



28 September 2015

Senator Zed Seselja
Chair
Senate Community Affairs Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

By email: community.affairs.sen@aph.gov.au

Re: Supplementary Submissions on the *Social Services Legislation Amendment (Debit Card Trial) Bill 2015*

Dear Senator Seselja,

Thank you for your recent correspondence advising that the Committee has been unable to find time to reconvene so that the National Welfare Rights Network (NWRN) can provide the evidence they were scheduled to provide on 11 September 2015 in relation to the *Debit Card Trial Bill*.

We are extremely disappointed with this outcome. As you would be aware, we often provide both written and verbal evidence to this Senate Committee on social security issues and believe that it would have been beneficial that we had this opportunity but for technological difficulties on the day.

NWRN is pleased to provide some additional information for the consideration of Committee members.

Privacy issues

The NWRN is concerned that the Bill provides for wide-range sharing of individual's private information, and we are concerned that this may not be justified or clearly explained to trial participants. The Bill removes normal privacy protections for people subject to the trial that are generally enjoyed by the wider community.

We propose that the Committee adopt the remedies that are proposed by the Office of the Australian Information Commissioner (OAIC), including its recommendation for a *Privacy Impact Assessment*.

Clause 124PN and 124PO allows employees of financial institutions and community bodies to provide personal information about a person if they are a trial participant or a volunteer to the Secretary, "despite any law in force".¹

¹ Minister for Social Services, Morrison, S. Explanatory Memorandum, *Social Security Legislation Amendment (Debit Card Trial) Bill 2015*, p. 7.

The submission from the OAIC highlights the potential for people to be shamed, embarrassed and even discriminated against if certain information is mishandled. In small regional or remote communities these risks and any potential negative impacts are heightened.

The OAIC notes further that the amount of personal information to be used or disclosed should be “limited to what is necessary to achieve the policy objective”, but is concerned that the proposed legislative amendments are “broadly framed”.²

Privacy Impact Assessments (PIA) are undertaken to provide assurances that any information sharing is reasonable and that safeguards are provided to ensure that the appropriate level of privacy standards and accountability are maintained. The OAIC provides useful guidance about when a *Privacy Impact Assessment* (PIA) should be considered in their submission.

Privacy interests must be balanced with the interests of the community, and any limitations on privacy must be reasonable, proportional and necessary to meet the policy objective. The NWRN notes with deep concern that the *Statement of Compatibility of Human Rights* fails absolutely to even mention privacy issues, let alone acknowledge that the Bill engages with the right to privacy.³ Further, it fails to explain how the information handling provisions that are contained in the Bill are compatible with *Article 17* of the *International Covenant on Civil and Political Rights* (ICCPR).

NWRN recommends that the Committee should seek a copy of the *Privacy Impact Assessment* (PIA) and if a PIA for the *Debit Card Trial* has not yet been commissioned, NWRN recommends that it be undertaken (and publicly released) as soon as practicable.

Extent of community consultation and engagement

The effectiveness of the consultation arrangements for the trial is of significant concern and conjecture. Individuals impacted by the Debit Card trial have expressed dissatisfaction to the Committee and directly to the NWRN. The media has also reported a range of views about the consultation process to date. Documents provided to the Committee indicate that extensive consultations have taken place locally with organisations in and around Ceduna. Witnesses however were unable to advise of the number of people directly consulted who receive income support payments and who will be directly impacted by the trial. The mayor of the District Council of Ceduna confirmed that “many of the people who have been consulted have been organisations rather than individuals.”^{4/5}

Evidence from Ceduna residents confirms that individuals seem to be largely missing from the consultation processes. Evidence to the Committee from other witnesses indicates that the consultation has occurred between Government and organisations, as opposed to individuals likely to be impacted: “At the moment, Kununurra is very hard, because we do not have the resources of staff to do that individually.”⁶ Another key stakeholder, the East Kimberly Chamber of Commerce

² Pilgrim, T. *Submission to the Senate Standing Committee on Community Affairs, Social Security Legislation Amendment (Debit Card Trial) Bill 2015*, Acting Australian Information Commissioner, Office of the Australian Information Commissioner, p. 2.

