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SENATE

COMMUNITY AFFAIRS LEGISLATION COMMITTEE

**Reference: Social Security and Other Legislation Amendment (Welfare Reform
and Reinstatement of Racial Discrimination Act) Bill 2009**

THURSDAY, 4 FEBRUARY 2010

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SENATE STANDING COMMITTEE ON

COMMUNITY AFFAIRS

Thursday, 4 February 2010

Members: Senator Moore (*Chair*), Senator Siewert (*Deputy Chair*), Senators Adams, Boyce, Carol Brown and Furner

Substitute members: Senator Crossin for Senator Carol Brown

Participating members: Senators Abetz, Back, Barnett, Bernardi, Bilyk, Birmingham, Mark Bishop, Boswell, Brandis, Bob Brown, Bushby, Cameron, Cash, Colbeck, Collins, Coonan, Cormann, Eggleston, Farrell, Feeney, Ferguson, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Hanson-Young, Heffernan, Humphries, Hurley, Hutchins, Johnston, Joyce, Kroger, Ludlum, Lundy, Ian Macdonald, McEwen, McGauran, McLucas, Marshall, Mason, Milne, Minchin, Nash, O'Brien, Parry, Payne, Polley, Pratt, Ronaldson, Ryan, Scullion, Sterle, Troeth, Trood, Williams, Wortley and Xenophon

Senators in attendance: Senators Adams, Boyce, Crossin, Furner, Moore, Siewert

Terms of reference for the inquiry:

To inquire into and report on:

Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 and the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009 along with the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Restoration of Racial Discrimination Act) Bill 2009

WITNESSES

**CHIDGEY, Ms Sarah, Assistant Secretary, Criminal Law and Law Enforcement Branch,
Attorney-General's Department 1**

**DANIELS, Ms Helen, PSM, Assistant Secretary, Copyright and Classification Policy Branch,
Attorney-General's Department 1**

**FIELD, Mr Anthony, Group Manager, Department of Families, Housing, Community Services
and Indigenous Affairs 1**

**HALBERT, Ms Cath, Group Manager, Office of Indigenous Policy Coordination, Department of
Families, Housing, Community Services and Indigenous Affairs 1**

**HEFEREN, Mr Rob, Deputy Secretary, Department of Families, Housing, Community Services
and Indigenous Affairs 1**

**LITCHFIELD, Mr John, Acting Branch Manager, Land Reform, Department of Families,
Housing, Community Services and Indigenous Affairs 1**

**MATTHEWS, Mr Gavin, Branch Manager, Welfare Payments Reform, Department of Families,
Housing, Community Services and Indigenous Affairs 1**

**SANDISON, Mr Barry, Acting Deputy Secretary, Department of Families, Housing, Community
Services and Indigenous Affairs 1**

**SMITH, Dr Bruce, Branch Manager, Department of Families, Housing, Community Services
and Indigenous Affairs 1**

Committee met at 4.07 pm

CHIDGEY, Ms Sarah, Assistant Secretary, Criminal Law and Law Enforcement Branch, Attorney-General's Department

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SMITH, Dr Bruce, Branch Manager, Department of Families, Housing, Community Services and Indigenous Affairs

CHAIR (Senator Moore)—Good afternoon, everyone, and thank you for your attendance. Though I know that you did not have a lot of choice, thank you for your attendance nonetheless! The Senate Community Affairs Legislation Committee is doing an inquiry into the Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 and other bills.

We do appreciate the departments coming. It has become a standard process of this committee to start these inquiries with departmental evidence so that we have a starting point, then to have public hearings and then to come back to the department. So you will be able to look forward to coming back to us before the end of February, and I know that will make you very pleased! You are aware of the preclusions in terms of questions that you will be required to answer; they do not stop senators trying to ask them, but you do not need to answer questions of policy.

We will start with any opening comments you have and then proceed to questions. We realise that because of the time frame there is not a full submission. It does terrify me to see all the attachments that we are supposed to have there, but no doubt the committee will get across all of those! As you would know, we have not had the time to read the kinds of things that the department is putting forward. There have been over 35 submissions so far. I expect that people

from the department have got across those, so that is the basis on which we have evidence at this point.

Welcome, Mr Heferen. You are the first one to this committee and we do appreciate it. We understand that you are taking up the job of coordination of this aspect from FaHCSIA. When will that happen?

Mr Heferen—From about eight days ago.

CHAIR—Welcome. It is an intrinsic part of your duty to come and talk with us, so I hope you enjoy it, and we will see you back here next week for estimates. It is a close relationship we have. I invite you to make an opening statement.

Mr Heferen—Thank you. As you have noted, I am new to the role but appear here with a number of colleagues who have a wealth of knowledge and experience in this area. FaHCSIA and the Attorney-General's Department welcome the opportunity to assist the committee in this inquiry. As you have noted, we have not provided a submission. A letter from Dr Harmer late last month noted a number of materials that are on the public record, and we thought it useful to point the committee to those. Subject to the committee's guidance, rather than an opening statement we would like to provide a short overview to introduce the speakers but also to give a little bit of context to the material. That involves the community consultation process on the NTER redesign, with key points related to restoring the Racial Discrimination Act and a summary of other main measures in the redesign process. So, if it is okay with the committee, I might turn to my various colleagues to go through this.

Ms Halbert will deal with the consultation process, Mr Field will deal with Racial Discrimination Act issues, Mr Matthews will deal with income management, alcohol restrictions and community stores will be dealt with by Dr Smith, pornography restrictions will be dealt with by Ms Daniels from the Attorney-General's Department, five-year leases will be dealt with by Mr Litchfield and powers of the ACC will be dealt with Ms Chidgey. The main bill we are dealing with—and I know a few bills have been referred—is the Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009. If there are questions on other bills it may be the case that we need to take those on notice, but we anticipate that the majority of interest will be on that particular bill. We hope to have a substantive discussion and our aim, as always, is to provide the information if we can, and we will endeavour to answer the questions to the best of their ability. If there is something that we need to take on notice we will do so and get back to the committee as soon as practicable.

Ms Halbert—I started the same day as Mr Heferen, so if we get detailed questions—

CHAIR—Where were you before?

Ms Halbert—The Office of Health Protection.

CHAIR—You have appeared before the committee before, but welcome in your new role.

Ms Halbert—I will give a brief overview of the consultation process. The NTER Review Board reported in October 2008. The government accepted its three overarching

recommendations and committed to introduce legislation in the spring sittings last year to restore the operation of the Racial Discrimination Act to the NTER and to redesign the NTER measures to conform to the Racial Discrimination Act. Consistent with the review board's second overarching recommendation that both governments acknowledge the requirement to reset the relationship with Aboriginal people based on genuine consultation, engagement and partnership, FaHCSIA undertook a significant planning exercise to establish a comprehensive consultation process to inform the NTER redesign, policy development and legislative changes.

A discussion paper was released on 21 May 2009. It indicated the government's intention to continue the NTER. It also included an opening position on each measure as a starting point for discussion. It emphasised that the government was open to ideas and proposals and would listen to ideas put forward during the consultations. The consultation period ran from June to August 2009, although some meetings were held before and after this period. The process involved a comprehensive four-tiered approach to engagement with Aboriginal people in the Northern Territory.

Tier 1 was an ongoing process in which individuals, families and small groups in communities were able to provide their views to government business managers in their communities on an open-door basis. There were 444 of those meetings. Tier 2 involved whole-of-community meetings led by Indigenous Coordination Centre managers and government business managers to gather the views of all of those in the communities and town camps affected by the NTER. Interpreters were used in many of these meetings and 109 meetings were conducted. In Tier 3, regional workshops of two to three days duration, involving people from NTER communities as well as Indigenous leaders in particular regions, were held. These provided an opportunity for more detailed examination of issues and options related to each of the NTER measures. They were led by experienced senior staff from the Indigenous Leadership and Engagement Group in FaHCSIA. Six of these workshops were held. Tier 4 workshops with major Indigenous stakeholder organisations were also held, including a workshop with the Northern Territory Indigenous Affairs Advisory Council. These were also led by Indigenous leadership engagement staff, and there were five of these workshops.

