

The Senate

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Finance and Public Administration  
Legislation Committee

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Schedule 2 of the Social Services and Other  
Legislation Amendment Bill 2013 [Provisions]

December 2013

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# Membership of the Committee

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Senator Rachel Siewert, AG, WA  
to replace Senator Lee Rhiannon (from 9 December 2013)



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# **List of Recommendations**

## **Recommendation 1**

**2.29** The committee recommends that the Senate pass the measure contained in Schedule 2 of the Bill.



# CHAPTER 1

## Introduction

1.1 On 20 November 2013, the Social Services and Other Legislation Amendment Bill 2013 (Bill) was introduced into the House of Representatives by the Minister for Social Services (Minister), the Hon Kevin Andrews MP.<sup>1</sup> The Bill was passed by the House of Representatives on 4 December 2013.<sup>2</sup>

1.2 On 5 December 2013, the Bill was introduced into the Senate.<sup>3</sup> On the same day, the Senate referred Schedule 2 of the Bill – Continuing income management as part of the Cape York Welfare Reform – to the Senate Finance and Public Administration Legislation Committee (committee) for inquiry and report by 12 December 2013.<sup>4</sup> In order to assist the parliament's timely consideration of the Bill, the committee decided to present its report on 11 December 2013.

### Purpose of Schedule 2 of the Bill

1.3 Schedule 2 of the Bill seeks to amend the *Social Security (Administration) Act 1999* to extend the operation of income management in Cape York for a further two years until the end of 2015.<sup>5</sup> Income management is an element of the Cape York Welfare Reform trial.

1.4 The Explanatory Memorandum provides the following reason for the proposed amendment in Schedule 2 of the Bill:

The continuation of income management until the end of 2015 as a key element of the reforms will continue to assist in stabilising people's circumstances and fostering behavioural change, particularly in the areas of school attendance, parental responsibility and increasing individual responsibility.<sup>6</sup>

### Conduct of the inquiry

1.5 Details of the inquiry, including links to the Bill and associated documents, were placed on the committee's website at [www.aph.gov.au/senate\\_fpa](http://www.aph.gov.au/senate_fpa).

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1 *Votes and Proceedings*, No. 6, 20 November 2013, p.106.

2 *Votes and Proceedings*, No. 10, 4 December 2013, p. 164.

3 *Journals of the Senate*, No. 7, 5 December 2013, p. 258.

4 *Journals of the Senate*, No. 7, 5 December 2013, pp 245-246. Note: The provisions of Schedules 6 and 9 were referred to the Senate Education and Employment Legislation Committee and the remaining provisions were referred to the Senate Community Affairs Legislation Committee.

5 Explanatory Memorandum (EM), p. 1. See Item 1 of Schedule 2 of the Social Services and Other Legislation Amendment Bill 2013 (Bill).

6 EM, p. 1.

1.6 The committee also directly contacted a number of relevant organisations and individuals to notify them of the inquiry and invite submissions by 9 December 2013. Submissions received by the committee are listed at Appendix 1.

1.7 The committee decided to prepare its report on the basis of submissions received and available information. The committee thanks those who assisted by providing submissions to the inquiry.

# CHAPTER 2

## Background and committee view

### Background to Cape York Welfare Reform

2.1 In 2007 the Cape York Institute for Policy and Leadership (CYI) published the report *From hand out to hand up, Volumes 1 and 2*, which set out the policy design for Cape York Welfare Reform (CYWR). CYWR is a package of policy measures which aims to address welfare dependence and reverse the decline of social and economic conditions in Cape York Indigenous communities. The underlying policy principles of the design were:

- all welfare should be conditional;
- further government investment in capability building was needed;
- incentives needed to be fundamentally changed to encourage people to engage in the real economy.<sup>1</sup>

2.2 Four communities – Mossman Gorge, Coen, Aurukun and Hope Vale – agreed to participate in a four year trial of the reforms which began in 2008. It is important to note that CYWR is a partnership between the CYI, the Australian Government and the Queensland Government.<sup>2</sup>

### *Family Responsibilities Commission*

2.3 A key component of CYWR was the establishment of the Family Responsibilities Commission (FRC) by the Queensland Government as an independent statutory body.<sup>3</sup> The FRC comprises a Commissioner, a Deputy Commissioner and Local Commissioners from each of the participating communities.