³ Minister for Social Services, Morrison, S. *Statement of Compatibility with Human Rights, Social Security Legislation Amendment (Debit Card Trial) Bill 2015*, pp.1-4.

⁴ Community Affairs Legislation Committee, *Social Services Legislation Amendment (Debit Card Trial) Bill 2015, Committee Hansard Senate*, Transcript, 11 September 2015, p. 16.

⁵ Dumas, D. *Indigenous health no alcohol card backed by Noel Pearson but divides Kununurra*, Sydney Morning Herald, 21 September 2015.

<http://www.smh.com.au/national/indigenous-health-no-alcohol-debit-card-backed-by-noel-pearson-divides-kununurra-20150911-gjks0l.html>

⁶ *Ibid*, p. 46.

confirms an absence of direct consultation with people likely to be affected by the trial: *"I have not observed, or heard about, communication with stakeholders that will be directly affected by the card."*⁷

This evidence would seem to call into question claims of overwhelming community support for the card, including statements by the Mayor of Ceduna that *"in excess of 95 per cent of the residents of the Ceduna district are supportive of this trial."*⁸

Cash purchases and the promise of a 'cashless society'

NWRN notes with concern that there has been little discussion or questioning of some of the key aspects of the bill, particularly of major propositions which down-play the importance of cash in the lives of people on low incomes.

There is no doubt that how people pay for goods and services is changing. Digital communications has resulted in payments moving from the physical space to the digital world. Electronic Funds Transfers – EFT - (via debit and credit cards, BPay, etc) are increasingly being taken up, with a corresponding decline of cash and cheques. Some people are choosing to pay with a tap, a wave, a mouse click or finger tap, rather than via the physical payment methods that many are used to. A recent article seeks to answer the question, *Will new and ever evolving payment methods eliminate the need to carry cash?*⁹

It notes: *"The Reserve Bank of Australia's (RBA) latest Trends in Retail Payments survey (the third in the series) found that the use of cash and cheques has declined noticeably over the past three years while the main electronic forms of payment (debit and credit) increased."*

*"Electronic transactions (both payments and cash withdrawal) now average around 250 per person, an increase of around 55% from five years earlier."*¹⁰ However, cash accounts for 18% of the value and almost half (47%) of the number of transactions.

The critical information for people subject to the trial, and for the Committee to consider, is while the use of cash is in decline, it is still the most frequently used means of payment. People are using cash *"for the majority of their low-value transactions, with around two-thirds of payments under \$20 by cash."*¹¹

Cash it seems, is still king for small purchases, and for the foreseeable future it will continue to be a normal and enduring part of daily life for people on low, fixed social security payments who have to manage their limited funds very, very carefully.

Not just like Mastercard or Visa?

In submissions, the public hearings and in parliamentary debates on the Bill there has been limited examination of the major issues of how people's lives will be effected by the cashless debit card trial. Whilst accepting that the arrangements around the banking arrangements remain commercial in confidence there was a concerning lack of interest in the detail about how the individual banking

⁷ Ibid, p. 51.

⁸ Ibid, p. 12.

⁹ Peter Williams, P. Peter Evans-Greenwood, P. *Is cash still king? Will new and ever evolving payment methods eliminate the need to carry cash?*, June 2015. At: <https://www.charteredaccountantsanz.com/en/Site-Content/Business-Trends-Insights/Acuity/June-2015/Bonus-content-is-cash-king.aspx#.VgM4LcuqpBc>

¹⁰ Ibid.

¹¹ Ibid.

arrangements for people required to take part in the trials would operate. Mining entrepreneur Andrew Forrest appeared confused about how the banking arrangements would work, inferring that individuals could choose a financial institution.¹² It was unclear if there was awareness that a person may have to operate two separate bank accounts, and this likelihood was “not seen as an important technical detail.”¹³

NWRN does not consider the finer details of how a person who may have minimal income will navigate banking arrangements under the trial as an insignificant or unimportant issue.

