

Question: 1

Has the department undertaken a Privacy Impact Statement? Could it be tabled? If the department has not considered a PIA, why not?

Yes, the Department has undertaken a Privacy Impact Assessment. A copy of the Privacy Impact Assessment is **attached**.

Question: 2

With regards to new subsection 124PG(1), what are the classes of people that may be included in the legislative instrument? Could it include, for example, people assumed to be drug users or ice users, or people recently released from prison or juvenile detention?

There are no prescribed features in relation to the classes of persons that may be specified under subsection 124PG(1) other than they must be in receipt of a trigger payment. The classes of persons would be clearly specified, using objective criteria, in the legislative instrument. A class of persons could include people recently released from prison or juvenile detention. People using drugs or ice are unlikely to be able to be identified objectively. Although a person falls within a class of persons, they will not be a trial participant unless they also satisfy subsection 124PG(2), which says only people who live in a trial location and receive a trigger payment can be placed onto the trial.

Question: 3

The 100 points requirements of identification needed to establish a bank account is problematic for some people, especially those people who may not easily have high scoring items. Will the Commonwealth pay for people to access birth certificates and other forms of ID in order to meet those requirements?

At this stage, it is expected that the financial institution(s) delivering the trial will seek an exemption from AUSTRAC so trial participants will not be required to produce 100 points of identification as to be selected for the trial they must have already established their identity with the Department of Human Services.

Question: 4

What mechanisms for feedback or complaints is DSS making available to people having difficulties with the enforced banking arrangements?

The financial institution(s) will have appropriate complaints processes in place for trial participants.

The financial institution(s) would be a member of the Credit Ombudsman Services Ltd and complaints can be referred to this independent body for review if required.

The account provider will also provide the Department with monthly updates on complaints, with urgent or significant matters being escalated as necessary.

Question: 5

How will replacement cards be provided, including for people visiting remote regions across the country?

People participating in the trial will be able to obtain a replacement card by contacting the financial institution(s), which will immediately arrange for a replacement to be issued, just like a mainstream bank.

See Question 20.

Question 6:

How many EFTPOS terminals in the Ceduna, East Kimberly and surrounding areas have a \$10 minimum balance purchase requirement?

A survey of merchants in Ceduna and the surrounding region found five with a \$10 minimum transaction limit.

Question: 7

Will the department offset the cost of surcharges on the use of EFTPOS/Visa/Mastercard as a payment mechanism in individual stores?

No. The Department will work with individual stores to request that they waive surcharges for trial participants, but merchants may continue to place a surcharge in line with their own bank's policies.

Question: 8

What provision will be made for people in an emergency situation and who will administer this?

Trial participants will continue to have access to regular DHS emergency support services, including advanced payments, crisis payments and Special Benefit. These will be administered by DHS, in line with current practices.

Question: 9

Has the department made contact with the Office of Best Practice Regulation over the proposed measures? Was a Regulation Impact Statement prepared? If not, why not?

A Regulatory Impact Statement has been assessed and agreed by the Office of Best Practice Regulation.

Question: 10

Residents told the committee in evidence that they believed that people who would be subject to the trial should have seats on the community panel. Will the department stipulate that ordinary community members should have positions on the community body?

The establishment of a community body is not a prerequisite for the implementation of the trial and would only be established if the community chooses.

The Department, along with the Department of the Prime Minister and Cabinet, is working closely with the community to establish guidelines about how the community body could operate, including the membership of the body.

Question: 11

Will the banking institution with responsibility for the trial have a local office in Ceduna and surrounding areas? Will it employ some staff with Indigenous interpreting skills?

The Department is currently negotiating a contract with the financial institution(s), which will detail the service offer. The Department cannot release information until those negotiations are finalised. Any provider will be required to provide a comprehensive and inclusive service offer which accommodates local needs.

Question: 12

What options will people who may be housebound have to obtain goods and items from the shop, without having to hand over their PIN and card to their carer or friend, which could place them at risk, and void banking code safety arrangements?

Trial participants who may be housebound have a number of options available to make purchases without needing to provide their PIN and card to a carer or friend, as they do now.

Participants will be able to transfer money between restricted accounts (for example one participant can transfer money to another), so if their carer or friend is also a trial participant they would be able to use their own card to buy items on the housebound person's behalf.

Alternatively, participants can transfer money from their restricted account into another person's non-restricted account, so if the friend is not a trial participant they are still able to receive funds to purchase items on the trial participant's behalf. This facility will be subject to particular rules and controls. In this case, participants would identify the reason why they are making a transfer, like in a normal online banking environment.

Participants will also be able to make payments for goods and services from their restricted accounts to approved BPAY Biller Codes, enabling them to make purchases online without compromising personal banking security.

Participants will also be able to use their card to make purchases online from approved online retailers such as supermarkets. During the trial, the list of online retailers will be monitored and updated regularly.

Question: 13

Can the department provide a clear description of the so-called 'flag arrangements' that were discussed on pp 54-57 of the public hearing transcript. In its evidence, the department provided details that the Debit Card will allow participants to pay funds to third parties, for instance, rent or a portion of an electricity bills.

As set out in Question 12, there are a variety of methods for individuals to make essential payments, just like in a normal banking environment. Participants will be able to transfer money out of their restricted account to non-restricted accounts (an external transfer) for particular types of payments (e.g. rent) and subject to volume and velocity controls (that is – how much can be transferred and how often). As long as an external transfer is for a permitted category and is within agreed parameters, it will be allowed. The parameters will be finalised based on consultations with people in trial locations and may be location-specific.

During the Committee Hearing references to the so-called 'flag arrangements' were referring broadly to the fraud arrangements that will be put in place by the financial institution(s). Like any bank, the financial institution(s) will be required to monitor accounts for suspicious account activity such as patterns of activity that may be indicative of money laundering or patterns of spending which indicate a card had been stolen. In these cases, like in a regular banking environment, customers would be contacted by the financial institution(s). This will allow the financial institution(s) to ensure its customers' money is protected.

Additionally, the financial institution(s) will put in place rules to 'flag' or identify accounts where there are patterns of activity which suggest a person may be circumventing the rules of the trial. For example, a 'flag' may be raised if multiple people make recurring transactions at the same merchant for the same amount. This may suggest a merchant is giving cash out, instead of selling goods. In this example, an investigation of data trends by the financial institution(s) would then be conducted with the merchant involved. As with fraud monitoring programs in mainstream banking environments, flags will evolve and change over time based on fraud trends and patterns.

Details of who will conduct the investigation are still being worked through as part of the implementation arrangements. While the exact flags or indicators are still being developed, they will not require the financial institution(s) to scrutinise individual spending of trial participants. Rather, they will simply work as an extension of the regular automated fraud monitoring expected of a mainstream banking institution which is set across the whole customer base. However, where a flag is triggered it may result in an individual's account being reviewed in order to identify if they have been a victim of fraud or if they are breaching the terms and conditions of the programme.

