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The Secretary
Senate Standing Committee on Community Affairs
Parliament House
Canberra ACT 2600

By Email: to community.affairs.sen@aph.gov.au

Submission to Inquiry into the Social Services Legislation Amendment (Cashless Debit Card) Bill 2017

I am motivated to make this submission to the Committee because of growing concern of the discrimination reflected in the Government's attempts at social engineering of disadvantaged sections of the Australian community, as expressed through my constituents, of the untargeted imposition in selected communities of conditions and restrictions on access to and use of working age income support payments.

According to the Goldfields Land and Sea Council ('GLSC') Board of Directors, the Statement of Compatibility with Human Rights contained in the Explanatory Memorandum ('EM') for the above Bill is a masterful exercise in avoiding the issue and misdirection, and as such is dishonest and an insult to the intelligence of Parliament and the Australian people. The basic issue here is the application of restrictions and qualifications to the entitlements of **all** recipients of particular welfare safety net benefits in a given community or region, on the premise that this is necessary in order to curb/control the behaviour of a (generally small) proportion of the recipients in that group. This is not "reasonable and proportionate", as the EM claims. It is penalising the responsible citizens in a community for the sins of a minority.

If the Government were serious about addressing the problems reflected in the objectives of the cashless debit card, and of a mind to protect the human rights of responsible Australians, it would surely make sense to devise a more restrictive and targeted approach to defining those to be subjected to its social engineering efforts. This would be more effective, cost considerably less, and be far more palatable to the general community.

The notion of community consultation and support, and community bodies

The GLSC Board of Directors is sceptical about any measure that purports to be dependent on community support following consultation. (Section 24JAA of the *Native Title Act 1993* (Cth) is an example of the use of “consultation” as a substitute for agreement, where the need to obtain the agreement of a native title group was seen by the government to be an impediment to pursuing a proposed course of action). There is far too much room for manipulation and spin by government servants to view this as a safeguard preventing the imposition of unwanted discriminatory requirements on a community.

The EM notes that “in identifying new sites, priority will be given to including communities with lower Aboriginal and Torres Strait Islander populations”. There is a degree of discomfort at the disproportionate impact of the Cashless Debit Card (‘CDC’) implementation to date on Indigenous people, and the implications of this for the RDA and the right to equality and non-discrimination.

The notion of a “community body” that speaks for all in a community is unsustainable when it comes to decisions with such a fundamental impact on the rights and freedom of the individual. To attribute such a role to a body under the Social Services legislation is misdirected – or more precisely, a diversion intended to give some semblance of legitimacy and community acceptance to discriminatory practices. To ascribe a decision-making power to community panels over the rights of individuals in the community in relation to the form of their income support payments is inappropriate.

The Legislative Instrument as a safety mechanism against abuse

The clear message from the EM is that there is no need to worry about giving the Government an ongoing mandate to propose the introduction of the CDC in other communities and regions around Australia, as the implementation of the CDC in new communities will be subject to disallowance by Parliament. The reality is that, having given ongoing program status to a former limited trial project, the likelihood of Parliament disallowing a proposal couched in terms similar to the EM is low, and

more Australian communities will be subjected to this discriminatory abuse in the guise of addressing the problems of a small minority.

Presenting the imposition of indiscriminate, untargeted detriment as a positive attribute

The EM presents the imposition of an indiscriminate, untargeted CDC as a positive attribute of the CDC viz:

“The rights to equality and non-discrimination are not directly limited by the Cashless Debit Card. The program is not applied on the basis of race or cultural factors. New locations for the program will be chosen based on objective criteria, similar to the criteria used to choose the existing sites. This includes high levels of welfare dependence and community harm, as well as the outcomes of comprehensive community consultation.

Anyone residing in locations where the Cashless Debit Card operates, and receiving a payment specified by instrument, will become a participant. The program is therefore not targeted at people of a particular race, but to welfare recipients who meet particular criteria”.

The problem, of course, is that the “particular criteria” referred to in relation to the welfare recipients targeted are that they have the misfortune of living in a community that contains some people with the problem behaviours intended to be addressed by the CDC, irrespective of whether they themselves exhibit these problem behaviours.

The EM goes on to state:

“Additionally, the card applies to participants across the communities, in order to impact on the availability of discretionary cash. It does not apply punitively to individuals experiencing harmful addictions, financial instability or other forms of hardship.....

There is a clear, rational connection between the program’s objectives, detailed above, and the restrictions on the right to a private life. The trial could not prevent participants from purchasing these products if the program did not restrict how, and at what businesses, participants spend their welfare payment. In turn, these restrictions on the purchase of alcohol, illegal drugs and gambling products are designed to reduce violence and harm, and to encourage socially responsible behaviour. Given the objectives of the program and the prevalence of social harm in targeted communities, any limitation on the right to a private life is reasonable and proportionate”.

The GLSC Board of Directors disagree that there is anything remotely rational about the connection between the program's objectives and the way in which the CDC is being applied wholesale to all welfare recipients in designated communities. It is very concerning to see the EM suggest that the limitation on the right to a private life imposed by the CDC on responsible income support recipients is "reasonable and appropriate".

The EM Conclusion

The GLSC Board of Directors consider the conclusion of the EM "Statement of Compatibility with Human Rights" to be wrong on all counts. – viz

"The amendments are compatible with human rights. The continuation of and expansion of the Cashless Debit Card will advance the protection of human rights by ensuring that income support payments are spent in the best interests of welfare payment recipients and their dependents.

To the extent that they may limit human rights, those limitations are reasonable, necessary and proportionate to achieving the objectives of the welfare quarantining measures. The Cashless Debit Card will assist to reduce immediate hardship and deprivation, reduce violence and harm, encourage socially responsible behaviour, and reduce the likelihood that welfare payment recipients will be subject to harassment and abuse in relation to their welfare payments."