The facts are that we really do not know how people’s lives will be altered by the significant restriction of cash across an entire community. Real families and individuals will have to take part in this scheme. For these people it is important that any banking changes do not lead to inconvenience or higher costs.

The Australian Bankers’ Association (ABA) has advised the Committee in a one page submission that it no longer fears “adverse and unintended consequences for welfare recipients exposing them to further financial and social marginalisation and disadvantage”. The ABA notes that the “trial will be voluntary and trialled in communities willing to participate”. We would question this assertion because the trial is only voluntary for Age and Service Pensioners (as a humbugging avoidance strategy) and we have noted the lack of consultation with those to be impacted by the trial.

The ABA has failed to address the broader range of banking concerns for trial participants such as bank costs, ATM and card surcharges, minimum purchase requirements and ATM interchange fees for using other foreign ATMs.

We note that in the 2014-2015 Federal Budget the Department of Human Services announced plans to significantly curtail access to cheques. From 1 January 2016 cheques will no longer be available as a payment option for people receiving regular or urgent Centrelink payments. This raises a number of issues for trial participants, such as whether Centrelink has identified trial participants who may need to transition to electronic banking channels, and how people can access cash in emergency situations.

Opportunity costs

As one significant researcher into conditional welfare in this country notes, few countries have adopted similar mechanisms of targeting and control, and such schemes have “a high opportunity cost”, and “such funds could be redeployed on a range of other activities.”¹⁴

As witness after witness have attested, local politicians, council members, residents both supporting and opposed to the trial, the town and people of Ceduna need more effective alcohol support and rehabilitation services. As one witness put it bluntly: “there is a desperate need for additional services for people with alcoholic problems in that area.”¹⁵ NWRN urges the Parliament to respond to these pleas for practical assistance. Rehabilitation services and supports to deal with alcohol dependence should not be tied to agreement to impose the Debit Card Trials on the local community.

¹² Community Affairs Legislation Committee, *Social Services Legislation Amendment (Debit Card Trial) Bill 2015, Committee Hansard Senate, Transcript*, 11 September 2015, p. 40.

¹³ *Ibid*, p. 39.

¹⁴ Bray, R. *Seven years of evaluating income management: What have we learnt? Placing the findings of the evaluation of income management in context*, 2015, p. 42.

¹⁵ Community Affairs Legislation Committee, p. 25.

The trial will also impose other costs and have other impacts and consequences that are harder to quantify and difficult to measure. The consequences could include an increase in existing social problems, such as higher crime rates, a misuse of trial cards or an increase in prostitution. Academics also point out that compulsory income controls can infringe on human rights in unexpected ways. Academic Shelley Bielefeld argues that the effect on the infringement of the right to culture should be considered. It is noted that restricting access to cash interferes with customary kinship and sharing arrangements, and can impact on Indigenous cultural values regarding reciprocity, which are very significant in certain Indigenous communities. She also notes the important distinction between “*reciprocal sharing of resources which is mutually beneficial*” and “*humbugging*”.¹⁶

Bank staff to interrogate, track Debit Card users overspending?

Privacy concerns are also highlighted in the intrusive proposal to check third-party transactions – a suggestion not raised previously in the Explanatory Memorandum, in the Bill, or during consultations with stakeholders. However, the Department’s new evidence raises the spectre of the tracking and monitoring of recipient’s purchases. In evidence to the Committee, the Department of Social Services explained its plans to implement a community-led “flag” arrangement that would be used to identify “fraudulent”, “suspect” behaviour, or “leakage” from the Debit Card trial.¹⁷ Staff from financial institutions could check on payments to third parties, such as a rent payment or a portion of an electricity bill.

NWRN obviously welcomes the capacity for such transactions. However, this approach raises a number of serious questions. For instance:

- Under what authority or legislative arrangements are such invasive questions of individuals about their banking arrangements allowed?
- Has this issue been raised with the Financial Services Ombudsman and the other bodies such as the OAIC or the Australian Consumer and Competition Commission?
- What is the background and experience of people who are expected to determine the triggers or “flags” that will result in review of individual’s personal banking arrangements?
- What sanctions, if any, will be applied to “suspect” expenditure?
- What are the rights to review and redress if a person disagrees with an accusation or claim of undertaking a “suspect” or “fraudulent” behaviour?
- What supports and legal assistance will be available for people who have conducted an allegedly “suspect” transaction?