All 73 NTER communities were covered plus a number of town camps. The objective was to provide maximum opportunity for people affected by the measures to provide their views. Full details of the purpose of each of the tiers of the consultation process are in appendices 2 and 3 of the consultation report, which was released some time ago. Summary outcomes of all meetings were written up by officials present and for most of the formal meetings these were sent back to the community for verification of the contents. FaHCSIA also engaged external consultants CIRCA, the Cultural and Indigenous Research Centre of Australia, to monitor the consultation process to provide an independent view. CIRCA found the consultations were fair and open and the write-ups accurately reflected the content of the meetings. They also offered suggestions for future improvement, which were taken up during the consultation process.

Government decisions on NTER redesign took account of the feedback from the consultation process plus other relevant considerations. The outcomes of the consultations and government policy considerations are set out in a number of key public documents, which the committee has I understand—the consultation report, the government's policy statement, a community guide to proposed changes, a one-page summary fact sheet for communities, and the CIRCA report on their observations of the process.

CHAIR—Thank you. I was remiss in not introducing Ms Naomi Bleeser, who is the new secretary for this committee. This is her first committee in that role, so I should put that on the record. I think it is best to get all of these statements out first. Ms Halbert, you have done consultation; what is the next one, Mr Heferen?

Mr Heferen—Mr Field.

CHAIR—Mr Field, what is your topic of interest?

Mr Field—Reinstatement of the RDA.

CHAIR—Thank you very much.

Mr Field—As the committee would be aware, in 2007 legislation was introduced as part of the package of NTER legislation that suspended the operation of the Racial Discrimination Act. Ms Halbert referred to the review board. One of the three overarching recommendations was to conform with the Racial Discrimination Act and, following consideration of that report, the government made a commitment to introduce legislation in the spring sittings of 2009 to remove the RDA exemptions and reinstate the Racial Discrimination Act. On 25 November, the bill before the committee was introduced and it contains in schedule 1 provisions which achieve that objective and repeal, in relation to three acts, the provisions which suspend the Racial Discrimination Act.

The measures in the bill are designed as special measures except for the new regime in relation to income management, which is designed to be non-discriminatory. The new income management regime, being non-discriminatory, will operate from its proposed commencement on 1 July 2010 without any suspension of the Racial Discrimination Act. The repeal of the provisions which suspend the operation of the Racial Discrimination Act is proposed to take effect from 31 December 2010, which is six months after the changes to the individual measures in the bill take effect. That six-month period is to allow an effective transition from the current position to the new measures, as proposed by the bill, before the RDA is reinstated.

I should also point out that the committee will have noted that the income management provisions have a transition period of 12 months. Under the current income management scheme, which goes for another 12 months, for the first six months of that period there will be an RDA suspension still in place, but for the last six months there will not be. On 31 December 2010 the RDA will be reinstated for all measures, but the transition for income management has a six-month period beyond that. No doubt Mr Matthews will address that further.

Mr Heferen—I will get Mr Matthews to provide a brief overview on income management.

Mr Matthews—I will try and keep this a bit short, although it is a reasonably detailed thing, as there are a few people to go. As Anthony said, it is intended to be a non-discriminatory scheme, to commence on 1 July 2010. The legislation gives effect to a nationally based scheme which allows areas to be turned on at a state or territory level, or in a specific area. The government has stated that at this stage it is only committed to starting in the Northern Territory, with further progress to be based on evaluation. The existing scheme will cease on 30 June 2011, so, as Anthony said, it has a 12-month lifespan, which is basically to do with transitional issues

that are a bit technical. I would be happy to answer questions about that a bit later rather than get bogged down in the detail of that now.

The new scheme is intended to be a more targeted approach than the existing scheme and is pretty much targeted at who the government thinks are the right people who need it. This is outlined in the government's policy statement. Basically, it is targeted at providing pathways to economic and social participation through helping to stabilise household budgeting and assisting people to meet the basics of life. These categories have been chosen based on those that it sees as being at higher risk of social isolation and disengagement, those that might have poorer financial literacy and those who participate in risky behaviours. That is the government's stated position.

Senator Siewert interjecting—

Mr Matthews—I would be happy to get into that later. I will leave that as our line on the government's policy statement. There are basically five categories—

CHAIR—The bells are ringing, which is unfortunate. Please hold that thought, Mr Matthews.

Proceedings suspended from 4.23 pm to 4.33 pm

CHAIR—We do apologise. We think that will be the last. Mr Matthews, you were in the middle of telling us about income management and you were saying it was very technical and you would not get down into that. Where were you going after that?

Mr Matthews—I have just given you a very quick introduction—a two sentence paraphrase of the policy statement. I was just going to give a very quick overview of the categories and the exemptions. I will probably not get into too much detail on that, given the time.

There are basically five categories where people would be subject to income management that are set out in the legislation. It is basically people under 25 on the main activity tested payments—youth allowance, Newstart and parenting payments. Those under 25 would need to be on payment for 13 out of 26 weeks and those over 25 on the same payment types for 52 out of the previous 104 weeks. It is a slightly earlier intervention for youth than for those over 25.

There also is the category of what are termed 'vulnerable individuals'. It is giving capacity to Centrelink social workers to put people on income management where in their judgment that would be beneficial. The government is also intending to enter an agreement with the Northern Territory government to enable child protection workers in the Northern Territory child protection system to refer people to income management in much the same way as the Western Australian system operates. It would also have voluntary income management, which is similar to the Western Australian system, as part of the package.

One thing that is new is the exemptions. The exemptions basically apply to those people who fit into the under-25s and the over-25s categories. So there are exemptions for parents based around either their child's attendance at school, where there is acceptable attendance, and for people with children of pre-school age it is just basic things around physical, social and intellectual engagement and wellbeing. For people who do not have children, there are exemptions based around engagement in study and a sustained period of part-time work. That

provides a pathway out for people who have come into income management in those two categories. Those do not apply to people in many vulnerable category or the child protection category because they are being assessed through a professional worker, so the exit for those is through the decision of the worker or the expiration of the notice. Voluntary income management obviously is generally the person's choice.

Also contained in the legislation are a couple of incentives for people. One is an incentive for people to take up voluntary income management. It is as simple as for every 26 weeks that somebody stays on voluntary income management they will get a payment of \$250, which is really just to provide an incentive for people to take that up and maintain that scheme. For people that are on the compulsory categories of income management, it gives them access to pretty much a basic matched savings scheme which provides up to \$500. There are some requirements. They need to complete an approved course, which would generally be a money management course, similar to a certificate I type of course, and then they have to demonstrate a sustained pattern of savings of at least 13 weeks. If they meet those criteria then they can access the payment of up to \$500 towards a range of goods they may choose to access. Pretty much in a nutshell, that is what is contained in the legislation for income management.

CHAIR—Thank you.

Mr Heferen—Dr Smith will cover both the alcohol restrictions and community stores.

Dr Smith—With regard to alcohol, in the consultations people identified a number of benefits to the restrictions, including that communities are quieter and safer, particularly for women and children, and there is less violence, including domestic violence. At the same time they pointed to a number of problems to do with the restrictions: increased grog running, increased use of unsafe drinking paddocks, more people drinking in town, and deteriorating relationships between community and police. However, there was a strong view, particularly from women, that alcohol restrictions should continue. When people said they did want them to continue there was a division between those people who wanted them to continue in the current form and those who wanted greater community input into the form of the restrictions.

In light of those views and the evidence pointing to the greater success of locally generated and adapted alcohol restrictions, the government is proposing to keep the restrictions in place while allowing and encouraging communities to develop their own alcohol management plans.

In deciding whether to approve a variation to the restrictions, the government will take into account evidence about the level of alcohol related harm in the community, the views of the community and the community's willingness and ability to develop and implement an AMP, an alcohol management plan. If the existing restrictions are changed or cease in a particular community, the Northern Territory alcohol restrictions would continue to apply. If the local restrictions do not work, the government proposes to have the power to reinstate the NTER restrictions in the community.

In addition, the government proposes to change the law that gives police the power to enter a private residence as if it were a public place. This will only apply in a particular community if it has been requested by or on behalf of someone ordinarily resident in the community. The

government also proposes to remove the requirement for people buying take-away alcohol to give the seller their name, address and other details.

Turning to community stores, overall people thought that the licensing of community stores should continue, and there was broad support for the licensing provisions proposed by the government in the discussion paper. The key concerns people raised were the high prices of goods in remote community stores and the desire to maintain community control of their stores.