Question: 14

Under what authority or legislative arrangements allow such invasive questioning of individuals about their banking arrangements? Has this issue been raised with the Financial Services Ombudsman and the other bodies such as the OAIC or the ACCC? What is the background and experiences of people who are expected to determine the triggers for these 'flags' and checks into individuals' banking arrangements?

Section 124PM of the Bill prohibits the use of funds from restrictable payments being spent on alcoholic beverages and gambling. Sections 124PP(1) and (2) allows the Secretary, by legislative instrument, to determine the kind of bank account and the terms and conditions associated with that bank account, that must be maintained by a trial participant for the receipt of restrictable payments. It is expected that this legislative instrument will prohibit cash withdrawals from restrictable payments. Besides the standard fraud monitoring performed by any mainstream bank to protect its customers' funds, the purpose of the fraud monitoring in the trial will be to ensure that participants are not circumventing the trial and spending funds on alcoholic beverages and gambling or accessing cash withdrawals.

The 'flags' which might identify participants seeking to obtain alcohol, gambling or cash will build upon similar controls used in mainstream banking to identify suspected fraud, and will be developed in consultation with the local community, including merchants and potential participants, who may assist to provide guidance about usual local transaction patterns.

This particular issue has not been raised with the Financial Services Ombudsman, the OAIC or the ACCC as fraud monitoring is regular feature of banking products. However, consultations were undertaken with the ACCC on other aspects of the legislation. As noted above the financial institution(s) will be responsible for monitoring accounts for fraud. Within the financial institution(s), there will be a considerable amount of experience in data analytics and payments fraud.

Question: 15

How will the evaluation track any unintended consequences of the trial, including increase in domestic violence, increase in transactional sex, increase in crime, increase in the amount of people who come off income support payments and are not in the labour force, conflict and violence within communities, barriers to leaving a relationship with domestic violence, social exclusion from community events, growth of small business and enterprise reliant on cash sales?

As advised during public hearings, funding for an evaluation has been provisioned in the Budget Contingency Reserve. Further, the evaluation framework for the cashless debit card trial is being developed and the Department will soon undertake a selection process to secure an independent and experienced evaluator(s).

It is expected the evaluation will involve comprehensive analysis of multiple data sets from both qualitative and quantitative sources. The Commonwealth will work closely with local and state governments and other relevant stakeholders to obtain data and monitor the impact of the trial. This data may include:

- state and territory collections, such as (alcohol related) hospitalisations, emergency department presentations, and child protection data;
- Commonwealth collections, such as Centrelink administrative data related to drug and alcohol dependence, homelessness and housing, employment, recent trauma and domestic violence;
- local services data, including admissions to drug and alcohol services, mental health services, homelessness services, and Aboriginal health services; and
- local merchant data, such as demand for alcohol and gambling products.

It is likely, a qualitative analysis will also explore the perceived impact of the trial from trial participants and the community, including any unintended consequences. The local working group will also provide regular updates on the impact of the trial on the ground.

Question: 16

Will the evaluation track EFTPOS/ATM outages and the consequences of this?

See question 15, noting that EFTPOS/ATM outages generally affect all banking institutions, so it is unlikely that only the trial cards would be affected.

Question: 17

Can the Department respond to the concerns raised by the Office of the Australian Information Commissioner (OAIC) in its submission?

The OAIC has raised the following concerns:

- whether the broad range of information sharing proposed is necessary, proportional and the least privacy invasive option. That is, whether the provisions appropriately balance the intrusion on individuals' privacy with the overall public policy objectives of the proposal.
- whether the measures proposed are compatible with Article 17 of the International Covenant on Civil and Political Rights (ICCPR). The Statement of Compatibility with Human Rights accompanying the Bill does not address the impact of the provisions on privacy, and consideration should be given to explaining the compatibility.

Sections 124PN and PO of the Bill facilitate the disclosure of information between the Secretary and the financial institution(s)/community body. The provisions are the least invasive privacy option and appropriately balance any limitation on an individual's right to privacy with the overall legitimate public policy objectives of the proposal. The provisions are also compatible with Article 17 of the ICCPR which protects an individual's right to privacy and any limitation on the right accords with international human rights law. That is, the limitation is prescribed by law, is in pursuit of a legitimate objective, is rationally connected to the objective and is a proportionate way of achieving that objective.

In order to establish bank accounts for trial participants, the Department of Human Services (DHS) will need to transfer limited customer information to the financial institution(s). The financial institution(s) will then need to provide new account details back to DHS. The information which will be shared is set out in the Privacy Impact Assessment attached to Question 1.

The purpose of establishing community bodies is to test whether involving the community assists with decreasing violence and harm in trial areas. Community bodies will also have the power to vary the percentage of funds that a person has restricted, subject to that person's agreement (s124PK). To allow this provision to operate, community bodies will need to be able to confirm with DHS what percentage of funds a person has restricted, and will need to be able to advise DHS to change that percentage.

There is a clear, rational connection between sections 124PN and PO and the objectives they are trying to achieve. In the absence of these sections, information could not be shared between Government and the financial institution(s)/community body, and the trial could not be implemented.

Sections 124PN and PO do not provide a blanket exemption from privacy laws for Government/the financial institution(s)/the community body – they simply allow the sharing of information that would otherwise be prohibited. This means there are still safeguards in place to protect individual privacy. Government and the financial institution(s) will still be required to comply with privacy laws, more generally, and the Australian Privacy Principles (APPs). The APPs set out strict rules around how personal information can be used. For example, they prohibit the disclosure of personal information for direct marketing. Notably, Government will not be able to see what people are buying with their welfare money.

Question: 18

Will Debit Card Trial enquiry lines be set up and will it provide toll free (or free from Telstra mobiles)? Will the inquiry line operate after hours? Will it have easy access to Indigenous language interpreters?

A call centre to support trial participants will be operated by the financial institution(s). It will likely operate, though this may be adjusted depending the selected location, between 8am – 8pm Monday to Friday and 8am – 1pm Saturday (AEST). There will also be a 24 hour phone line for lost and stolen cards.

Negotiations on the operational phase of the contract are currently underway. Community consultations will help inform these negotiations and will take into account local situations and needs, including the need for Indigenous interpreters and considerations about call fees.

Question: 19

What arrangements will be made for people who move out of trial locations?

Sections 124PG (2) & (3) make it clear that if a person is participating in the trial and relocates outside a trial community they will remain on the trial until they no longer meet the trial eligibility requirements, or when the trial ends.

Participants will have access to existing Commonwealth and State support services available in their new location. They will also be able to continue to receive support from the financial institution(s) delivering the trial.

Question: 20

How would a person get access to emergency funds if they travel to, say Maningrida, on a Friday night and lose their card?

The card will operate like a normal bank card. As in a normal banking environment, when a person loses their bank card, they are not able to access emergency funds.