2.4 The FRC's website outlines its role and focus in the reform:

The purpose of the [FRC] is to support the restoration of socially responsible standards of behaviour and to assist community members to resume and maintain primary responsibility for the wellbeing of their community and the individuals and families within their community...

The FRC focuses on early intervention and the outcomes sought are clearly aligned with the goals of the wider criminal justice system – goals aimed at reducing drug addiction, violence, assorted crime, and child neglect in Indigenous communities. The FRC approach, however, is different to other

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1 Department of Families, Housing, Community Services and Indigenous Affairs, Cape York Welfare Reform Evaluation, p. 67, available at: <http://www.dss.gov.au/our-responsibilities/indigenous-australians/publications-articles/evaluation-research/cape-york-welfare-reform-cywr-evaluation-report-2012> (accessed 5 December 2013).

2 The Hon Kevin Andrews MP, Minister for Social Services, second reading speech, *House Hansard*, 20 November 2013, p. 9.

3 Cape York Welfare Reform Evaluation, p. 1.

justice strategies in that its focus is socially orientated with conferencing, case management, and support for the community in nurturing, protecting and educating the future generation. The FRC methodology is aimed at being proactive and collaborative.<sup>4</sup>

2.5 The FRC applies to all community members – both Aboriginal and non-Aboriginal – who are welfare recipients or participating in Community Development Employment Projects and who reside in or have lived in the participating communities for three months since 1 July 2008.<sup>5</sup>

### ***Triggers***

2.6 There are four types of 'trigger events' which can result in a person being brought before the FRC:

- a person's child is absent from school for three full or part days in a school term without a reasonable excuse, or the person's child of school age is not enrolled in school without a lawful excuse;
- a person is the subject of a child safety report;
- a person is convicted on an offence in the Magistrates Court;
- a person breaches his or her tenancy agreement.<sup>6</sup>

2.7 If one of the four trigger events occurs, the FRC receives a notification about the breach. The FRC is then empowered to do a range of things:

[The FRC] might take no action if none is warranted. It might give the person a warning. It might recommend the person attend community support services to help them get their life back on track. It might order the person to attend those services.<sup>7</sup>

### ***Support services***

2.8 The FRC links individuals to relevant support services in their community which include:

- case managers to help children attend school;
- money management advisors; and

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4 Family Responsibilities Commission, About the Commission, available at: <http://www.frcq.org.au/?q=content/about-commission> (accessed 6 December 2013).

5 Cape York Welfare Reform Evaluation, p. 71.

6 Cape York Welfare Reform Evaluation, p. 71.

7 The Hon Anna Bligh MP, Queensland Premier, second reading speech for the Family Responsibilities Commission Bill, *Queensland Parliament Record of Proceedings (Hansard)*, 26 February 2008, p. 333.

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- counsellors for drug and alcohol addiction, family violence and mental health issues.<sup>8</sup>

### ***Income management***

2.9 In the CYWR framework, income management over a person's welfare payments is intended as a last resort where other support has not resulted in an individual changing their behaviour.<sup>9</sup>

2.10 An income management order operates in the following way:

The FRC advises Centrelink how much of a person's welfare payment will be income managed. This is usually 60 or 75 per cent of a person's welfare payments, to be used for essentials such as food, clothing, medicine, rent, electricity and basic household goods. The money cannot be spent on alcohol, tobacco, pornography or gambling. Income management does not reduce the total amount of a person's payments from Centrelink, and the rest of their fortnightly entitlement is paid in the usual way.

The FRC orders income management by issuing an income management notice to Centrelink, which Centrelink must implement if the customer named in the notice receives a relevant income support payment. The FRC may also amend an income management notice to revoke the notice, extend the its duration or amend the percentage of fortnightly welfare payments that are income managed. In CYWR communities, individuals also have the choice to go onto income management voluntarily, if the FRC agrees.