These proposed arrangements are deeply disturbing and appear to be both invasive and intrusive, and could see people having to defend their personal financial arrangements to a complete stranger. They also add to the complexity and cost of the scheme.

NWRN recommends that the current proposal to track third-party payments be revised.

¹⁶ Bielefeld, S. *Submission to the Parliamentary Joint Committee on Human Rights on the Stronger Futures In the Northern Territory Act 2012 and related legislation*, October 2014, p. 5.

¹⁷ Community Affairs Legislation Committee, *Social Services Legislation Amendment (Debit Card Trial) Bill 2015, Committee Hansard Senate*, Transcript, 11 September 2015, pp. 54-57.

The Ceduna Trial & Income Management

It appears that rolling out the Debit Card Trial in sites where Income Management operated has been a source of confusion, and this has caused concern among some residents.

The vulnerable welfare recipient measure, both assessment and automatic, has been in operation in Ceduna and in the APY Lands since July 2014. The imposition of the Debit Card Trial on the township and surrounds of Ceduna has caused a degree of confusion for residents, as it was assumed by some people that the scheme would be identical to the BasicsCard, which many people supported and were familiar with.

It seems many locals have been poorly informed of the impending trial. There was no evidence of any communication strategy heralding the changes either from the local mayor or any of the key community agencies within the trial location.

Additionally, it appears that some Ceduna residents only realised the broad coverage of the “trigger payments” and the high level of cash restrictions when these aspects of the Ceduna trial were reported in the local media. Community members have also indicated limited opportunities to obtain information about the trial and about becoming involved in the design of the trial.

It is accepted that effective, genuine consultation is critical to the successful implementation of Government policy. Based on our feedback, there is a need for more explanation and engagement with community members to clarify the differences between this trial and any previous Income management arrangements that may have applied locally in Ceduna and similarly in the East Kimberley if that is to be a trial site. A community dialogue about the key differences between the previous approaches under Income Management and the Debit Card Trial, is fundamental.

Evaluating Income Management – revisited

NWRN acknowledges the significant problems of alcoholism, illness and violence and the neglect of children that is present in some communities, and supports appropriate interventions and community-based and led responses to address these difficulties.

The evidence from evaluation after evaluation of income management and limits on access to cash has shown that none of these approaches have been successful in restricting access to alcohol or drugs and reducing violence against women. Additionally, as many submitters to this inquiry have noted where there is a will to obtain alcohol, desperate people with addictions to feed will seek access and will be successful finding the alcohol that they crave.

As indicated in our initial submission to the Committee, evaluations of New Income Management (NIM) have universally revealed no major decrease in family problems and no changes at a community and a small decrease at an individual level with humbugging or harassment. In place based income management and in the APY Lands there was an increased rate in people asking for money, and begging for both food and cash.

With NIM there were no noticeable improvements to measurements in education, health or alcohol intake. While people felt that the income management has improved their lives, and that of their family, there was no empirical data to support such perceptions, no matter how strongly the beliefs were held by participants.

Importantly, where support for children was provided as part of a coordinated set of supports and where people wanted to see changes the results were more promising – but this has no effect on the underlying social problems that the communities experienced on a daily basis.

Significantly, there was some limited evidence of small gains for voluntary Income Management participants, and one of the more significant negative findings from the evaluations was that overall it encouraged increased dependence on the welfare system. Costs of the scheme was a major drawback with income management, reaching in excess of \$1 billion in the decade since 2004-05. Due to secrecy and confidentiality arrangements with the latest version of conditional welfare arrangements in this country, the cost for the Debit Card Trials is not yet known.¹⁸

On a broader level, community members were more concerned with issues such as local employment, housing and the access and quality of community and local services.