If a card is reported lost, the financial institution(s) will block or cancel the card and arrange for a replacement card at no cost to the participant. Participants can report a lost card via phone or online.

Without the card, participants are still able to access their funds online. They would be able to continue to make purchases online or with BPAY, or they could transfer money into a friend or carer's account (also see Question 12).

Also, as flagged in the response to question 8 above, trial participants will continue to have access to regular DHS emergency support services, including advanced payments and crisis payments.

Question: 21

How will the committee address the practical concerns raised by the National Welfare Rights Network in the Appendix to its submission, for people eating in a restaurant, or visiting the Ceduna Bowling Club for a meal, or dinner at the Ceduna Oyster Bar?

If the restaurant is not licenced to sell alcohol, the card will automatically be accepted. Venues offering alcohol and/or gambling services will be able to enter into a contract with the financial institution(s) to be eligible to accept the card.

People participating in the trial will also have 20 per cent of their income support payments to use as they like, wherever they like.

Question: 22

How will the department address nominee arrangements in the trial sites? How many people are under either type of nominee arrangement in Ceduna?

A person with a payment nominee will be exempt from the trial. People with a correspondence nominee (but no payment nominee) will still be eligible for the trial.

In the Ceduna trial area, there are 28 people with a correspondence nominee, under 20 people with a payment nominee and under 20 people with both a correspondence and payment nominee. This data is from June 2015.

Question: 23

Are there any people in the Ceduna trial who are currently paid by cheque?

Less than 20 people in the Ceduna trial area currently receive their income support payments via cheque.

Question 24

For the residents of Ceduna and East Kimberly trial sites, please provide (in numbers and percentages) the following characteristics (subject to appropriate privacy considerations):

- a. Main social security type (including Service Pensions);
- b. Age;
- c. Gender;
- d. Indigenous status;
- e. CALD status;
- f. Location (e.g., town, remote, very remote);
- g. Number receiving Rent Assistance; and
- h. Number receiving a Commonwealth Senior's Health Card.

Geographical boundaries for other proposed locations, like the East Kimberley, are subject to ongoing consultations with communities, therefore the population statistics cannot be confirmed at this stage. Statistics are only given for the agreed location of Ceduna.

Population statistics for the confirmed trial location:

General demographics	Ceduna proposed trial location	
	Number	Per Cent
Population	4,227	
Indigenous population	1,266*	30%
Culturally and Linguistically Diverse (CALD) population***	522	12%
People in receipt of a Commonwealth Senior's Health Card	28	0.006%
Location	4,277	100%
Ceduna LGA – very remote	3,480	82%
Ceduna surrounding region – very remote	747	18%
Income support recipients on trigger payments		
Total population receiving trigger payments	807	22%
Number of people receiving trigger payments who identify as Indigenous	583	72%
People on trigger payments by gender		
Number of females on trigger payments	426	53%
Number of males on trigger payments	381	47%
People on trigger payments by age		
11-16	0	
16-20	74	9%
21-25	115	14%
26-30	112	14%
31-35	96	12%
36-40	72	9%
41-45	61	8%
46-50	65	8%
51-55	71	9%
56-60	73	9%
61-65	N/A**	
Over 65	<20	

People on trigger payments by payment type		
ABSTUDY	<20	
Austudy	<20	
Carer Payment	49	6%
Disability Support Pension	196	24%
Newstart Allowance	347	43%
Parenting Payment Partnered	38	5%
Parenting Payment Single	95	12%
Partner Allowance	<20	
Sickness Allowance	0	
Widow Allowance	<20	
Special Benefit	0	
Wife Pension (AGE)	0	
Wife Pension (DSP)	<20	
Youth Allowance (Other)	52	6%
Youth Allowance (Student and Apprentice)	<20	
People on trigger payments in receipt of Rent Assistance	85	10.5%

Notes:

The Ceduna trial location is made up of the Ceduna LGA plus the following SA1s: 4113409, 4113410, 4113501, 4113502 (Ceduna surrounding region). This location corresponds with the existing income management location.

Recipients of Newstart Allowance/ Partner Allowance / Widow Allowance who are determined to be current (i.e. entitled to be paid) on the Centrelink payment system, and not in receipt of CDEP Participation Supplement or zero rate of payment.

Recipients of Parenting Payment Partnered/Parenting Payment Single/Youth Allowance (other)/ Youth Allowance (student)/Youth Allowance (apprentice)/ABSTUDY/Widow B Pension who are determined to be current (i.e. entitled to be paid) on the Centrelink payment system.

Recipients of Sickness Allowance who are determined to be current (i.e. entitled to be paid) on the Centrelink payment system and not in receipt of a zero rate of payment.

Recipients of Special Benefit who are determined to be current (i.e. entitled to be paid) on the Centrelink payment system and not in receipt of a zero rate of payment.

Recipients of Age Pension / Carer Payment / Disability Support Pension / Wife Pension (Age or DSP) who are determined to be current (i.e. entitled to be paid) or suspended on the Centrelink payment system.

Source: Department of Human Services administrative data (DSS Blue Book dataset).

*Source: 2011 Census of Population and Housing

**For privacy reasons, it is standard practise not to list numbers below 20. As there is only one age category with fewer than 20 people in it, we have removed the second lowest figure so that the number below 20 cannot be calculated by subtracting the rest of the numbers from the total.

*** For the purpose of this Question on Notice, CaLD is defined as individuals who claim to not speak English or an Indigenous language at home.



Australian Government

Department of Social Services

**Proposed trial of a restricted debit card for
welfare recipients**

Privacy Impact Assessment

1. Purpose

This Privacy Impact Assessment (PIA) assesses the privacy impacts of the proposed trial of a restricted debit card for welfare recipients, and associated legislative amendments.

This PIA will:

- identify why a PIA is required for this project,
- outline the trial parameters, objectives, legislative amendments and key privacy considerations,
- identify stakeholder privacy issues,
- describe personal information flows under the trial,
- assess compliance with the Australian Privacy Principles (APPs),
- analyse the privacy impacts and identify risks and mitigation strategies.

2. Threshold Analysis – is a PIA required for this project?

2.1. Background

The Government is considering future arrangements for income management, including options for a commercially delivered debit card to support welfare spending restrictions. A trial in up to three discrete locations, with up to 10,000 participants, will commence (pending passage of legislation) in February 2016 for 12 months in each location, possibly using a phased approach. The trial will test new policy parameters and delivery arrangements for welfare restrictions.

2.2. Personal Information and Privacy Considerations

The trial will be supported by legislative amendments to social services legislation to allow the transfer of personal information between the Department of Human Services (DHS), the Department of Social Services (DSS), and a card provider for the purposes of the trial.