If the CDC were targeted to those welfare recipients who exhibit the problem behaviours the project seeks to address, the statement might run a little closer to the truth. However, the fact that it is applied indiscriminately to all welfare recipients in a chosen community, irrespective of how responsible and law abiding they may be, renders this conclusion invalid.

Why the push to expand CDC application?

The original trial applications of a CDC (applied to Ceduna and East Kimberley) have been reviewed by ORIMA Research, who claim their evaluation has provided "proof of concept", with evidence of improvements in the behaviours sought to be addressed. The ORIMA evaluation needs to be treated with some caution, however, for a number of reasons:

- Most of the improvements noted are measures of self-assessed change amongst the participants exhibiting the undesirable behaviours the CDC seeks to address. This of

course is welcome, but ignores the wider impact of deprivations applied to those participants affected by the CDC, who did not exhibit these undesirable behaviours;

- Some measures will be distorted and lead to incorrect conclusions by picking up change in moderate behaviours that were not a problem in the first place (e.g. reduced consumption of alcohol by an occasional social drinker due to reduced availability of cash counts as a win, when in reality it is an unwarranted intrusion on the rights and privacy of a responsible citizen);
- There have been questions raised about the methodology applied by ORIMA. This however will be true of any statistical analysis, and is less of a concern than the lack of targeting of the initiative to the problem generators;
- The failure of income management in the NT is a relevant indicator of the potential for problems in future;
- The ORIMA evaluation focussed on impacts on undesirable behaviours – i.e. it concentrated on the behaviour of a subset of the group subjected to the CDC. It gives little attention to the impact of the CDC on the human rights and well-being of those in the trial areas who did not exhibit these behaviours; and
- The two communities trialled so far are predominantly Aboriginal communities. The EM indicates an intention to focus on communities with smaller Aboriginal elements in future applications. The circumstances, and the reactions of mainstream communities are likely to be less accepting and accommodating of the Government's social engineering efforts. The proportion of affected citizens snared by this arrangement who do not exhibit the targeted behaviours will be higher, as will the degree of resentment at government social engineering and intrusion into their private lives. Similarly, the notion of welfare recipients being subject to harassment and abuse for cash is less relevant (in terms of any rationale for justifying application of the CDC to all welfare recipients, and not just those exhibiting undesirable behaviours).

As the CEO of the GLSC, I recently provided views to the Senate Standing Committee on Finance and Public Administration in respect of its Inquiry into the Community Development Program –

another misguided initiative of the Government that is doing considerable harm in remote Indigenous communities. Participants of the CDP program, with all its warts, would have their problems compounded with the implementation of a CDC. It is as though we are seeking to mire the lives of our most vulnerable citizens in layers of complex regulation and control, allowing no room for personal pride and dignity, and leaving them confused, fearful and disempowered.

Conclusion

In the Board's view, the CDC as structured is poorly targeted, inefficient, ineffective and potentially damaging. They would like to see it redesigned to target individuals exhibiting the problem behaviours that the scheme purports to address, without the damaging impact on responsible citizens associated with the current approach.



Hans P Bokelund
Chief Executive Officer

Attachment

CASHLESS WELFARE CARD FOR WA GOLDFIELDS

01 September 2017

Prime Minister

Minister for Human Services
Member for O'Connor

The Turnbull Government will roll out the Cashless Debit Card in the WA Goldfields following support for the card from community leaders in the region and the positive findings of the independent final evaluation of the card released today.

The Goldfields will be the third region, in addition to Ceduna and the East Kimberley, and the first in the expansion of the card following its successful trial and will be introduced with reforms to support local services to deliver improved health and social outcomes.

The Cashless Debit Card is a world-first in the way welfare payments are delivered. The final independent evaluation of the trials of the card showed that it had “considerable positive impact” in the communities in which it operated, in particular in reducing alcohol, drug use and gambling.

Over 270 consultations have been conducted in the Goldfields region since May. The initial discussions in the Goldfields about the Cashless Debit Card began in early 2016. Many stakeholders have indicated their desperation to address the very significant harm caused by welfare-fuelled alcohol abuse in the region. Some noted that children feel safer on the streets than in their homes.

Western Australian police data indicates that the domestic and non-domestic assault rate in the Goldfields is more than twice the state average. Alcohol is a factor in two thirds of all domestic assaults (2009-2013) and half of all non-domestic assaults. Alcohol-related hospitalisations and death rate in the region is 25% higher than the state average (2007-2011).

The card will be introduced in the Goldfields from early 2018. Around 3,400 people who are working age income support recipients will receive the card. As is currently the case in Ceduna and the East Kimberley, age pension or veterans' pension recipients may volunteer to opt-in.

Eighty per cent of total welfare payments will be placed onto a recipient's Cashless Debit Card, while 20 per cent will continue to go into their existing savings account.

The region has extensive drug and alcohol and other services already in place, including over 50 federally funded services. The Western Australian Government is also funding a new residential rehabilitation centre, which will be opening in Kalgoorlie this month.

Based on the experience in the trials in Ceduna and East Kimberley, it is not expected that there will be a material increase in demand for services. However, the Government will monitor this closely.

To ensure that people can navigate and access the services if they require it, the Government will provide funding for new service coordinator positions. This responds directly to feedback from the community.

Given the concerns with the well-being of children, the Government will also provide funding of more than \$1 million over three years to ensure that Goldfields children and families have well-targeted, coordinated, effective services. We will work with the Western Australian Government and the local community over the coming weeks to work out how best to do this.

There will be additional resources provided to transition people onto the card. This will include budget and financial planning support, which proved to be important and useful in the trial sites.

For more information visit the [Minister for Human Services website](#).