The government proposes in the legislation to continue with stores licensing and to improve it by extending the stores licensing arrangements to cover all key sources of food and groceries in Indigenous communities. This will include some takeaway fast food shops and some roadhouses. It will also include a provision that Indigenous organisations that own a community store may be required to become registered under the Corporations (Aboriginal and Torres Strait Islander) Act 2006, ordinarily known as the CATSI Act, and will include licensing owners rather than store managers, in recognition of the responsibilities of store owners in meeting licensing requirements.

The government also proposes to remove current laws that allow the Australian government to acquire a community store's assets and liabilities, to allow some decisions in relation to the community store licensing scheme to be reviewed by the Administrative Appeals Tribunal and to include a provision that stores can be required to have a licence if they want to be able to receive people's money under income management.

Mr Heferen—I think we will move to Ms Daniels to outline the issues related to pornography restrictions.

Ms Daniels—I propose to briefly outline how the bill applies to prohibited material. Part 10 of the Classification (Publications, Films and Computer Games) Act establishes offences for the possession and supply of pornographic and very violent films, publications and computer games within prescribed areas of the Northern Territory. Schedule 4 of the bill would reform the classification act's restrictions on prohibited material so that the minister can declare that these restrictions no longer apply to a particular prescribed area or part of a prescribed area.

Such a declaration may only be made where a person ordinarily resident in a prescribed area or a person acting on that resident's behalf requests that the minister make the declaration. The minister would only be able to make a declaration after considering criteria specified in the bill, including the wellbeing of the people in that area, the views of those living in the area and the views of law enforcement authorities. Should a declaration be made, the restrictions under part 10 of the classification act will no longer apply. However, offences in the Northern Territory Classification of Publications, Films and Computer Games Act would continue to apply.

The minister may revoke a declaration to remove prohibited material restrictions. The minister may revoke a declaration on his or her own initiative or following a request by or on behalf of a person ordinarily resident in the relevant area. Before revoking a declaration, the minister must consider specified criteria. These are the same criteria the minister would be required to consider when making a declaration.

Mr Heferen—Mr Litchfield will talk about five-year leases.

Mr Litchfield—Five-year leases were acquired over 64 communities to support a range of emergency response initiatives, including the Community Clean-up Program, the installation of safe houses and government business manager accommodation and the introduction of reformed tenancy management arrangements. The leases are also underpinning the refurbishment of houses in 52 communities under the Strategic Indigenous Housing and Infrastructure Program. The leases have already been improved through a substantial reduction in lease boundaries that took effect on 1 April 2009 to exclude unnecessary areas and, in response to the main recommendation of the NTER Review Board in relation to the five-year leases, the commencement of rental payments.

Turning to the bill, the government has decided to retain the five-year leases until they expire in August 2012. The proposed amendments are intended to clarify the purpose and operation of the five-year leases. The proposed amendments include making it clear that the five-year leases can only be used to improve the delivery of services and to promote economic and social development in the leased communities; explicitly disallowing the Commonwealth, as a leaseholder, from permitting mining and exploration on five-year lease land; requiring that the leases are administered in a way that respects Aboriginal culture; and providing for the development of clear guidelines to govern the land use approval process. Lastly, the proposed amendments facilitate the intended transition to voluntary leases through providing for landowners to request good faith negotiations with government for a long-term lease. Progress in the negotiation of voluntary leases thus far includes that, of the 16 communities targeted for housing capital works, 14 long-term leases are in place or agreed.

CHAIR—Thank you. That just leaves you, Ms Chidgey.

Ms Chidgey—As part of the NTER, the Australian Crime Commission Act was amended to enable the ACC board to authorise the ACC to conduct an intelligence operation or investigation into Indigenous violence or child abuse, and Indigenous violence or child abuse was defined to mean serious violence or child abuse committed by or against or involving an Indigenous person. The government did not propose any specific changes to this measure in their discussion paper *Future directions for the NTER*.

Community consultation on this matter found that people generally accepted the retention of these powers for the ACC because they valued the confidentiality protection they provide. Some people said it made them feel safer and more confident about disclosing information on possible criminal activity. The proposed amendments in the bill will amend the definition of Indigenous violence or child abuse to restrict it to serious violence or child abuse committed against an Indigenous person. So it would remove the references to serious violence or child abuse by or involving an Indigenous person. The amendment is proposed to make the measure more clearly a special measure under the Racial Discrimination Act and will ensure that the ACC's powers are directed at cases where the victim is Indigenous and used for the benefit of the victims.

CHAIR—Thank you all for your opening comments.

Senator SIEWERT—I have a wide range of questions which will predominantly focus on the RDA and income quarantining. Have you had some legal advice as to whether the manner in which you are carrying out this exemption and reforming the welfare system will actually qualify it as meeting the requirements of the Racial Discrimination Act?

Mr Field—The new income management regime is designed to be non-discriminatory—

Senator SIEWERT—That is not my question. I am asking if you have had advice as to whether it is—

Mr Field—As I understand the position with confirming whether or not the government has received advice with Senate committees, we are in a position to confirm whether or not advice has been given and not to go beyond that. The government has received legal advice in relation to income management in this legislation and the position in relation to it is that measures have been put. But I will go back a step. The government made it clear in the discussion paper that there was a commitment to introduce legislation to remove the RDA exemption. That legislation is in front of you. The scheme is designed as being non-discriminatory and the RDA exemptions will be repealed on 31 December.

CHAIR—Mr Field, the direct question was whether there had been legal advice taken and you said there has—is that right?

Mr Field—And the direct answer was yes.

Senator SIEWERT—Okay. And in your opinion it does qualify?

Mr Field—I do not think it is appropriate for me to give a legal opinion to the committee. The government has received advice—

Senator SIEWERT—In the government's opinion?

Mr Field—The government has introduced a non-discriminatory scheme—

Senator SIEWERT—In its opinion.

Mr Field—That scheme will operate without the RDA exemption from its inception on 1 July 2010, should the legislation be passed, and people will have their rights under the RDA.

Senator SIEWERT—Can I clarify that you have received advice, and did that advice say that it does qualify to meet the RDA?

Mr Field—Yes, the government has received advice. My understanding is that that is as far as I go in relation to the advice. The position is that the legislation is a non-discriminatory scheme and will operate from its commencement without the benefit of an RDA exemption.

Senator SIEWERT—I will not pursue it any further because I have lots of questions, but can you please take on notice that I would like the government to confirm that its advice was that this would meet those requirements?

CHAIR—Senator Siewert, in my opinion that should be directed to the minister. If you want to ask that to the minister we will get it directly to her office.

Senator SIEWERT—That would be appreciated, thank you. Can we go back to some of the evidence base for the success or otherwise of income quarantining. I am particularly keen on any evidence that you have from Western Australia and the trial that has been operating, first in Cannington in Western Australia and, as we know, it has been expanded. I am particularly interested not in the voluntary scheme but where it has been targeted at specific individuals.

Mr Matthews—In broad terms the evaluation of the Western Australian child protection initiative has not been finalised so there is not anything public that I can provide on that. I am not sure that there is much more that I can provide on the record. As I said, the government has not released any public evaluation of that measure yet. It is scheduled to be released around the middle of this year.

Senator SIEWERT—So what basis are you operating on that income quarantining is providing benefit to the people it is being imposed on?

Mr Matthews—In Western Australia or the Northern Territory?

Senator SIEWERT—Overall.

Mr Matthews—Overall, I guess the evidence that the government has stated through its policy statements and various other public statements is the administrative data they have from Centrelink, the minister's own visits, the—

Senator SIEWERT—Which administrative data is that?

Mr Matthews—That is Centrelink data—it is quoted in the AIHW report—around how the money is being utilised and those types of things. So we have a range of data and that has all been publicly provided in the AIHW report. The government has obviously taken into account the AIHW report.

Senator SIEWERT—The study that interviewed 76 people and you had a percentage of those people saying that, yes, they thought it had had an impact—is that the study you are talking about?

Mr Sandison—I think at previous hearings we have gone through the outcomes of the consultation process. The AIHW information has been provided publicly and, equally, the minister has raised issues around information that she has received. We have talked through the number of people that are on income management and some of the outcomes that have been expressed through communities.