Under current income management arrangement, a financial services provider provides the payment infrastructure to support the BasicsCard, which enables purchases of priority goods from participating retailers. Under these arrangements the financial services provider does not receive any identifying information about income management participants, and all support services are provided by DHS. A major difference between income management and the proposed trial is the delivery of card and banking services by a commercial provider. This will require the transfer of limited personal information about participants between DHS, DSS and the card provider.

Information held by Government about trial participants is classified as ‘protected’ and its use is regulated under the social security law. Part 5 Division 3 of the *Social Security (Administration) Act 1999* governs how protected information can be used. Criminal offences apply to unauthorised use of protected information. This classification and treatment of information about a participant in the trial will help to ensure that the information cannot be used more broadly or be misused.

DHS will need to provide sufficient information about trial participants to the card provider for the card provider to:

- set up a restricted bank account;
- distribute the debit card;
- allow for card activation; and
- provide on-going card and banking services.

The card provider will also need to monitor and provide information to DSS about participants’ card usage for the purposes of compliance, reporting and evaluation of the programme.

Lastly, there will be a potential role for community bodies to vary participants’ rates of restriction which may involve the transfer of personal information from the community body to DHS.

2.3.Stakeholders

Stakeholder	Interest in the project
Trial Participants	The use, storage and disclosure of personal information of trial participants will be affected by the trial.
Card provider	The card provider will be responsible for managing the personal and protected information of trial participants in relation to establishing and maintaining a restricted account.
Government	The trial will change the way that DHS and DSS obtain, use and disclose the protected information of trial participants, in comparison to current income management arrangements.
Community Bodies	The proposed role for community bodies in being able to vary the rate of restriction may require them to manage the personal information of participants to: a) establish identity when directing DHS to vary the restricted amount and; b) monitor compliance with agreed behaviours, noting that the arrangement will be voluntary.

2.4.Requirement for a PIA

Based on this threshold analysis there is a requirement for a PIA for the trial. The trial will impact on the privacy of trial participants as personal information held by Government will be exchanged with the card provider and possibly a community body under the new trial arrangements.

2.5.Responsibilities

Drafting of this PIA will be the responsibility of the Trial Logistics Section in the Welfare Debit Card Taskforce (DSS). Support, feedback and resources will be sought from other sections in the Welfare Debit Card Taskforce (DSS), Aged Care and Commercial Law Branch (DSS), Public Law Branch (DSS), DHS, and law firm Clayton Utz, who have been procured to develop the contract with the card provider, as required.

3. Project Description

3.1.Objectives of the Trial

The objectives of the trial are to test the community outcomes and system delivery elements of a commercially delivered, restricted debit card for particular welfare payments. The legislation states that that objectives of the trial are to:

- a) reduce the amount of certain restrictable payments available to be spent on alcoholic beverages, gambling and illegal drugs;
- b) determine whether such a reduction decreases violence or harm in trial areas;
- c) determine whether welfare restrictions are more effective when community bodies are involved; and
- d) encourage socially responsible behaviour.

These outcomes will be measured through an evaluation of the trial and will help inform the Government's future direction for income management. Additionally, a cost analysis of the trial will be conducted to determine whether commercial delivery is more efficient than a Government delivered solution.

The main policy and implementation elements of the trial are:

- Delivery of a restricted debit card by a commercial provider, including:
 - setting up accounts
 - distributing cards
 - activating cards
 - providing card services (including transaction history, replacing lost or stolen cards, managing card fraud, responding to participant inquiries and complaints, and balance checking)
 - managing direct transfers from restricted accounts
- Merchant management by a commercial provider, including:
 - restrictions of transactions by terminal ID, card acceptor ID and merchant category code
 - contracting with mixed merchants to enforce restrictions
 - blocking non-contracted mixed merchants
- Restriction of 80 per cent of welfare payments
- Prohibition of alcohol and gambling (excluding lotteries) products and services
- Extending restrictions to all working age income support recipients in trial locations
- A role for community bodies in varying restriction rates
- A reduced role for DHS

3.2.Key Privacy Considerations

Three main processes in the proposed the trial will impact the personal information of trial participants: establishing a restricted account, collecting management information for the purposes of reporting, evaluation and compliance, and facilitating the role of a community body.

3.2.1. Establishing a restricted account and activating a card

When a welfare recipient is placed on the trial, DHS will need to give the card provider sufficient information about the person for the card provider to set up a restricted account, distribute a debit card, and later establish the identity of the person so that the card can be activated.

3.2.2. Management Information

The card provider will monitor and record card usage by trial participants. This information will be provided to DSS for the purposes of monitoring compliance and evaluating the trial. If card usage reports indicate that a participant or a group of participants may be spending money in contravention of the account restrictions (such as transferring money to a third party for the purposes of receiving cash) DSS may investigate the behaviour and ask the card provider to take preventative action, such as restricting those transfers of money.

Management information will also be used to evaluate the effectiveness of the trial. It will be used to demonstrate the account and card's effectiveness in restricting spending on prohibited goods, and also the impacts on spending patterns. If the management information is provided to external consultants for cost analysis and evaluation it will be de-identified.

3.2.3. Community Body

The trial will test a role for a community body, with the agreement of the particular trial participant, to have the authority to vary the rate of restriction applied to a participant's welfare payment. The body would have to notify DHS of the participant's details and the variation in restriction. They may also have to notify DHS of the conditions on which the variation was made.

3.3. Legislation

The *Social Security Legislation Amendment (Debit Card Trial) Bill 2015* supports the implementation of the trial. The Bill includes amendments to allow the transfer of personal and protected information between government and other entities, as well as the conditions for authorising a community body. The card provider will also have to comply with any relevant banking regulation.

3.3.1. Social Security Legislation – Privacy and personal information

For the trial information collected or held by DHS or DSS about trial participants is 'protected information' under the *Social Security Act 1991*. Part 5 Division 3 of the *Social Security (Administration) Act 1999* governs how protected information can be used.

To enable the trial to proceed amendments have been drafted to the *Social Security (Administration) Act 1999* which allow the transfer of protected information about trial participants.

The Bill, at Item 18, Schedule 1, Part 2 proposes the following addition to section 202 - Protection of personal information of the *Social Security (Administration) Act 1999*:

Welfare restricted bank accounts

- (9) *If protected information relates to the establishment or ongoing maintenance of a welfare restricted bank account (within the meaning of section 124PD), a person may do any of the following:*
- a) obtain the information;*
 - b) make a record of the information;*
 - c) disclose the information to a financial institution;*
 - d) otherwise use the information.*

Note: In addition to the requirements of this section, information disclosed under this section must be dealt with in accordance with the Australian Privacy Principles.

This amendment allows DHS, DSS and the card provider to obtain, record and disclose protected information for the purposes of establishing or maintaining a restricted account. It also allows the card provider to disclose the information to another financial institution for the same purpose (although this would be unlikely to be required). Information obtained by the card provider from government remains protected information and continues to be subject to the rules governing protected information in the *Social Security (Administration) Act 1999*.

