliance activities include audits, reviews, debt collection, and criminal investigations.

Before compliance activity begins



- Risks and referrals are assessed using defined criteria and structured processes.
- Assessment teams decide which taxpayers are selected for compliance activity.
- A separate team undertakes the compliance activity.
- Some matters are deprioritised or screened out and do not proceed.

These arrangements ensure that decisions to commence a compliance activity is based on evidence and defined criteria, rather than the judgement of a single officer.

During compliance work

- Officers follow established processes for the relevant compliance activity, including having a strategy or work plan approved by the team leader.
- Officers' actions are subject to regular, scheduled review (for example weekly team leader reviews and monthly director reviews) in accordance with program-specific frameworks.
- Certain high-impact decisions must be reviewed by a panel of senior officers.
- Different types of decisions are reviewed by different panels, using the criteria and guidance that apply to that decision. The panel then provides advice to the decision-maker. For example, decisions involving fraud or evasion are assessed by the National Fraud or Evasion Advisory Panel using the guideline known as the *Fraud or evasion guideline (period of review)*.
- Taxpayers and their representatives are generally engaged, told of the ATO's concerns and given opportunities to respond before decisions are finalised.

These actions help promote consistency and reduce the risk that significant decisions are made in isolation. They also help ensure officers remain objective and follow due process, rather than acting to achieve a pre-defined outcome based on bias.

After compliance activities are completed

- Some closed compliance activities are subject to an independent quality assurance review.
- These reviews focus on whether processes were followed and decisions were documented.
- While quality assurance assesses for bias, the guidance does not explain how bias should be identified or assessed in practice.

Identify, record and address staff errors

The ATO identifies and records procedural non-compliance and staff errors through multiple mechanisms, including self-reporting, team leader oversight and quality assurance reviews. Errors are mostly managed at the team level through feedback, training or increased supervision.

We examined the ATO's data which recorded instances of staff not following procedures across three high-impact actions, being information shared with foreign tax agencies, 75% penalty for intentional disregard of the tax law, and garnishee notices. Across those actions, the total recorded procedural non-compliance over the past 5 years was limited to 10 identified instances, with none identified for the 75% penalty.

3. Bias controls in criminal investigation disclosures

This chapter examines the ATO's controls in helping criminal investigators use neutral, factual language and ensure information disclosures are proportionate and fair.

Why it matters

How information is recorded and disclosed can spread conscious and unconscious bias, shaping how later decision-makers and others view a taxpayer. Inappropriate or prejudicial disclosures, especially to third parties such as a taxpayer's supplier, can have lasting impacts on a taxpayer's reputation and business relationships, even where they are legally permitted and no offence has been established. Failure to adhere to procedures or controls can result in prejudicial or unlawful outcomes. In extreme cases, this may lead to the risk of investigators convincing themselves and each other that the outcome justifies the means.

This risk is heightened in criminal investigations, which often involve suspected serious or egregious conduct and may require some disclosure of taxpayer information as part of routine ATO information-gathering activities.

Accordingly, this chapter focuses on the Criminal Law Program, where the risk and impact of bias in disclosure are greater. The program was also selected in light of a recent investigation by our office, which identified concerns about how criminal investigators communicated taxpayer information within the ATO and to third parties.

"When cases change hands multiple times, language in case notes can carry assumptions or bias into later decision-making".

- A review submission

What we found

Investigator training and capability

Criminal investigators are required to complete minimum training, including a formal qualification in government investigations. The training reinforces the ATO's expectations that written records are evidence-based and impartial.

The ATO is also piloting an 'investigations development program' for its criminal investigators. It will use practical scenarios to help investigators apply these expectations in the ATO's context.