Senator SIEWERT—Seventy-six of 15,000 people were interviewed for the process that you are talking about.

Mr Sandison—And we have identified the numbers that were involved in the surveys and the other information that has been used by government. Government is of the view, based on that information and other advice, that this is the appropriate way forward.

Senator SIEWERT—So you have no further information that you are basing this on than the information you have already presented—in other words, nothing.

Mr Matthews—There is the AIHW report, the client interviews and the focus groups which I think you are referring to in relation to the numbers. There are other reports. There is the report that CIRCA did of around four communities—I think it was of 100-and-something people—that was done for the NTER Review Board. That is also publicly available on the web site. That was of different communities and different people. It has taken into account information out of the stores survey report and GBM surveys. There was a report that CIRCA did for the Central Land Council that presented it. There is all of this and it is very consistent. I guess the government's position is that there is a very consistent flavour coming through all of those reports. I guess the other piece of evidence that it has used—it has been quite clear in its statements—is from the consultations, where the information coming back was very consistent with all of those other reports.

Senator SIEWERT—Have you looked at the report that came from the University of Melbourne, which reviewed the consultation process?

Mr Matthews—I might refer to Bruce. I am not sure who provided that.

Dr Smith—Is that the Nicholson report or is it another?

Senator SIEWERT—Yes.

Dr Smith—Yes, we have looked at that.

Senator SIEWERT—Have you got some response to that?

Dr Smith—It was a fairly wide-ranging report but our—

Senator SIEWERT—They were highly critical of the consultation process.

Dr Smith—I suppose our broadest response is that the report was produced before the consultation report was released. In fact, it was released earlier in the day that the consultation report was released. The report is a substantial refutation of a number of the statements in the Nicholson report. We believe that the report is very frank and is a balanced report.

Senator SIEWERT—Which report are you talking about: your report? Sorry, I am not trying to be pedantic.

Dr Smith—Yes, we are talking about multiple reports. The consultation report is a very frank and balanced report. We do not believe that it was, in some sense, angled towards particular outcomes. It is based, as Ms Halbert has already described, on a very comprehensive consultation process within communities over three months—and there were community meetings and workshops with regional stakeholders. There were variations in the findings across all those levels of consultation, as noted in the report, but there was a high degree of consistency. It is those findings which we have gone through in the report.

Senator SIEWERT—On the CIRCA report, how were they chosen as consultants to do the review that they did?

Dr Smith—They were engaged from a FaHCSIA panel of research consultants. They were contracted on a restricted tender basis having regard to their specialist knowledge and to timing considerations. CIRCA had previous experience that was directly relevant to the task, they were known in the Northern Territory and FaHCSIA was familiar with the high quality of their work.

Senator SIEWERT—Is a restricted tender process when it goes out to just a couple of people on the list?

Dr Smith—Yes.

Senator SIEWERT—Are you able to provide details of who was in fact invited to provide tenders?

Dr Smith—I can take that on notice.

Senator SIEWERT—If you could take it on notice, that would be fine. Sorry, I interrupted you. Did you have anything to add about the report?

Dr Smith—The Nicholson report makes a series of specific allegations or criticisms I should say of the process around, for example, the lack of interpreters and the lack of notice. We believe in fact that, whilst there were faults in the process at various points, nevertheless it was by and large a sound process. For example, on the issue of interpreters the process represented in fact a huge step forward in government consultation processes. It is the largest process of its kind where we have actually engaged interpreters on a very wide-ranging basis. We believe that, given the circumstances to do with the supply of skilled interpreters, we did the best we could have done.

Senator FURNER—On the comment in respect of picking up some faults in the interpretation process of the consultation period you went through, can you identify what they were? Were they identified early in the piece or was it something that you picked up towards the end?

Dr Smith—Do you mean the issues with interpreters?

Senator FURNER—The faults you indicated there were in the interpreter process.

CHAIR—Dr Smith, you said that the process was not perfect. I think Senator Furner is referring to that.

Dr Smith—To the imperfections.

Senator FURNER—That is right.

Dr Smith—At the beginning of the process we commissioned CIRCA as an independent auditor, in effect, of the process to sit in on a sample of consultations. They reported to us very

quickly, as a work in progress, on how those consultations were going and made a number of comments, consistent with their final report, that they were generally going fairly well and were fair and balanced but that, nevertheless, we could be doing more in some circumstances about, for example, separate men's and women's meetings and that we could be trying to stage them so that there were more tier 1 consultations before the tier 2 consultations. The tier 1 consultations were the GBM, the government business management, consultations and the tier 2 consultations were the whole-of-community consultations. So what we did was adjust the process as we went along and tried to incorporate those sorts of changes as quickly as we could. In addition, we had some recall days, where we brought the Indigenous coordination centre managers and the government business managers together to actually review how we were going and to make changes. We made those changes.

In addition, there were some inevitable issues with, for example, the provision of interpreters. The lack of skilled interpreters is an ongoing problem in the Northern Territory. So there were instances where, because of that, we did not end up with the right person on the day. That was very much a minority of cases and we worked as best we could around that, particularly using Indigenous engagement officers and other means.

Senator CROSSIN—At each and every consultation that FaHCSIA people had with groups in the Northern Territory, at each of the three tiers, were records of those meetings kept or were there summaries of the issues raised? Meetings is probably too formal a word, I suppose.

Dr Smith—In tier 1 consultations, the ones conducted by government business managers, they filled in a record of those things and fed them into a larger database. In the 109 tier 2 consultations, the whole-of-community consultations, a record was generated on that which was then sent back to the communities for verification. In the tier 3 and tier 4 consultations, which were the regional workshops and the stakeholder workshops, there was a two-stage thing. At the end of the workshops a summary of the outcomes was verbally reported to participants and it was checked that they were happy with that, and then later on a written version of the outcomes was sent to all participants and any further comments or contributions that they had were added in.

Senator CROSSIN—So would it be fair to say that you have now got pages of records from these meetings of what the people's view is in the Northern Territory about the intervention?

Dr Smith—It is on a database.

Senator CROSSIN—And from that you have produced the summary, basically, of the discussions.

Dr Smith—That is right.

Senator CROSSIN—I know we talk about consulting 76 people, but how many people have in fact been consulted, once you have tabulated all of that documentation? It would be many more than 76, I assume.

Dr Smith—Yes. We do not have a number for the total number of people consulted because there would have been a great deal of double counting. For example, many of the people in the

tier 1 GBM, the government business management, meetings would have actually participated in the tier 2 consultations, the community consultations.

Senator CROSSIN—So lots of people had a chance to have two or three goes at this.

Dr Smith—Yes, very much so.

Senator CROSSIN—As a ballpark figure, how many people do you think you have had in front of GBMs and FaHCSIA people and have had an opportunity to provide their view about the future?

Dr Smith—Some thousands. We really have not made any kind of reliable estimate. Perhaps 3,000 or 4,000, but we are not sure.

Senator CROSSIN—From that, what evidence can you give us that you are confident that what you have heard and what you have written in your summary document is reflected in the legislation that we have got before us now?

Dr Smith—There are multiple points of assurance in effect. First of all, with the breadth of the consultations and the consistency of the information we got in those consultations we are pretty confident that that was a pretty good process and gave us a fair representation of the views of the people involved. While the CIRCA report pointed out things that could be improved, its final report was nevertheless very positive about the consultations. The report stated:

Overall, the Tier 2 meetings were effective in explaining the Government's current position on the NTER, and in particular its position on the specific measures ... allowed participants to provide feedback on the Government's position ...

... ..

Overall, the meetings were conducted in a way that was open and fair:

- Facilitators provided consistent information to all community members
- ... facilitators highlighted both the positives and negatives of the NTER
- Facilitators encouraged open discussion ...

That is all set out in the report.

Senator CROSSIN—Thank you for those answers. I have to be probably as brutally honest as you are, being a senator for the Northern Territory. No doubt your people were aware that we had people at those consultations as well—maybe 'spies' would be a little harsh I think. We certainly had our people planted throughout the Northern Territory watching the consultations. I do not know how long you have personally been involved with Indigenous policy in FaHCSIA, but would there be a view that this is one of the most extensive consultations about a change in legislation that you have participated in or FaHCSIA has participated in?