The FRC can direct that the client be income managed for a period of from 3 months to 12 months, which is typical. The FRC may extend income management because:

- it has received further notices about the person
- the client has refused to engage with the FRC
- the client has failed to follow through on commitments agreed with the FRC
- the client has asked for the notice to be extended.<sup>10</sup>

2.11 Individuals on income management are issued a 'BasicsCard' in respect of 60 to 75 per cent of their welfare payment. The BasicsCard can only be used for essential life expenses such as food, clothes and health items at a variety of approved stores and businesses.<sup>11</sup>

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8 Department of Families, Housing, Community Services and Indigenous Affairs and KMPG, Implementation Review of the Family Responsibilities Commission: Final Report, September 2010, p. 12.

9 Cape York Welfare Reform Evaluation, p. 187.

10 Cape York Welfare Reform Evaluation, p. 73.

11 See Department of Human Services website, About the BasicsCard, available at: <http://www.humanservices.gov.au/customer/enablers/centrelink/income-management/basicscard> (accessed 9 December 2013).

2.12 In introducing the legislation for the FRC into the Queensland Parliament, the then Queensland Premier highlighted the differences between CYWR and the Northern Territory Emergency Response (the Northern Territory Intervention):

[The CYWR] trial has a stronger emphasis on partnership, capacity building, local authority and service enhancement. Community ownership of the welfare reform trial is critical to its success.

The Cape York Institute and government officials have been working with each community for some time in designing the key features of the trial, particularly the [FRC] itself. Community participation in the trial will be formalised through each community's local Indigenous partnership agreement.<sup>12</sup>

2.13 The committee notes that funding for the FRC from the Queensland Government has only been extended until the end of 2014.<sup>13</sup>

### **Evaluation of Cape York Welfare Reform**

2.14 An evaluation of CYWR was conducted by the Australian Government and publically released in January 2013. The evaluation notes that '[i]n the first three and a half years of the trial about half of the adult population in the four trial communities had direct contact with the FRC for breaching at least one of the behavioural obligations that act as triggers for referral to the FRC'.<sup>14</sup>

2.15 The evaluation found:

The FRC, operating in conjunction with a suite of support services...and opportunities...is encouraging and enabling many individuals and families to identify and start to address problems that affect their lives. The evaluation has found evidence of greater self-awareness about problems affecting individuals and families, and a greater preparedness to seek opportunities for supported self-help.<sup>15</sup>

### ***Overall findings***

2.16 The trial is designed to rebuild social norms in Cape York, starting with short to medium behaviour change which result in sustainable improvements over the longer term.<sup>16</sup> The evaluation looked at the areas of progress in social change, education, social responsibility, housing, economic opportunity and restoring Indigenous authority.

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12 The Hon Anna Bligh MP, Queensland Premier, second reading speech for the Family Responsibilities Commission Bill, *Queensland Parliament Record of Proceedings (Hansard)*, 26 February 2008, p. 333.

13 Queensland Government, *Submission 3*, p. 1.

14 Cape York Welfare Reform Evaluation, p. 2.

15 Cape York Welfare Reform Evaluation, p. 5.

16 Cape York Welfare Reform Evaluation, p. 2.

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2.17 In the area of social change the evaluation noted that behavioural change sought has been at the foundational level to create the basis for further behavioural change:

There are signs that people are taking on greater personal responsibility and raising expectations, particularly in areas such as sending kids to school, caring for children and families and their needs, and accessing supported self-help measures to deal with problems.<sup>17</sup>

2.18 The evaluation also advised:

Residents of the communities report that, compared to three years ago, children are happier, more active and eating healthier food, and life is on the way up generally.<sup>18</sup>

2.19 A successful feature of the trial has been the:

[R]ebuilding of Indigenous authority to tackle antisocial behaviour through the local FRC Commissioners. Most community members and other stakeholders believe that the FRC has strengthened leadership, particularly through the Local Commissioner's listening, guiding and supporting role. The FRC conferencing process resonates with traditional Aboriginal dispute resolution practices and is consistent with restorative justice principles. An analysis of the social change survey data by social psychologists indicates that residents believe in the underlying logic of the trial – that the FRC can strengthen leadership and encourage people to take responsibility for their behaviour.<sup>19</sup>