The training will cover topics such as:

- keeping disclosures proportionate
- using neutral and factual language
- avoiding speculation or unsupported conclusions
- handling disclosures to third parties

Policies and guidance

The ATO has policies and guidance for investigators on when they disclose information, and on how they should record investigation activity. These are summarised in the table below:

Guidance type	Details
Information disclosure	• Information may only be disclosed internally to people who require it for their role and only to the extent necessary for them to perform their duties. • Formal disclosures of protected information to third parties or other government agencies must be reviewed and approved by a specialised information disclosure team, when required. • All disclosures must comply with tax secrecy laws. • The guidance acknowledges that determining how much information to disclose can be challenging. It does not provide practical examples or criteria to guide criminal investigators in routine third-party information gathering, such as when dealing with suppliers associated with a taxpayer's business or supply chain.
Writing or recording investigation activity	• Investigators are reminded to "*write for the world to see*", "*avoid subjective language*" and use qualified terms such as "*it is alleged*" or "*there is suspicion that*" where appropriate. • Notes must be "*accurate, clear, concise and factual* ..." capable of being read and readily understood by internal and external parties such as courts, FOI applicants, ANAO and the Ombudsman's office. • Records should not include "*unnecessary, derogatory or potentially offensive comments ... personal comments or unsupported opinions.*" • Overall, the guidance is high-level and does not include worked examples or model wording to show how these expectations apply in practice.

Source: Tax Ombudsman table based on ATO information

Templates and standard forms

The ATO has templates and standard forms for some common, higher-risk disclosures in criminal investigations. The templates generally set out why the information is being disclosed and what is being disclosed.

For example, when notifying a third party, such as a bank or utility provider, about an upcoming search warrant, investigators use an approved pre-warrant letter template. This template outlines the taxpayer details and the purpose of the warrant.

There are no templates for disclosing taxpayer information to third-party suppliers such as those specific to a taxpayer's business or supply chain.

Quality assurance and oversight

As part of day-to-day oversight, team leaders review investigators' case notes. Formal or higher-risk disclosures, such as ATO-initiated disclosures to law enforcement, are subject to independent, senior-level approval. This creates an opportunity to give feedback, including on the clarity, tone and neutrality of language used.

The ATO also undertakes a quarterly quality assurance review of randomly selected, closed criminal investigation cases. This is done by an independent team within the Criminal Law Program.

Quality assurance criteria include whether case notes are "*meaningful*" and whether the case was "*investigated fairly and without bias*" but lack guidance around what it means and how to assess for bias. There are also no criteria for assessing the neutrality of language used in case notes or in routine communications such as in emails or free-text file notes.

4. Our observations

This section sets out our observations on how effectively the ATO's existing controls address bias.

Effective controls

The OECD's endorsed approach to risk management in compliance activity is well evidenced and has long been deployed in the ATO. But it is important that risk management addresses identification and treatment of the risk and is not used to determine outcomes for individual taxpayers where the facts and evidence of the case present differently to the risk assessment.

Like all revenue authorities (and other investigative workforces), the ATO needs to recognise investigator bias and prejudicial conduct as a risk in enforcement and compliance work. Any professional workforce that focuses on wrongdoing can risk seeing wrongdoing in everyone it encounters, even where the evidence suggests otherwise, increasing the risk of bias. In these situations, investigators may lose objectivity and seek to work outside of defined procedures or the law to achieve their pre-determined outcome because they believe they are acting in the public interest.

In recent years, the ATO has increased controls to improve decision-making. The controls are strongest for formal, high-impact decisions, and more principle-based for routine activities. It is reasonable to rely on overarching controls rather than creating separate controls for every type of bias, and it is clear the ATO has made progress in strengthening these controls over time.

To assess how well the controls address bias or prejudicial conduct, we examined whether they guard against bias towards labels such as past non-compliance. We found that they do not explicitly prompt consideration of it. This is because the controls were designed to support sound decision-making, rather than to address bias explicitly. As a result, bias is only indirectly addressed, leaving gaps in the following areas:

Source: Tax Ombudsman list

Explicit bias checks

- Officers are not required to record improved taxpayer behaviour or show how it is considered in their decisions about risk or treatment.
- This makes it harder to observe whether the ATO's decisions reflect a taxpayer's current behaviour or if it is influenced by historical labels.
- Stakeholder feedback raised concerns that once a taxpayer has been labelled high risk or guilty of 'poor compliance' it is almost impossible to lose the label.

Independent review

- Without recent internal assurance examining the effectiveness of bias-related controls, we could not assess whether bias is being treated as a distinct risk.
- This creates uncertainty about how the control framework operates. For example, while staff rotation is intended to reduce entrenched views, its duration and frequency have not been independently assessed to determine whether it meaningfully mitigates bias and groupthink.