Dr Smith—I have been involved in Indigenous affairs for only a few years, but people who have been involved for much longer say it is the largest and most comprehensive consultation they can remember. While there have been communitywide consultations before and workshops, there was something new about this consultation. The 444 tier 1 consultations, which were held on an ongoing basis over three months in communities, were completely new because of course we had never had government business managers there before. So that kind of open door process where people were able to come in at any time and put their views and the government business manager going to small groups and seeking their views over that three-month period was, to my knowledge, unprecedented.

Senator CROSSIN—There is also the evaluation that Peter Yu and his team did. One thing I have not done but probably FaHCSIA have done is some sort of cross-analysis of the outcome of his review and the proposed changes. Have you looked at whether that is also similar? Did Peter Yu and his team find similar comments and similar requests about future directions?

Dr Smith—We have not done a formal analysis as such, but my understanding is that there is a broad consistency of approaches. Clearly the outcomes of the government policy development have run considerably on since the time of the review. Indeed, as you would know, in a number of areas, including income management, they developed on from the point of even the government's own discussion paper. But, broadly speaking, it is fair to say there is a degree of consistency—but I would not want to be held too closely to that.

Senator SIEWERT—I have not got the report in front of me, but my recollection is that people did not support compulsory income quarantining. Secondly, in the consultation process, voluntary income quarantining was not one of the questions. Certainly in the first discussion paper I saw that was not there either.

Senator CROSSIN—There must have been a discussion—

Mr Matthews—I come back to the NTER review board findings around income management, which I have here. The NTER review board did talk about ceasing the current blanket approach of income management; making income management available on a voluntary basis; compulsory income management only applying on the basis of child protection, school enrolment and attendance and other relevant behavioural triggers; there being access to external merits review; Centrelink conducting field interviews with individuals to explain changes et cetera.

From my recollection of the CIRCA report that was done to feed into the review board which is available on the FaHCSIA website, a lot of the messages were fairly similar to what is in the consultation report around people seeing some benefit out of income management with the benefits of greater stability around increased spending on food, clothing, housing and those types of things, less humbugging, community stability and children benefiting and those types of things. There was some commentary around that. A lot of the things that are consistent are probably also around the resentment about the way the NTER was introduced. Again, without having it all in front of me, and without being held too tightly to it, I think you could say it was broadly consistent, and the fact that it only applied to Indigenous people in a non-discriminatory way was also reasonably broad.

In terms of the income management model itself, the consultation report notes that there were a range of views. There was broadly support for income management to continue, and I think it is set out almost word for word like that in the consultation report, but noting that there were different views. I guess reading into those views they did range, but I guess the overall feeling that the government was reacting to was looking for a more targeted approach in comparison to the existing, as it was put by the review board, more blanket approach. So they would probably be the things that are more consistent but, again, without having formally mapped it I would probably add the Dr's caveat that I would not want to be held too closely or exactly to it.

Dr Smith—I was also thinking in addition to income management of alcohol, the recommendation—the Northern Territory laws prohibiting the possession and transportation of alcohol on prescribed lands—be maintained. So in a lot of the other areas there is a degree of consistency as well. But clearly it is not across the board.

Senator SIEWERT—I was asking specifically about the income management angle of things. I said earlier that I wanted to focus on that. It is fair enough that you make any other comments, but certainly the NTER review did not support blanket income quarantining. You read the recommendation out yourself, so that's—

Mr Matthews—Yes, but it does go on to say that compulsory income management should only apply on the basis of child protection. So it does note also a more targeted approach which would be compulsory. I think the key word in there is 'blanket' application of compulsory income managements. I think it is referring to the fact that in the prescribed communities everybody on income support is on that rather than finding some way to be targeting it a bit more tightly.

Senator SIEWERT—Yes, that is what I took it to mean, which is essentially what is proposed in this program. I know there are qualifications around it but essentially—and we will get on to those areas it does target—it is still fairly broad. It will apply to anybody in category E once an area has been designated by the minister.

Mr Matthews—If they meet the conditions. So they do have to meet the conditions around being on payment for greater than 13 weeks out of 26.

Senator SIEWERT—My understanding is that that is what is classed as category E.

Mr Matthews—Category E sets out the five payments that are relevant in there but even within those categories—so if you are on Youth Allowance, Newstart or the parenting payments—you still have to meet that definition of being on for greater than three months, 13 weeks out of 26 or the other, and then the exemption criteria also act. So it is not that everybody on those payments would be subject.

Senator SIEWERT—But you are in until you get an exemption to get out.

Mr Matthews—If you meet the prime requirement of being on that payment for greater than the period, the test, that is set out there.

Senator SIEWERT—If you are on those payments and meet that criteria, you are in until you get out; it applies to you.

Mr Matthews—What I am trying to get to is probably the starting criteria—that if you are under 25, or you are over 25 and on Newstart for example, then you do need to have been on payment for longer than 52 weeks out of the previous 104 weeks. So it is not that everybody who is on that category E payment would be income managed. It is only those that have been on for greater than 52 weeks out of the 104.

Senator SIEWERT—I am starting to go all over the place so I will come back to how you determined why you needed to be income quarantined if you have been on Newstart for over 52 weeks. Does that automatically mean that you cannot manage your money? Bear that in mind because I will come back to it.

Senator CROSSIN—I just want to say, Dr Matthews, that the concept that you have to have been on a prescribed area or community has been abolished with this legislation, hasn't it? It will apply to anyone living in the Northern Territory. You do not necessarily have to be at Maningrida the day the act was assented to; it will be everyone.

Mr Matthews—If the legislation is passed the minister would need to put in a legislative instrument to declare the Northern Territory—or, progressively, areas there of—but, yes, that would apply to anybody in the Northern Territory who meets that definition in those areas. I guess the way they have explained it is that it would apply across the Northern Territory to the entire Northern Territory. So it would apply equally in the townships as it would in communities.

Senator CROSSIN—This question is probably not quite related to the consultation. To what extent is this not so much about not being able to manage your money as opposed to mutual obligation?

Mr Matthews—I am not sure that I could really comment on that. I guess that is a—

Senator CROSSIN—A policy matter?

Mr Sandison—I think, in the broad, the policy statement put by the government outlines its interest in welfare reform and the broader reform of welfare payments and family payments. I think that gives a broader context from the government position.

CHAIR—So, in terms of the consultation process—at least at this stage—

Senator SIEWERT—I will probably put some more questions on notice.

CHAIR—Sure. I understand.

Senator SIEWERT—I know that we only have three-quarters of an hour.

CHAIR—We will move onto something beyond consultation.

Senator SIEWERT—I apologise for bouncing back to an issue. I just want to go back to the issue of the RDA, Mr Field. Have you looked at the issues around indirect discrimination and the fact that this legislation may disproportionately impact on Aboriginal communities because they may be disproportionately in areas that are disadvantaged areas, which the minister may or may not designate?

Mr Field—Senator, is your question in relation to the income management regime?

Senator SIEWERT—Yes; I beg your pardon.

Mr Field—Clearly, as a non-discriminatory measure then direct discrimination is not likely to be an issue but indirect discrimination would be a significant issue. So it would be a matter that has been considered.

Senator SIEWERT—Did you seek advice? I will not ask you what the advice was—I know I am not allowed to—but did you seek advice specifically on that?

Mr Field—I would expect that the advice that the government received would cover indirect discrimination.

Senator SIEWERT—I will take that up with the minister.

CHAIR—Senator Adams, I am aware that you have to go. Is there any particular area that you want to cover before you leave?

Senator ADAMS—On income management once again, I was wondering about these incentives that are there. One was an incentive of up to \$500 for compulsory clients. What do they have to do to come off that compulsory list?

Mr Matthews—What do they have to do to cease being compulsorily income managed? Is your question about the incentives or about how they exit—

Senator ADAMS—It is really about the \$500 incentive for those compulsory clients. You are giving them an incentive. Surely, that incentive is working towards them becoming better able to manage their money. What do they have to do to prove that they can manage and how long does it take, just broadly.

CHAIR—And who is the decision maker? I think that is a natural—

Senator ADAMS—Yes, that was the next question.