2.20 The evaluation noted that more progress has been made changing behaviours around education and social responsibility and suggested:

[T]here is a natural sequence in which stabilising the social environment and improving educational attainment creates the preconditions for greater employment and business enterprise and transition to private home ownership.<sup>20</sup>

### ***Income management findings***

2.21 The evaluation provided the following information in relation to the extent of income management in CYWR:

By December 2011, 424 people (25% of the population aged 17 and over) had been placed on income management in the four communities at some point in the preceding 3½ years, for an average duration of 16.8 months. 93% were compulsory and 7% were voluntary orders.<sup>21</sup>

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17 Cape York Welfare Reform Evaluation, p. 2.

18 Cape York Welfare Reform Evaluation, p. 5.

19 Cape York Welfare Reform Evaluation, p. 6.

20 Cape York Welfare Reform Evaluation, p. 3.

21 Cape York Welfare Reform Evaluation, p. 15.

2.22 In summary, the evaluation made the following findings in relation to the operation of the income management scheme:

The evaluation has found that income management imposed by the FRC has been a successful intervention in ensuring that the needs of families and children are met...

The Cape York model of income management is far more targeted than the original [Northern Territory Emergency Response] model. The FRC seeks initially to counsel clients about their behaviour and refer them to support services, while income management is used as a means to reform behaviour if these initiatives do not work. Clients on income management are case managed and the FRC monitors their progress and can adjust or revoke income management orders as necessary. There is some evidence that income management assists in reducing subsequent breaches of the behavioural obligations that lead to FRC notices. In Hope Vale, Coen and Mossman Gorge, the average number of notices per quarter for an individual fell by about 10 percentage points after the individual was placed on income management.<sup>22</sup>

2.23 Specifically in relation to the BasicsCard, which is issued as part of the income management program, the evaluation found:

In the social change surveys, 78 per cent of respondents in the four communities reported that the BasicsCard made their life better, while 12 per cent thought that it made their life worse. Furthermore, across the four communities, 69 per cent agreed that if people cannot pay for rent and food because they spend their money on other things, then they should be put on the BasicsCard. There is some dissent about the BasicsCard, with common complaints being the inability to use it in some stores and the paternalistic nature of the intervention. Generally, however, the qualitative feedback in the social change surveys was very positive about the impact of the BasicsCard in assisting people to manage their money to meet their families' needs, as well as reducing the money spent on alcohol and drugs.<sup>23</sup>

### **Committee view**

2.24 The committee notes this is not a new issue and this will be the third time income management has been extended since it started in 2008.<sup>24</sup> The committee is also mindful that income management is a divisive issue.<sup>25</sup>

2.25 The committee understands there is no quick fix to the long-term challenges of Indigenous disadvantage in these communities. However, it notes advice in the

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22 Cape York Welfare Reform Evaluation, p. 34.

23 Cape York Welfare Reform Evaluation, p. 34.

24 Income management was extended for 12 months from 1 January 2012 and 12 months from 1 January 2013. See A Biggs, L Buckmaster, C Ey and M Klapdor, *Bills Digest: Social Services and Other Legislation Amendment Bill 2013*, Digest No. 29, 2013-14, 10 December 2013, p. 14.

25 See, for example, St Vincent de Paul Society, *Submission 2*, pp 2-4.

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evaluation report that 'after only three years...the trial of welfare reform points to a level of progress that has rarely been evident in previous reform programs in Queensland's remote Indigenous communities.'<sup>26</sup>

2.26 The committee recognises that income management is a sanction of last resort in CYWR. In considering the extension of income management in the CYWR, the committee has referred to the findings of the evaluation that income management was a 'successful intervention in ensuring that the needs of families and children are met'.<sup>27</sup> In particular, the committee is persuaded by support for the measure by CYWR participants, where 78 per cent of respondents in the four communities felt that the Basicscard (issued as part of income management) made their lives better.