The following amendment (section 124PN) will allow the card provider to give DSS/DHS management information about trial participants, and vice versa:

124PN Disclosure of information to the Secretary—financial institution

- 1. Despite any law (whether written or unwritten) in force in a State or Territory, an officer or employee of a financial institution may give the Secretary information about a person if:*
 - a) the person is a trial participant or voluntary participant; and*
 - b) the disclosed information is relevant to the operation of this Part.*
- 2. If information about a person is disclosed as mentioned in subsection (1), the Secretary may disclose information about the person to an officer or employee of the financial institution for the purposes of the performance of the functions and duties, or the exercise of the powers, of the officer or employee.*

The following amendment (section 124PO) will allow an authorised community body to give DSS/DHS management information about trial participants, and vice versa:

124PO Disclosure of information to the Secretary—community body

- 1. Despite any law (whether written or unwritten) in force in a State or Territory, a member, officer or employee of a community body may give the Secretary information about a person if:*
 - a) the person is a trial participant or voluntary participant; and*
 - b) the disclosed information is relevant to the operation of this Part.*

2. *If information about a person is disclosed as mentioned in subsection (1), the Secretary may disclose information about the person to a member, officer or employee of the community body for the purposes of the performance of the functions and duties, or the exercise of the powers, of the member, officer or employee.*

3.3.2. Social Security Legislation – Authorisation of a Community Body

In relation to authorising a community body the following section of the Bill applies:

124PE Community body

*The Minister may, by legislative instrument, authorise a body, whether incorporated or unincorporated, as a **community body** if the body provides, or intends to provide, services relating to the care, protection, welfare or safety of adults, children or families.*

This section allows the Minister to authorise a community body if that body provides relevant services to the community. A community body authorised in this way then has the following powers:

124PK Secretary must comply with directions given by a community body

- (1) *A community body may give the Secretary a written direction to vary the percentage amounts in paragraphs @124PJ(1)(a) and (b) that apply in respect of restrictable payments made to a trial participant or voluntary participant after the direction is given.*

Note: Paragraphs 124PJ(1)(a) and (b) set out the percentage amounts for splitting a restrictable payment into a restricted portion and an unrestricted portion, respectively.

- (2) *A written direction relating to a trial participant or voluntary participant:*
 - (a) *must reflect an agreement between the community body and the trial participant or voluntary participant; and*
 - (b) *may only be changed by the community body with the agreement of the trial participant or voluntary participant; and*
 - (c) *must be revoked by the community body if there is no longer agreement between the body and the trial participant or voluntary participant; and*
 - (d) *ceases to have effect on and after the day that the community body stops being authorised as a community body.*
- (3) *The percentage amounts specified in the written direction:*
 - a) *must total 100%; and*
 - b) *may:*
 - i. *for the restricted portion of a restrictable payment, be a percentage in the range of 50% to 80%; and*

- ii. *for the unrestricted portion of a restrictable payment, be a percentage in the range of 20% to 50%.*
- (4) *The written direction overrides any legislative instrument made under subsection 124PJ(3) or (4).*
- (5) *The Secretary must comply with the written direction.*

3.3.3. Banking regulation

Unless exempt, the card provider should at all times comply with all relevant banking legislation, including, for example, the *Banking Act 1959 (Cth)*, *Australian Securities and Investments Commission Act 2001 (Cth)* and *Corporations Act 2001 (Cth)*. The card provider should consider whether it is necessary or appropriate to seek exemptions from the Australian Securities and Investment Commission in relation to the payment system regulatory requirements under the *Corporations Act*.

In general to open a bank account in Australia a person must provide 100 points of identification. The card provider for the trial may, where appropriate, seek an exemption from the CEO of AUSTRAC from the relevant provisions of the *Financial Transaction Reports Act 1988 (Cth)* and the *Anti-Money Laundering and Counter Terrorism Financing Act 2006 (Cth)* in the context of the intended approach and information flows for the trial of the restricted debit card.

4. Stakeholders

There are four main stakeholders affected by these privacy considerations: trial participants, government departments (DHS and DSS), the card provider, and a community body.

4.1. Participants

The proposed trial will change how DHS distributes the personal and protected information of trial participants. Trial participants will need to be aware of how their personal information will be used under the trial, who will have access to it, and how they can access and update their information.

4.2. Government

DHS will provide personal and protected information about trial participants to the card provider. Government needs to be satisfied of the security of this information once given to the card provider. The transfer, use and storage of personal information between DHS, DSS and the card provider must be legal and comply with the APPs.

4.3. Card Provider

The card provider, while not an Australian Government agency, must also comply with the APPs while in receipt of the personal information of trial participants and provide adequate security for that information. This is because the *Privacy Act* applies to all businesses and not-for-profit organisations with an annual turnover more than \$3 million and to credit

reporting bodies.¹ These requirements will be reinforced explicitly in the contractual arrangements with the card provider.

The card provider will also have to provide management information relating to account and card usage back to DSS for compliance, evaluation and reporting purposes.

4.4. Community Body

The community body may collect limited personal information about trial participants who have chosen to request a rate variation. This will be necessary if the community body wishes to advise DHS to vary the rate of restriction applied to the participant's welfare payment. This will only be done at the request of, and with the agreement of, the participant.