Mr Matthews—I guess the incentives around the \$500 is quite separate from the exemptions—what takes you out of income management. The exemptions that the government has framed up for parents are around insuring the child attends school and, for preschool children, engagement in things such as basic immunisation, health services, child health checks, day care, child care and playgroups. A wide range of things would fit that. For people who do not have children it is around full-time study or a sustained pattern of part-time work, which is set out to be an average of more than 15 hours a week for 26 weeks out of the previous 52

weeks. It does not have to be consecutive; it can be broken up into periods of seasonal work and those types of things but on average there needs to be more than 15 hours a week over 26 weeks out of 52.

Senator ADAMS—And that person has a case manager and they make the decision, later on, that—

Mr Matthews—It all gets explained to the customer. There is usually ongoing engagement between a lot of the customers and Centrelink along the way. They do not have a case manager as such. Their ongoing engagement with Centrelink would mean that they would ask, ‘Look, I’ve been working for a while; do I now fit the requirements? Can I be exempted?’ They can ask Centrelink or it may come up when they have some structured engagement with Centrelink. So there is a range of things where that may be applicable.

For full-time students, generally speaking, it would be more of an administrative thing. The system already knows that they are full-time students, so they would not be placed on income management to start with. It would happen through a range of mechanisms. That is for the categories model. For where the Centrelink social worker or the NT government child protection worker makes the decision to put someone on income management then essentially they are put in for a period of up to 12 months. It can be shorter than that but it can be up to 12 months. Then that would either cease when that finishes or if the social worker in discussion with the clientele felt they no longer needed it. There is also some provision in there for people to seek to have that decision to put them on income management reconsidered by the delegate. So there a couple of ways that enable you to go off income management that line up with how you went on it.

Senator BOYCE—I want to ask some questions regarding that last point about people having the ability to have their income management decision reviewed or reconsidered. Can you tell us how that happens?

Mr Matthews—The prime thing is that they have the normal recourse. There is no stopping the normal recourse that people have under the social security act through the SSAT, the AAT and those types of provisions and also the administrative review arrangements—the ARO process. People can appeal the decisions in the same way as they can with anything else to do with social security.

Senator BOYCE—Is that the only method they can—

Mr Matthews—No. That is a general requirement. The act has no exemption. I guess when income management first started there was an exemption from the review for SSAT. That was removed around mid to late last year.

Senator SIEWERT—Not all of it.

Mr Matthews—Yes. People do have recourse of the SSAT and the AAT under the existing scheme.

Senator SIEWERT—Only for part of it.

Mr Matthews—But they can appeal the decision to the SSAT. The new scheme has the same feature—that they can appeal to the SSAT and the AAT. In the ultimate process, they can also appeal for a review of the delegate’s decision under the ARO process, which is normal Centrelink process. Under the vulnerable category there is a provision to seek the delegate to review the decision. They can do it every 90 days. In child protection if there is someone contacting there then that is almost an ongoing discussion between the person and the child protection system in the NT. So that can happen pragmatically at pretty much any point. Also through the other categories whether you fit the exemption category is something that a person can discuss with Centrelink at pretty much any time.

CHAIR—There is a difference in opinion among the committee. Could we get something from the department that spells out exactly what the current appeal rights are under the NTER and also what proposed appeal rights are instead of going backwards and forwards.

Senator BOYCE—And who the decision maker is in each case.

CHAIR—Having the whole appeal process before us is important to us.

Senator ADAMS—You mentioned that the community stores needed to be registered and that they would be registered under a person. Was that correct? Would it be registered under a person rather than the community group?

Dr Smith—It would be the owners rather than the store managers. Under the current stores licensing arrangements, we license managers. We propose to change that to licensing the owners.

Senator ADAMS—So if a community group owned it, that community group would hold the licence.

Dr Smith—That is correct. It would be that organisation.

Senator SIEWERT—Could I ask a few technical questions about the bills and how some of the processes will operate. In particular, I would like to know, because I am not clear on this: declared income management areas—is that process a disallowable instrument?

Mr Field—Yes, Senator.

Senator SIEWERT—That clearly is a disallowable instrument.

Mr Field—Yes.

Senator SIEWERT—So the process would be that the minister makes a decision on a declared income management area and that would go through the usual processes, being tabled in the Senate?

Mr Field—Indeed.

Senator SIEWERT—In terms of applying the decision-making principles for who is a vulnerable person, are the decision-making principles a disallowable instrument?

Mr Sandison—Senator, if you would like, we could provide you with what is the expected list of disallowable instruments that relate to the legislation. That is probably the easiest way to do it.

Senator SIEWERT—That would be much appreciated. I am confused and I know there is some confusion about it out there as well.

Mr Matthews—The simple answer is that all of the instruments under the income management arrangements are disallowable.

Senator SIEWERT—Thank you. I want to go back to some numbers, if that is okay. First of all, I want to clarify a question around the transition time. This kicks in in July 2010. You said that there is a transition period for a year in the NT. For the existing arrangements, could you take us through how you foresee that operating.

Mr Sandison—Minister, I think there are some areas—

Senator SIEWERT—I would like to be the minister on this, I must admit.

Mr Sandison—Senator, regarding the process, there is still some decision-making for government, but basically one of the statements outlined was that it would probably be on a geographic rollout. It would not be a total switch-on, switch-off across the whole of the Northern Territory. Government is still in consideration about how to actually take that approach forward. Basically, it would probably be on geographic zones to give an opportunity for reasonable implementation for Centrelink, in terms of managing the workloads and the resources that would be involved. A final decision by government on how that approach would be taken has still not been determined.

Senator SIEWERT—The intention is that, after two years, it can potentially be rolled out anywhere in Australia, or is there the potential that the government could use it prior to that time?

Mr Sandison—I cannot judge what the government will do beyond the statement that—

Senator SIEWERT—I am not asking you to.

Mr Sandison—The statement that the government have made is that they are looking at a national approach. It will be done in the Northern Territory. They will take into account evaluation information and other information about disadvantage in Australia to consider whether or not there would be use of it elsewhere in Australia, in whatever a prescribed region or zone might be at that time.

Senator SIEWERT—Is my interpretation of the bills correct that there is nothing to stop it being used prior to that anywhere in Australia?

Mr Sandison—It will be left as a determination by government once the legislation is enabled—yes.

Senator SIEWERT—So my interpretation is correct?

Mr Sandison—That is correct.

Senator SIEWERT—I would like to go to numbers now, please. What is the total number of recipients of category E payments that could be affected by this legislation, for the NT and then across Australia—those that are capable of being impacted by this legislation?

Mr Sandison—We will take on notice certainly the Australian number. Probably the easiest would be to, again, table a set of information in relation to the people on various payments for the Northern Territory and then the Australian population base.

Senator SIEWERT—I appreciate you taking that on notice. Could you break it down to the number of category E recipients that in the 25 years and over category? I will not repeat each category. Take it that I know that it is year on, 12 months et cetera—the number that are under 25, those—

CHAIR—Is it all categories, Senator?

Senator SIEWERT—Yes, all categories.

CHAIR—All categories that are identified. Could we have it by gender as well?

Mr Sandison—We will broadly interpret the question.

Mr Matthews—Just a slight caveat is that obviously the one around Centrelink social worker referrals would be difficult. You cannot re-extrapolate that as a national figure.

Mr Sandison—But you are after where they are on income support and there is a defined target—

Senator SIEWERT—Yes, exactly. You do know how many are on income support.

Mr Sandison—Yes.

Senator SIEWERT—I appreciate that I cannot expect you to foresee how many people. I want to go back to the question I flagged earlier—that is, how did you determine the category E criteria?

Mr Sandison—Basically in the process of looking at how to better target and make decisions and provide advice to government we took on a range of issues about disadvantage. Again, the policy statement makes some clear identifications around the issues of disadvantage and vulnerability. In relation to something like the under-25s we tried to cross-link with other categories already under the Social Security Act, so age definition according to payments like youth allowance in the student areas. We were also looking at the issue of the over 25s and the breakdown of who might be the most likely in terms of vulnerabilities. There is evidence available around long-term disadvantage and long-term time on income support and how that links into intergenerational disadvantage and multiple disadvantage for individuals. We basically

went through a series of issues and provided advice to government. The government made a determination about the particular target areas and indeed then obviously made decisions about some payments that were left out of the proposed new income management.

Senator SIEWERT—On the issue of parenting payment single and the determination around parenting payment single, how many weeks do you have to be on that to be in category E?