2.27 The committee also acknowledges the support of the Queensland Government, one of the partners in CYWR, for the extension of income management:

Income management is a critical and valued component of the Family [Responsibilities] Commission and the broader welfare reform program. It is considered vital to changing behaviour and increasing social function in the communities.<sup>28</sup>

2.28 In the committee's view CYWR should be extended for a further two years in order to allow for further consolidation of the successes of the reform to date. Therefore, the committee supports Schedule 2 of the Bill.

### **Recommendation 1**

**2.29 The committee recommends that the Senate pass the measure contained in Schedule 2 of the Bill.**

**Senator Cory Bernardi**

**Chair**

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26 Cape York Welfare Reform Evaluation, p. 7.

27 Cape York Welfare Reform Evaluation, p. 34.

28 Queensland Government, *Submission 3*, p. 1.



# Australian Greens Dissenting Report

The Australian Greens are very concerned at the very quick time frame of this inquiry, given the very short time of the inquiry, moving the reporting date forward has only made it more difficult for stakeholders to participate. The small number of submissions should not be taken as a sign that this issue is not highly contested.

The application of income management in Cape York is quite widespread. While income management is meant to be applied as a measure of last resort, 25% of those living in the welfare trial sites had been subject to it by December of 2011. And although an income management order is meant to be between 3 to 12 months, the average length of time on the Basics Card is 16.8 months.<sup>1</sup> Clearly the income management orders are applied frequently and often extended beyond the original time period.

While the Australian Government argues that income management has been instrumental in improving 'school attendance, care and protection of children and community safety',<sup>2</sup> there has not yet been any objective analysis of income management in Cape York that has shown that it has delivered these outcomes.

The continued application of a highly coercive program such as income management needs to be justified before the Australian Greens would support extending it in any guise. This justification has not been provided through the committee inquiry process.

The majority committee report points to subjective measures of wellbeing, obtained by surveying the community attitude towards Income Management as evidence of the program's success.<sup>3</sup> However, it is the view of the Australian Greens that this should be supported by empirical evidence as perceptions are very different to real outcomes.

The major source of information about income management in Cape York is the evaluation report commissioned by the Australian Government.<sup>4</sup> This report is unable to demonstrate conclusively that income management in Cape York had met its stated aims.

Only three of the four communities demonstrated a reduction in the number of times that people were reported to the Family Relationship Council, and only then was there a 10% reduction in reports per person.<sup>5</sup> The evaluation report goes on to say that,

The reduction in breaches may not be a function of income management alone, as it is possible that the fact of being repeatedly brought before the FRC conferences encourages individuals to comply.<sup>6</sup>

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1 Australian Government, *Cape York welfare reform evaluation*, FaHCSIA, 2013, p 2.

2 Explanatory Memorandum, *Social Security and Other Legislation Amendment Bill 2013*, p. 5.

3 Australian Government, *Cape York welfare reform evaluation*, FaHCSIA, 2013.

4 *Ibid.*, p. 34.

5 *Ibid.*

6 *Ibid.*

The evaluation found that there had been improvements in areas such as school attendance and reductions in crime.<sup>7</sup> However, income management is just one of a number of measures that have been implemented by the Cape York Welfare Reform Trial, which contributes to these changes.

Furthermore, two of the report's authors, Ilan Katz and Margaret Raven, have noted in the Indigenous Law Bulletin that it is difficult to draw conclusions from this given that 'many other Indigenous communities in Queensland had also shown improvements'.<sup>8</sup>

This is reflected in the submission from St Vincent de Paul Society, states,

There seems to be limited evidence to suggest that these positive outcomes are a direct result of compulsory income management, as opposed to a range of new social services being rolled out in Cape York... there is no particular reason to think that income management is the sole driver of the positive changes, with so many programs operating simultaneously.<sup>9</sup>

The majority report, 'acknowledges the support of the Queensland Government, one of the partners in CYWR, for the extension of income management'<sup>10</sup> but fails to acknowledge that the Queensland Government originally withdrew funding for the programs in March 2013, with Queensland Aboriginal and Torres Strait Islander Affairs Minister, Glen Elmes stating,

It is an extraordinary amount of money and the fear I have is that a very large amount of money is going into those four communities ... The other Indigenous communities—not only in Cape York—but places like Woorabinda and Cherbourg and other parts of the state are missing out on what should be their share.<sup>11</sup>

Although the Queensland Government has subsequently agreed to extended the trial until the end of 2014 (one year less than this Bill seeks to extend the trial for), it is clear that the Queensland Government is not unambiguously supportive of the program.