Training

- Staff training acknowledges unconscious bias but focuses largely on diversity or HR-related scenarios (for example, gender bias).
- There is limited guidance on the types of bias that arise when officers interpret and assess taxpayer behaviour and how this can affect compliance and enforcement decisions.
- This limits officers' ability to be self-aware and recognise where they might lock onto a specific taxpayer and outcome without appropriate evidence.

Quality assurance

- Assurance activities focus largely on process and documentation quality.
- While bias is within scope and guidance exists, it is vague. There is little practical guidance around how bias should be assessed, especially when reviewing case notes.
- This leaves assessors ill-equipped to identify or assess bias in judgement, as they are not set up well to test or surface it.

Data and monitoring

- We did not observe a coordinated approach to recording and analysing procedural non-compliance and serious staff errors.
- This limits visibility of trends and makes it harder to distinguish isolated issues from systemic concerns and assess how controls operate in practice.
- We also suspect there is under reporting, noting the small volumes listed (10 instances in 5 years).

Source: Tax Ombudsman table

We did not assess whether the control frameworks operate effectively in practice as it is out of scope and was not possible within the limited resources of our office. This is a critical next step.

The ATO has not demonstrated to us that bias is regarded as an enterprise risk, nor has it provided assurance that its bias controls are working effectively.

The risk of bias in decision-making requires explicit recognition and management. The ATO's fraud and corruption control plan uses noble cause corruption and biased decision-making by officials as examples of corruption. In our view, recognising bias solely through a corruption lens is not sufficient as bias does not necessarily involve dishonesty, abuse of office or personal gain. Furthermore, we have not observed this in the ATO's risk register.

Given the degree of public and professional concerns that the ATO can and does occasionally overstep its powers or procedures to achieve an outcome on a targeted taxpayer, we think it is essential that the ATO can counter such perceptions. While it is not practical to fully eliminate these risks in any organisation, the ATO should be able to demonstrate that it is actively testing, challenging and improving these known risks in a way that is transparent and maintains public confidence.

In our view, this requires the ATO to explicitly recognise the risk of bias and prejudicial conduct as an enterprise level risk, supported by clear governance and regular assurance. In practice, this means embedding the risk of bias, prejudicial actions and bias controls within the ATO's governance framework. It also requires structured review and reporting to senior leadership and an external oversight body such as the ATO's Audit and Risk Committee (ARC). Our office will be briefing the ATO's ARC on this risk and the importance of undertaking this assurance activity.

Several stakeholders highlighted the need for independent oversight, expressing concerns that the ATO effectively sets and marks its own work.

- Review submissions

Language matters

Language in disclosures is a key way bias and prejudice can spread between officers and to third parties. Poorly framed or disproportionate disclosures can influence how a taxpayer is treated, such as by suppliers, even where no offence has been established. Language can also lead to groupthink. Internal notes and records can appear to establish a taxpayer as poorly complying or high risk, even if no evidence exists, but case workers or investigators take the notes at face value.

As part of our earlier investigation, we observed a historical file note where a taxpayer was described in strongly prejudicial terms. Such framing of the taxpayer could, if relied on by another officer or manager, shape future perceptions of the taxpayer and introduce a risk of unconscious or anchoring bias.

Although the ATO's controls to manage prejudice or bias in written communication by criminal investigators has since improved, and they receive formal training and qualifications, gaps remain, as set out below.

Routine disclosures

There is limited practical guidance and structured support for how information or questions should be framed in routine disclosures, including interactions with third-party suppliers connected to a taxpayer's business or supply chain. This increases the risk that information may be framed prejudicially, shaping how a taxpayer is perceived and treated, with lasting impacts on reputation and commercial relationships.

Accordingly, criminal investigators would benefit from the piloted training program, as mentioned in Chapter 3, becoming mandatory to strengthen their ability to recognise bias and avoid prejudicial language in disclosures. The training would help them recognise how disproportionate disclosures can create damage or harm to taxpayers and how to avoid that. This should be supported by a criminal investigation-specific writing guide with clear guidance and practical examples, including how to frame disclosures in routine internal and third-party interactions as part of information-gathering activities.

Conclusion

Taken together, all the evidence we have reviewed does not point to a systemic failure. However, the ATO and the community would benefit from the organisation being more open and explicit in recognising the risk of bias and prejudicial conduct. The ATO's governance should also ensure that the controls put in place to control for this risk are working effectively as bias in high-impact environments can lead to serious, detrimental consequences for taxpayers and a loss of community trust. There is therefore clear opportunity for the ATO to strengthen how bias and prejudice are actively identified, tested and managed in everyday practice and through its organisational governance.