Mr Sandison—It is 52 weeks in 104 weeks if you are over 25 years of age.

Mr Matthews—And it is 13 weeks out of 26 weeks if you are under.

Senator SIEWERT—So the same category applies.

Mr Matthews—Yes.

Mr Sandison—Yes.

Senator SIEWERT—Did the same thinking apply to that process?

Mr Sandison—That is correct: the long-term reliance on welfare benefits.

Senator SIEWERT—So what evidence is there to show that single parents who have been on income support for some time meet those criteria?

Mr Sandison—Basically in looking at some of the administrative data and broader research around welfare dependency and vulnerability. It is not as strong obviously as when you get into the child protection target group and the vulnerability that would be assessed by a social worker. It was to narrow the targeting but is still using some basic evidence around targeting of an age group and the length of time on income support.

Senator SIEWERT—I appreciate that in your submission you have given us quite a few statements and documents that are relevant. Most of them pertain to the NT, which is fair enough because that is where this is focused. But, as we have just discussed, this is broader than the NT. Can you provide some of the evidence that you have just been talking about that relates, for example, to single parents and that vulnerability?

Mr Sandison—We will take that as a question on notice.

Senator SIEWERT—Yes, I meant for you to take it on notice. I did not mean for you to provide it right now. That would be appreciated. I want to move on again.

Senator FURNER—Just on that point, can we get some indication from you what might be the criteria or what might be the evidence in respect to rolling it out outside the NT and will you be doing comparisons based on other trials for that to be the benchmark for expansion?

Mr Sandison—I think the issue was that the government would take into account the evaluation of what is happening in the Northern Territory and obviously pick up on information about what is happening in Western Australia and Queensland in relation to other welfare reform

activities and then broader information about disadvantage and impacts on people with disadvantage, particularly multiple disadvantage. It really would be as generic as that. The government have said that they will take into account information and evaluation results for further consideration in relation to doing anything outside of the Northern Territory.

Senator FURNER—Are you able to inform us what the Cape York welfare reform trial is delivering at this point in time or are the outcomes of that not able to be released?

Mr Sandison—Dr Smith will respond to that.

CHAIR—I do not think we need a full evaluation of what is happening there, Dr Smith. We would like one, but I do not think you can give it to us.

Dr Smith—Perhaps I could table some information or perhaps take it on notice and produce just a brief summary.

CHAIR—That would be very useful.

Mr Sandison—We could do a one-page summary of just the key issues of the Cape York and outcomes to date.

Senator SIEWERT—Key issues and the evaluation and references please.

Mr Sandison—For the Cape York trial?

Senator SIEWERT—I have sidetracked myself—I appreciate that—from the Western Australian evaluation. Any update on progress on the evaluation methodology in Western Australia would be appreciated. I understand there are not any results yet, but I would appreciate that.

Mr Sandison—Certainly.

Senator SIEWERT—Just then with Senator Furner you were talking about the evaluation of the process. As I understand it, you will evaluate the process in the NT before it is rolled out elsewhere?

Mr Sandison—I think there is a specific statement in the policy statement that refers to the government's intention to take into account the evaluation in the Northern Territory. I think it mentions two years as a notional time period.

Mr Matthews—Back in 2011-12.

Mr Sandison—So it would be by mid-2012. But it also leaves it open to take into account other information evaluations and so on.

Senator SIEWERT—So where is the evaluation? Do you have an evaluation framework already?

Mr Sandison—Not quite. We will not have it ready by next week either. I am afraid. But there is a—

Senator SIEWERT—I am asking a serious question here. You know I have been very critical of the lack of evaluation framework for the current trials, and we still do not have an evaluation of the process in WA. It has been, quite frankly, haphazard. You do not have any baseline data and you have very little quantitative data—I always get ‘qualitative’ and ‘quantitative’ data confused; I am saying ‘quantitative’ data—for the NT. So where is the evaluation framework? This is a massive social experiment. Where is the evaluation framework? Will the framework be peer reviewed? Will the evaluation be peer reviewed?

Mr Sandison—I can just say at this stage that there is going to be a full evaluation, a significant evaluation, of income management in the Northern Territory under the new model.

Senator SIEWERT—Quantitatively?

Mr Sandison—It will cover a range of issues—quantitatively and qualitative. But we are now going through building the outline of the structure of the evaluation and the content to look at how we take that forward, noting the time frames for the rollout of the legislation and making sure we are in a position to be ready to benchmark and take up the data as soon as possible. But there is no document as such to table or anything.

Senator SIEWERT—Will that be ready by July?

CHAIR—Will that be in place before it rolls out in July this year?

Mr Sandison—We would be preparing a framework before the end of June this year.

Senator SIEWERT—Will that be publicly available?

Mr Sandison—I will take that on notice. It would normally be a decision of government.

Senator SIEWERT—Thank you. Can we go back to the declaration of areas of disadvantaged community, the scope of these measures, and canvass a few of the issues that the minister will be taking into account in making that determination? What are the issues that the minister will take into account in determining an area that is a disadvantaged community that might be declared an income management area?

Mr Sandison—At this stage, the declaration will focus on the Northern Territory, and the government has said that it is part of a consideration of a national approach but at this stage is waiting for that evaluation—other information. So, at this stage, until we get information from that, we would not have an answer in terms of consideration of other details or criteria that might be taken in more broadly for other areas of Australia.

Senator SIEWERT—So that is not available yet. Despite the fact that this can be applied across Australia, there has been no thought given to what is a disadvantaged community?

Mr Sandison—There is no statement that it would be applied across Australia.

Senator SIEWERT—Sorry. I will clarify. The legislation is capable of being rolled out across Australia.

Mr Sandison—Of a national approach, potentially using prescribed areas elsewhere around the country. Yes.

Senator SIEWERT—By ‘prescribed’, you mean identified and then declared?

Mr Sandison—Yes.

Senator SIEWERT—Can I just clarify: you are going to provide those figures that I have asked for nationally and for NT, aren’t you?

Mr Sandison—That is correct.

Senator SIEWERT—Thank you. Can we go to the issues around declaring a person vulnerable. Mr Matthews touched on it earlier. Can you go through the criteria again for what will be used to define ‘vulnerable’?

Mr Matthews—Are you talking about the Centrelink social worker referral? I just need to clarify that we are talking about the same thing.

Senator SIEWERT—It is always done on that. Would a vulnerable person always be defined by a social worker?

Mr Matthews—In the legislation framework it will be a delegate of the secretary, which will broadly be a Centrelink social worker, so yes, in practical terms that is who it will be. The legislation sets out that there would be an instrument that will frame up the principles which the social worker would look at in terms of making that decision and they are broadly around their vulnerability to financial hardship, vulnerability to economic abuse, which people generally call humbugging, maybe issues of domestic abuse and things like that. It does not necessarily pertain that in these situations you must put somebody on income management; it merely sets out framework principles they must have regard to in making a decision and using their judgment about whether income management would be beneficial. You might be able to read the document that Mr Sandison referred to that sets out the instruments. It has a little more information about some of those principles.

Senator SIEWERT—That would be appreciated.

Mr Sandison—It will be one of the instruments that will be on the list.

Senator SIEWERT—You undertook to table the list of instruments, didn’t you?

Mr Sandison—The list of instruments, yes, and if we can some of the information that sits beside them so it is not just a list of five-word headings.

Senator SIEWERT—That would be appreciated. It will save me spending time now, in estimates or at another time where I will get to follow it up. I know you are providing additional

information on the appeals process. I just want to clarify the appeals process that will apply for those wishing to appeal against a declaration of vulnerability. Will it be the existing general appeals processes and not those that currently apply to people covered under the NT intervention?

Mr Matthews—Yes. It will be the normal appeal rights that anybody has under the Social Security Act, so you can appeal the decision that the delegate has made and seek to have that reviewed. They have the right, and then the SSAT would undertake that review process. They do have that right and in addition they have the right to go to the delegate and seek the decision maker to review their declaration every 90 days.

Senator SIEWERT—In terms of an exemption, my understanding is an area is declared and you are in if you are in category E—and I understand the differences in category E—and you can then apply for an exemption.

Mr Matthews—Yes.

Senator SIEWERT—I know you did go through it very briefly before, but can we go through the process very quickly and the criteria if you want to apply for an exemption.