5. Personal Information Flows

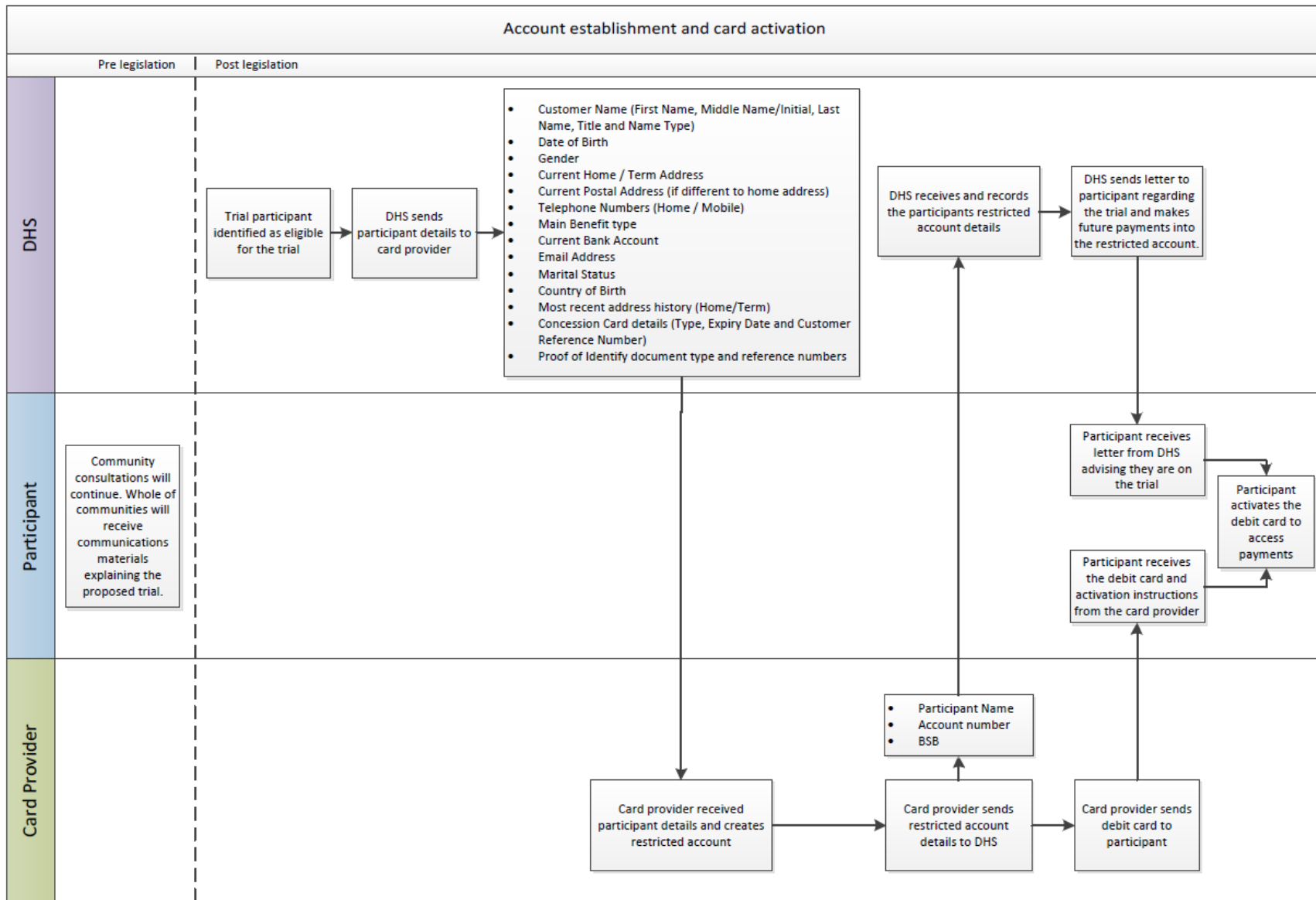
This section maps the flow of personal information through the three main parts of the proposed trial which require collection, disclosure or other use of personal information, and considers: what information is required, how it will be used, the information quality and security.

5.1. Trial Participant Personal Information

The personal information will be used to establish the restricted bank account, distribute the debit card, and confirm identity to activate the card. This account will remain open for the duration of the trial, unless closure is requested by DSS or as a consequence of a deceased estate.

The proposed flow of personal information for account set up and activation is as follows:

¹ <http://www.oaic.gov.au/privacy/who-is-covered-by-privacy>



Trial participants will have already provided DHS with personal information to establish their identity and eligibility for payment. DHS will not need to obtain any further information from the participant, but will advise them that their details have been shared with the card provider in the letter DHS sends to the participant. DHS will not provide the card provider with any information not directly relevant to establishing the account or verifying identity to activate the card.

Protected information passed from DHS to the card provider will continue to be protected after the card provider has obtained it and the obligations regarding protected information under social security law will continue to apply.

As the protected information will be disclosed to the card provider for the purposes of ‘the establishment or on-going maintenance of a welfare restricted bank account’ (see section 3.3.1 Social Security Legislation – Privacy and Personal Information), should the card provider reach a stage at which it no longer requires the information for this purpose, they would need to destroy the information. The card provider and its staff would be responsible for considering whether they have legal authority to continue to retain information or destroy information at any point in time.

It is likely that the card provider will have an ongoing need for the information to establish and then maintain bank accounts for the purposes of the trial but there may be a point at which they no longer require the information for this purpose.

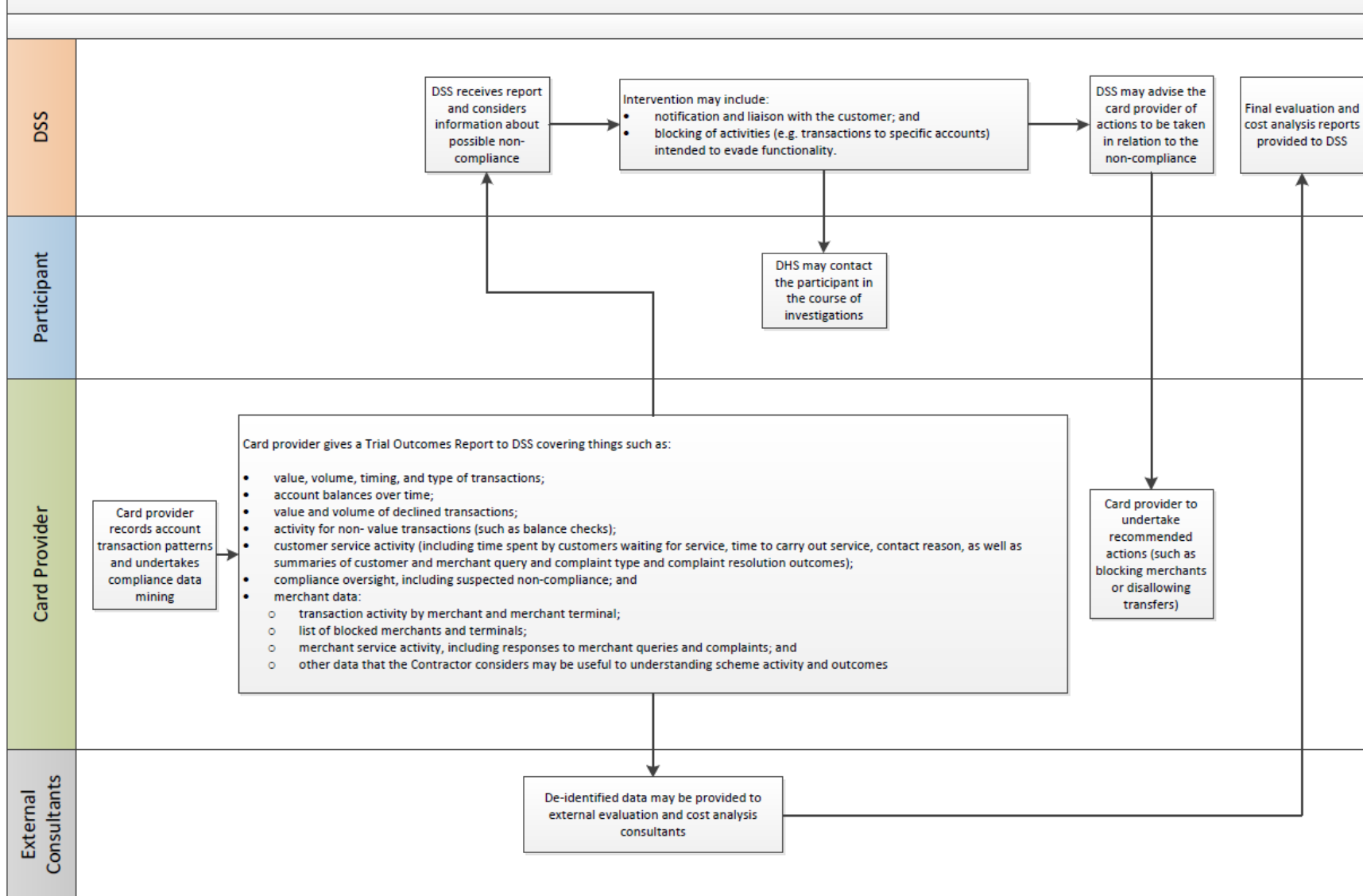
An important privacy consideration under the proposed information flow is that DHS will give participant details to the card provider to enable it to establish an account for that participant. Legislative amendments will allow for this transfer of personal information, so the restricted accounts can be created without unnecessarily inconveniencing participants by requiring them to provide the details to the financial institution themselves.