Rationale for change

The ATO needs to explicitly recognise that bias and prejudicial conduct are inherent risks in any organisation where people make decisions. In extreme cases, investigators may convince themselves, and each other, that the ends justify the means. Regardless of a taxpayer's behaviour, the community expects the ATO to act impartially, objectively, lawfully and without bias or prejudice at all times. In publicly recognising the risk and demonstrating action to control it, the ATO can bolster public confidence.

While the risks cannot be fully eliminated, it is essential that controls to manage them are effective, regularly tested and continuously improved. We are satisfied that the ATO has broad controls in place to address bias and prejudice; however, we have identified gaps in those controls. By addressing these gaps and testing the effectiveness of the controls in practice, it will help minimise unnecessary harm to taxpayers and strengthen community confidence in the ATO.

Recommendation 1

The ATO to assure itself and the community that its controls against bias and prejudice in its compliance and enforcement actions and decision-making are working effectively.

Recommendation 2

The ATO to develop and implement a plan to address the identified gaps in bias controls. This includes strengthening explicit bias checks, training, assurance guidance, data and monitoring, and language used in disclosures.

Appendix A: ATO response

OFFICIAL

Second Commissioner of Taxation

Australian Government
Australian Taxation Office

Ms Ruth Owen
Tax Ombudsman
GPO Box 551
Sydney NSW 2001

Dear Ruth

Re: Own motion review into ATO bias controls - Final Draft Report

Thank you for the opportunity to respond to your report, *Bias isn't always seen: A review into the ATO's controls for bias in decision-making and disclosures*.

The ATO welcomes this report and its contribution to maintaining community confidence in fair, objective and evidence-based tax administration. We recognise that public trust in the tax and superannuation systems depends on confidence that ATO decisions are made impartially, consistently and in accordance with the law.

We are pleased that the review recognises the significant controls already in place within the ATO to support objective decision-making and manage bias. We welcome the opportunity to build on those foundations and reinforce community confidence in the integrity of our decisions and actions.

The ATO agrees with both recommendations in the report.

Under Recommendation 1, the ATO will undertake a phased, risk-based approach to provide assurance that controls relevant to managing the risk of bias are operating effectively. This work will commence with an internal review to better understand existing controls, assess areas of greatest risk and identify opportunities for improvement. Consistent with this work, the ATO will also explicitly recognise risks relating to bias within our existing enterprise risk framework.

Under Recommendation 2, the ATO will develop and implement a plan to address any identified gaps in bias controls. This work will be informed by the outcomes of Recommendation 1 and will focus on ensuring any improvements are targeted, proportionate and evidence-based. Areas of focus may include guidance, training, assurance activities, monitoring and continuous improvement of decision-making practices.

The ATO acknowledges that managing the risk of bias is an ongoing responsibility for any organisation where people make decisions. Effective controls, oversight and assurance are essential to maintaining public confidence and supporting objective decision-making.

The ATO considers it important to distinguish between bias and evidence-based risk assessment. Effective tax administration necessarily requires consideration of relevant compliance history, intelligence and behavioural indicators to ensure decisions are proportionate, consistent and directed toward areas of highest risk.

At the same time, decision-makers must remain open to new information, exercise balanced judgement and avoid assumptions that are not supported by evidence. The recommendations in this report provide an opportunity to further strengthen assurance that this distinction is consistently understood and applied across the organisation.

The ATO appreciates the professional, constructive and collaborative engagement of you and your team throughout this review. We look forward to continuing to work constructively with your office as implementation of the recommendations progresses.

Yours sincerely

Jeremy Hirschhorn
Second Commissioner of Taxation

14 July 2026

Australian Government
Australian Taxation Office

ATO response

Recommendation	ATO response
Recommendation 1 **The ATO to assure itself and the community that its controls against bias and prejudice in its compliance and enforcement actions and decision-making are working effectively.**	**Agree**
Recommendation 2 **The ATO to develop and implement a plan to address the identified gaps in bias controls. This includes strengthening explicit bias checks, training, assurance guidance, data and monitoring, and language used in disclosures.**	**Agree**

Tax Ombudsman