A valuable contribution to the knowledge based around conditional welfare in Australia is the 2014 report for the Department of Social Services on the APY Lands in South Australia, where Income Management was introduced in July 2014 after the community asked for it to be introduced.¹⁹

Like many of the previous evaluations, the findings “*relies almost exclusively on perceptions of community members and other stakeholders*” and no quantitative data was available.²⁰

Other key findings of the study are highlighted below.

- Community members and those using Income Management were positive about the scheme.
- That communities requested the scheme, and have been consulted about its introduction appears to have had a significant influence on community and participants views about Income Management.
- There were increased reports of financial harassment because of the reduced amount of cash in the community.
- People bought goods with income managed funds and exchanged them for cash;
- Community members now indicate that they are being “humbled” for both cash and for food.
- Many outlets did not accept the card, and people travelling to Adelaide experience practical problems when travelling out of APY Lands for family or community “business”.
- Despite being on income management, 70% of people ran out of money in the previous four weeks – suggesting that it is the lack of money, not the inability to manage money, that is the real problem.
- The BasicsCard made it more difficult for some people to manage money when for instance, they pooled resources and shared funds.
- People used Income Management in a variety of ways to manage their money, and some people believe Centrepay was a more effective way of managing their money, while others used a local Key Card at the bank or pooling their funds.

¹⁸ Bray, R. *Seven years of evaluating income management. What have we learnt?* The findings of the NIM evaluation, Research School for the Social Sciences, ANU, July 2015.

¹⁹ Katz, I. and Bates, S. *Voluntary Income Management in the APY Lands*, Social Policy Research Centre, Prepared for the Department of Social Services, September 2014.

²⁰ *Ibid*, p. 13.

- As there were a large number of programs operating locally, it was not possible to disaggregate the Income Management effects from other programs.

The final word of evaluations of Income Management – Does It Work?

NWRN recommends that Committee members consider a significant 2012 report by the Parliamentary Library which sought to answer the question *'Is income management working?'*²¹ It notes "substantial difficulties associated with evaluating the effectiveness of income management", with very few studies having been able to directly measure the impacts of income management separately from the mix of other policy interventions. Existing evaluations, says the researchers, should be "treated with caution" due to a range of methodological problems, including:

- the lack of comparison group or baseline data;
- the limited amount of quantitative data;
- the strong reliance on qualitative measures;
- questions over the independence of some evaluations; and
- problems with other design aspects of various reviews.²²

The best that the Parliamentary Library can say is that any evidence of positive changes is "*uneven and fragile*" and that "*there is no clear evidence that income management is responsible for a worsening of the situation in areas in which it operates*".²³

As the Parliamentary Secretary to the Prime Minister Alan Tudge noted in his *First Reading Speech* on the Bill:

*"The trial, expected to start in the first quarter of 2016, will make a vital contribution towards informing potential future arrangements for income management, aimed at reducing social harm caused by welfare fuelled alcohol abuse and drug abuse, especially against women and children."*²⁴

These reforms come at high costs to individuals and taxpayers alike, and there is a compelling and convincing case that conditional welfare arrangements such as those being considered in this Bill should be disbanded, not expanded.

Concluding remarks

A positive aspect of income management has been that Centrelink has had a greater presence in many Aboriginal communities and as a result of this servicing that increased numbers are now receiving both their correct entitlement and the right rate of payment. If there is a move away from income management, the BasicsCard, and regular servicing by Centrelink it is likely that improvements to date will fall away as Government responsibility in this space is transferred to the mainstream banking sector at a cheaper cost irrespective of whether it meets the needs of the vulnerable people in the communities impacted.

²¹ Buckmaster, L. Ey, C. and Klapdor, M. *Income management: an overview, Background Note*, Parliamentary Library, June 2012, p. 40.

²² Ibid, p. 40.

²³ Ibid, p. 42.

²⁴ The Hon. Alan Tudge, *Social Security Legislation Amendment (Debit Card Trial) Bill 2015, First Reading Speech*, House of Representatives, 19 August 2015.

The NWRN would welcome the opportunity to provide further feedback to the Committee on our submission. Should the Committee require additional clarification we can be contacted on 02 9211 5389 or at national@welfarerights.org.au.

Yours sincerely,

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