5.2.Reporting, Evaluation and Compliance

The card provider will be required to maintain detailed records of participant and merchant events throughout the trial period, with the view that such data may be essential during the trial evaluation phase and to allow DSS to meet its probity and oversight obligations. When information is provided to external evaluation and cost analysis consultants it will be de-identified.

The proposed flow of information for reporting, evaluation and compliance purposes is as follows:

Reporting, Evaluation and Compliance



The card provider will also be required to apply data analytics and quantitative analysis to flag suspected participant attempts to circumvent the functionality of the card and account. The flags will be developed in consultation with communities. Together with DSS, the card provider will develop and apply a procedure for responding to suspected participant attempts to evade restrictions. Elements of this procedure are likely to include:

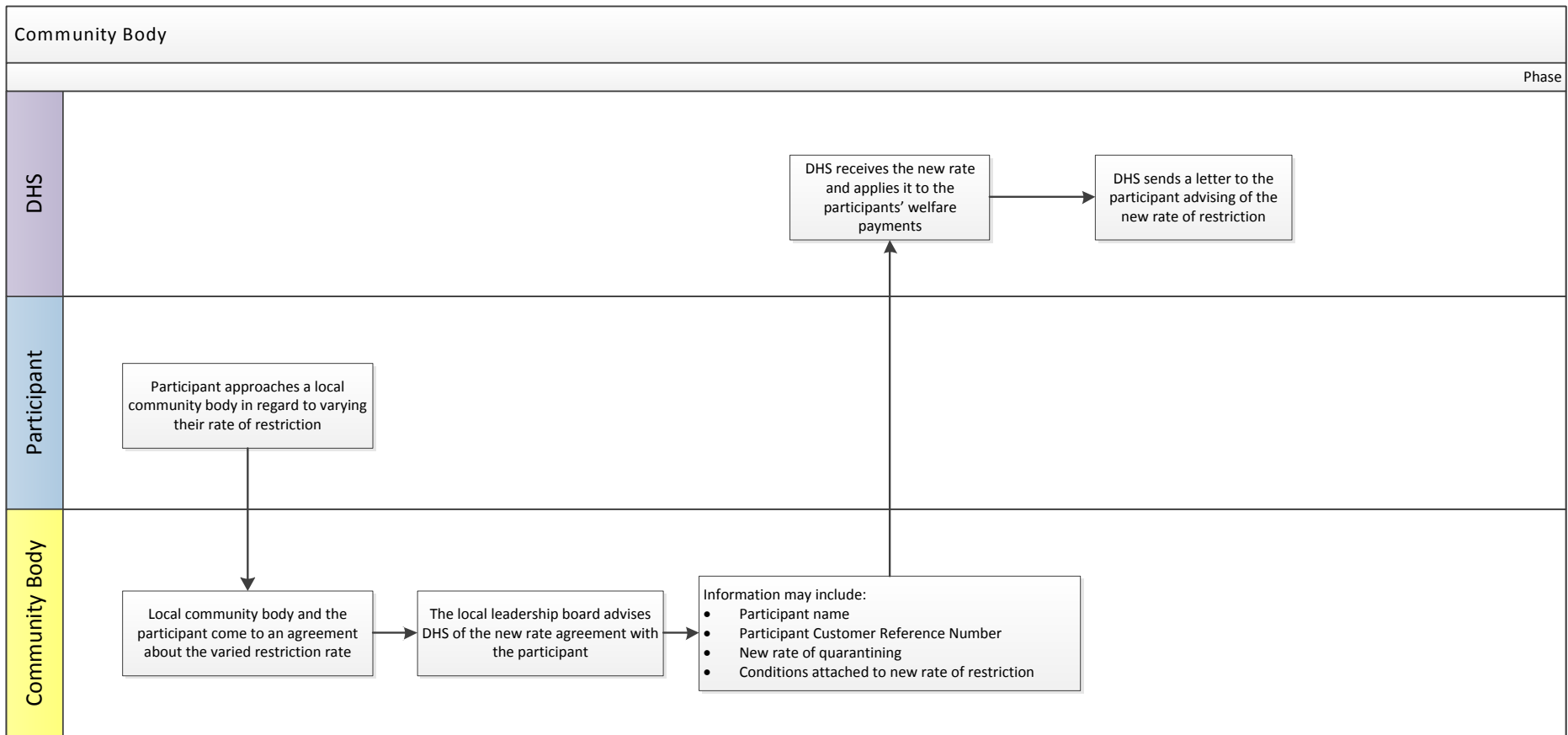
- a) notification of the Department;
- b) notification and liaison with the participant; and
- c) blocking of activities (e.g. transactions to specific accounts) intended to evade functionality

Information gathered through this process will not be ‘protected information’ under the *Social Security (Administration) Act 1999*, if the information is not held in the records of DHS and has not been collected for the purposes of the social security law. However, to the extent that information is not ‘protected information’ it must still be used in accordance with the APPs, as not only is this a legal requirement flowing from the Privacy Act (see 4.3 above), but it will also be an explicit contractual obligation. If information is passed on from the card provider to DSS/DHS and it is held in DSS’ or DHS’ records it will be considered ‘protected information’.

5.3. Community Bodies

Under the trial the Minister may authorise by legislative instrument a body as a ‘community body’ when they provide services relating to the care, protection, welfare or safety of adults, children or families. This community body may then give written direction to DHS to vary the rate of restriction applied to a trial participant’s welfare payments. The variation must reflect an agreement made between the participant and the community body.

The proposed flow of personal information for community body rate variation purposes is as follows:



The community body will need to provide sufficient information to DHS to ensure that the correct trial participant is identified for the rate variation.