The evaluation report also notes that there is some community dissent about income management and the Basics Card, including concern about the 'inability to use it in some stores and the paternalistic nature of the intervention,'<sup>12</sup> which echoes the

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7 Ibid., pp. 3-5.

8 I Katz and M Raven, 'Evaluation of the Cape York Welfare Reform Trial', *Indigenous Law Bulletin*, 8(7), July 2013, p.19.

9 St Vincent de Paul Society, *Submission 2*, p. 3.

10 Finance and Public Administration Legislative Committee, *Majority Report on Social Services and Other Legislation Amendment Bill*, 2013, Section 2.26.

11 J Rawlins and S Kim, 'Government cuts funding to Cape York welfare trial', *ABC News*, 27 March 2013.

12 Australian Government, *Cape York welfare reform evaluation*, FaHCSIA, 2013, p. 34.

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concern that have been associated other forms of income management such as the NT Trials and the Place-Based Trials.

The evaluation report of the Northern Territory 'New Income Management' Trials found the program to be disempowering, while being unable to pinpoint any measurable improvements in community wellbeing or personal responsibility.<sup>13</sup>

Similarly, the Parliamentary Joint Committee on Human Rights included the 'new income management trials' in their assessment of the Stronger Futures regime. Their report found that there was evidence of 'equally significant adverse aspects' to counter any benefits of the regime. The Committee also noted the fact that income management intrudes on personal freedom and autonomy.<sup>14</sup>

While there are differences between the Northern Territory and Queensland application of income management, the negative impact on human rights and personal dignity is common to both and should not be dismissed.

There have also been no assessments to date about how income management has changed purchasing habits in Cape York. However, again looking to other assessments from the Northern Territory for insight, the Menzies Institute research found virtually no change to tobacco or fresh food purchases under income management,<sup>15</sup> while a study conducted by the Equality Rights Alliance of more than 180 women with direct experience of Income Management found that 85% had not changed what they buy and 74% felt discriminated against.<sup>16</sup>

On the weight of the evidence, the Australian Greens believe that income management is a failed and expensive policy that the Government is persisting with in the absence of any real justification. There are a number of other programs, which are not coercive in nature, such as Centrepay that can be used to help people manage their money better.

The Greens support a direct investment in programs and communities that address the underlying causes of disadvantage people are facing rather than income management which is expensive to implement.

The money being spent on income management around Australia would be better invested directly into communities in order to provide specialist, direct programs to address things like financial management, education, better access to fresh food, a reduction in alcohol and drug abuse and better support for parents and people looking for work.

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13 Rob Bray et al, (Social Policy Research Centre, UNSW, Australian National University and Australian Institute of Family Studies), *Evaluating New Income Management in the Northern Territory: First Evaluation Report*, 2012, pp. xviii-xix.

14 Joint Standing Committee on Human Rights, *Stronger Futures in the Northern Territory Act 2012 and related legislation*, 2013, section 1.223.

15 Brimblecombe, J et.al. *Impact of Income Management on Store Sales in the Northern Territory*, *Medical Journal Australia*, 192(10), 2010, p.549 – 554.

16 Equality Rights Alliance, *Women's Experience of Income Management in the Northern Territory*, 2011, p.22.

**Recommendation 1**

**The Australian Greens recommend that the Senate not pass the measure contained in Schedule 2 of the Social Security and other Legislation Amendment Bill 2013.**

**Recommendation 2**

**That the funding associated with Schedule 2 be directed towards other programs of support that are not coercive in nature.**

**Senator Rachel Siewert  
Australian Greens**

# **APPENDIX 1**

## **Submissions received by the Committee**

- 1 Monash University
- 2 St Vincent de Paul Society
- 3 Queensland Government