The community body will be responsible for collecting the information required to identify the participant to DHS. DHS may provide general advice about what information is necessary. This may include name, date of birth, regular and restricted account details and the participant's Customer Reference Number. The community body will obtain this information from the trial participant on a voluntary basis, mitigating the risk that this information will be used by the community body on an unauthorised basis.

Section 124PO of the draft legislation allows for this disclosure of information, and for DHS to then also provide information back to the community body. The participant may also need to provide additional personal information to the community body to verify compliance with agreed actions, which can be provided to DHS if required under section 124PO.

The local community body will need to advise the trial participant of their privacy policies, including how they will use the information provided, the security of the information, and retention and destruction of the information. Consistent with the APPs, the Minister will have regard to the community bodies' privacy policies, including that they are compliant with the Privacy Act, prior to authorising them as community bodies for the trial.

6. Compliance with the Australian Privacy Principles

6.1.APP 1 — open and transparent management of personal information

DHS and DSS exercise open and transparent management of personal information. Information about their privacy policies and practices is available online at the following addresses:

- <https://www.dss.gov.au/privacy-policy>
- <http://www.humanservices.gov.au/customer/information/privacy>
- <http://www.humanservices.gov.au/corporate/publications-and-resources/privacypolicy>

As noted above, the card provider will also be contractually obliged to comply with the APPs.

6.2.APP 2 — anonymity and pseudonymity

For the purposes of account set up, card activation, compliance and interaction with community bodies it is necessary to establish the identity of participants. However, there are some circumstances where a person may remain anonymous or use an alias, such as: when making a complaint; when seeking general information about the trial; or when advising DHS or the card provider of non-compliant or fraudulent behaviour.

In order to respond specific inquiries, the card provider, Government and the community body will need to establish the identity of the person or they may be unable to progress or resolve the issue raised.

For the purposes of cost analysis and evaluation, all information will be de-identified.

6.3.APP 3 — collection of solicited personal information

The personal information collected from trial participants by Government, the card provider and potentially by a community body should be necessary for the purposes of that agency. This project and the associated legislative amendments do not propose collection of any additional information over and above what is required for: establishing the restricted account; activating the card; on-going account management; monitoring and reporting; evaluation; and variation of restrictions by community bodies.

There is no proposal for the collection of sensitive information about trial participants. To the extent that the information is protected information and is collected for the purposes of the establishment or on-going maintenance of a welfare restricted bank account, its collection will be authorised by Australia law for the purposes of APP 3.4(a).

6.4.APP 4 — dealing with unsolicited personal information

DHS and the card provider may receive unsolicited personal information about a participant's compliance with the conditions of welfare restrictions under the trial. This will most likely take the form of tip-off from the public about sale of alcohol to trial participants using the debit card or transfers of money in exchange of cash.

While not solicited, this information would have been permitted to be collected under APP 3 as it takes the form of 'personal information provided to a 'fraud hotline' that is designed to capture 'tip-offs' from the public' (APP Guidelines, APP 3.7). Consequently the information can be retained and held in accordance with the remaining APPs.

6.5.APP 5 — notification of the collection of personal information

The personal information of trial participants will already be held by DHS, or will be collected from new participants during the trial as part of the usual processes required to establish identity and eligibility for a welfare payment. The card provider may have additional responsibilities arising from banking regulations to inform trial participants how the personal information generated by their account usage will be collected and used, and will be contractually obliged to comply with all relevant banking and privacy requirements.

6.6.APP 6 — use or disclosure of personal information

The personal information disclosures proposed by this project are all in accordance with the primary purpose for which it was collected. To the extent that use or disclosure of protected information is required or authorised by legislative amendments to the *Social Security (Administration) Act 1999*, the use or disclosure will be authorised by APP 6.2(b).

6.7.APP 7 — direct marketing

This project will prohibit the disclosure or use of personal information for the purposes of direct marketing. The card provider will be contractually obliged not to use the protected personal data for any purpose other than those necessary for the operation of the trial.

6.8.APP 8 — cross-border disclosure of personal information

This project does not propose the disclosure or use of protected information to overseas recipients. Any cross-border disclosure of personal information by the card provider would be undertaken in accordance with APP8.

6.9.APP 9 — adoption, use or disclosure of government related identifiers

The Customer Reference Numbers (held by DHS) of trial participants is a government related identifier. This identifier may be disclosed to the card provider for the purposes of authenticating participant identity prior to activating cards. The card provider will be contractually obliged not to use this identifier for any other purpose.

6.10. APP 10 — quality of personal information

If a participant's personal details change during the trial, such as if they move address, they will have to update both DHS and the card provider of this change. There is no intention that after the establishment of the restricted bank account that DHS and the card provider will update on additional changes to participant details. In the case of a failed dispatch of the card – such as the card is returned to sender – the card provider will notify DSS and attempt to make contact with the participant to verify the postal address.

6.11. APP 11 — security of personal information

The card provider will be contractually obliged to provide details of the security measures they propose to take in relation to the production, warehousing, and storage facilities for debit cards, including policies for employee access and logging of access to secure areas.

The card provider will also need to provide documentation to DSS relating to the information security management of their production and operational facilities, provide assurance of the appropriate quality of their data security.

6.12. APP 12 — access to personal information

DHS and DSS both have publicly available privacy policies that address access to personal information in accordance with the APPs.

6.13. APP 13 — correction of personal information

DHS and DSS both have publicly available privacy policies that address correction of personal information in accordance with the APPs.

7. Privacy Impact Analysis

The strengths of the privacy aspects of the trial are that much of the proposed transfer of personal and protected information will be supported by legislative amendments to the *Social Security (Administration) Act 1999*. Additionally, Government and the card provider will be required to act in accordance with the APPs.

A potential privacy concern is that some protected information about trial participants will be disclosed by government to the card provider. This is required to ensure selected participants have the necessary bank accounts into which the restrictable portion of their payments can be deposited, and ensures participants are not unnecessarily inconvenienced.

Accordingly, the amendments proposed in the *Social Services Legislation Amendment (Debit Card Trial) Bill 2015* allow for this information to be disclosed and used legally by Government and the card provider. Additionally, the fact that the information remains 'protected information' after it has been received by the card provider adds an additional layer of protection and requires the card provider to continue to treat the information in accordance with social security law. The risk of negative reactions on the part of the trial participants and the public will also be mitigated by community consultation and communications prior to the trial commencing.

7.1.Risk Management

The DSS Risk Management Framework outlines the Department's risk management policy, roles, responsibilities and processes for managing various risks, including privacy. The risks identified in this PIA arise primarily from the provision of protected information by DHS to the card provider. Item 18, Schedule 1, Part 2 of this Bill ensures such provision will be compliant with legislative requirements. The risks arising from this data exchange are being mitigated by explicitly requiring the card provider to comply with the requirements of the Privacy Act and relevant banking law through contractual obligations. All risks, including those relating to privacy, are monitored frequently to ensure any necessary treatments are appropriate and proportionate.