Mr Matthews—Yes. It will vary a little bit depending on where you are, but broadly the exemption categories for people without children are either full-time study or a sustained pattern of part-time work—on average 15 hours a week over 26 weeks out of the previous 52, not consecutive. I will give a quick explanation of how that would practically work. The system already records the full-time students, so we would already know who they are. So it would not be a case that you would be put on income management and would then need to apply. We would be able to automate the process and streamline it a little bit more efficiently. If somebody on income management becomes a full-time student then, as part of their change of circumstances meeting with Centrelink, it would also be taken into account whether they wished to be exempted from the scheme. It would happen in a couple different ways depending on the person's circumstances.

Senator SIEWERT—So, if I meet all my Centrelink participation requirements under the current process, and I meet the category E criteria, I will still get income quarantined but can I apply for an exemption?

Mr Sandison—If you are on the activity tested payments as managed primarily by the employment department there is a requirement to meet those as a separate issue to this. In general, we have tried to line up in terms of looking at issues like 15 hours of work, the student activity level, the definition of full-time study and so on. We are working on trying to make consistency across the two—but still not necessarily exactly the same—if you meet the participation requirements of an unemployed person with a work requirement so the activity tested side does not necessarily automatically put you into an exemption under the income management rules.

Senator SIEWERT—So, I may be doing everything right; I receive income support, I am technically in category E but I am doing everything right and I work really hard to fulfil my participation requirements, but I could still have income quarantined?

Mr Sandison—Correct. A parent who is on income support and has a child aged over six and therefore has a requirement to look for 15 hours a week of work could meet the activity requirement by looking for x number of jobs. But that does not mean necessarily that they would be exempt under this. It is the engagement with actual work and the history of work that is the trigger point.

Senator SIEWERT—If I am a grandfathered parent under Welfare to Work, and my child is over eight—that is a bit different, as you know—

Mr Sandison—Yes.

Senator SIEWERT—I may still meet all my requirements under that, but I can still get income quarantined?

Mr Sandison—Correct.

Senator SIEWERT—How do I get out of it?

Mr Matthews—For a parent, the legislation talks about things that I guess the government has framed up around parental responsibility. You need to demonstrate that if your child is of school age, depending on the definition by the relevant state or territory, then you would need to show that your child is enrolled in school and attending school with no more than five unexplained absences in the previous two terms. If your child is meeting that definition then you could seek an exemption on that basis.

If you have a child that is under school age, then obviously it is not to do with school. It is around things that I talked about before: you need to show some engagement with basic things like immunisation, engaging—

Senator SIEWERT—What if I am a conscientious objector to immunisation?

Mr Matthews—We would use the same rules; if you are conscientious objector it is intended that that would be okay.

Mr Sandison—But you would have to identify yourself just like with the immunisation, obviously.

Senator SIEWERT—Okay.

Mr Matthews—Yes, it would go in the standard way that it does, using the existing framework for that, if you can demonstrate something. There would be a range of things framed up in the instrument; it does not mean that you would need to do all of them. It would be things like immunisation, engagement with childhood and maternal health checks—not getting into what they find, obviously, but just if you have engaged with the health system—attendance at playgroups, day care, child care, things around parenting courses and those types of things as well.

Senator SIEWERT—I have some financial questions, and I know I have only got a short amount of time so I will put those on notice, but I did want to move onto a couple more.

CHAIR—Has anyone got any other areas that they want to cover this afternoon on the basis that we will put things on notice? We will just check if others have questions and we can come back to you.

Senator CROSSIN—I have some questions about the alcohol restrictions. Dr Smith, can you clarify for the *Hansard* if this now means that communities will actually be able to go back to having their own alcohol management plans?

Dr Smith—That is correct. There is some provision for that to happen now, but that will be made more explicit and more structured in the proposed arrangements in the legislation.

Senator CROSSIN—Will communities still be restricted to drinking outside the limits of the prescribed area?

Dr Smith—No. Once an alcohol management plan comes in, it would be a case of determining the arrangements that are most appropriate to the community. For example, under an alcohol management plan there may be a capacity to drink light beer or whatever was developed in that plan.

Senator CROSSIN—I am thinking more about the case of Jilkminggan, where at the moment they have to drink outside the restricted area, which takes them to the other side of the Bruce Highway. Each and every time I have been to that community, they have not wanted drinking in the community; they do actually want the drinking six kilometres away, but not seven kilometres away so that alcoholics are crossing the highway at night. On my next visit there, could I say to them that, when this legislation goes through, there would be a capacity for them to renegotiate the way in which alcohol in the community will be handled, where it will be drunk and that it will be subject to, say, the Northern Territory Licensing Commission?

Dr Smith—That is right.

Senator CROSSIN—They would then get a negotiated outcome to suit their circumstances?

Dr Smith—That is correct. They would have that flexibility. Having negotiated that kind of arrangement, they could then go to the Commonwealth government and say, ‘We’ve got this plan. We have these arrangements. Based on this evidence and the views of the people in the community, we believe that that is workable.’

Senator CROSSIN—That is certainly clear evidence of this legislation reflecting what a number of communities have asked of me during the course of the last three years—to provide more flexibility: to not allow drinking in the communities but to recognise drinking occurs and to keep it within an area and under a program where they get more control over how it happens.

Dr Smith—That is correct.

CHAIR—I have a question about the explanation we had earlier about the provision under the previous legislation that police could enter a house in search of alcohol or under the presumption that somebody in the house was breaking the alcohol provisions. You said that that would only occur now if there was a request by someone in the community. We have had this discussion in previous hearings. Under the new process, could one person in the community cause that to happen throughout the whole community?

Dr Smith—What would happen is that any person ordinarily resident in the community, or a person on behalf of one of those people, could trigger a consideration by the government of whether those powers should be brought into play. Then the government, against a set of criteria—including the level of alcohol related harm in the community and the views of people in the community; a range of things are set out in the legislation—would look at all of those things and make a decision.

CHAIR—Could one person ask for it to be taken away?

Dr Smith—It is actually already taken away.

CHAIR—Yes, but if someone makes an objection and wants it brought back, and you go through the process and a decision is made to do so, could one person from the community say, ‘We don’t want it’?

Dr Smith—Could they trigger an investigation?

CHAIR—Yes.

Dr Smith—Can I take that on notice?

CHAIR—You can follow up on that.

Senator SIEWERT—This may be classed as policy, so you may need to take it on notice. When you are making the decision about who to expand income quarantining to, are age and disability pensioners specifically not included?

Mr Sandison—Correct.

Senator SIEWERT—And yet the NT intervention specifically applies to them? I am not saying I agree with income quarantining. As everybody knows, I have strong concerns about it, but the government said it had to be done because of humbug et cetera. Now you are not doing it. Why?

Mr Sandison—The government has tried to take into account the views of the various groups, through the consultation process, and the commentaries around better targeting of income management. It has tried to follow through with that intent and that feedback from the consultation process. But by leaving in the vulnerability, through a social worker, there is the capability of saying that if there is a disability pensioner who has been humbugged there is the potential for the social worker to talk to that individual and raise income management as an option or make a decision for income management to be applied to that person. It has tried to get

the balance of doing some targeting, which was in the feedback, but also still leaving open the door to make sure that a delegate can make a decision about vulnerability.

Senator SIEWERT—In order to be income quarantined, would a person who is receiving the age pension apply or would a social worker say, ‘I think that person is being humbugged, so I will declare them a vulnerable person’?

Mr Sandison—You would have the two options. There is voluntary income management, where they can apply, or it is through engagement with Centrelink. The Centrelink officer would have interaction with them and there would be consideration of whether or not they are vulnerable or whether there are other issues going on.

Senator SIEWERT—How often does a Centrelink officer have interaction with a person who is receiving an age pension?

Mr Sandison—By comparison to an activity tested individual, limited interaction.

Senator SIEWERT—Can I ask about numbers. I realise that a whole lot of this you will probably want to take on notice. You have made some forward estimates and given some calculations on the cost of this initiative. On what basis were those costs calculated?

Mr Matthews—The costs were forecast against the projections of people in the Northern Territory who would fall into the categories. They are based on the numbers that you will probably get on notice. Then we go through the normal costing process of what it is going to cost to service those numbers and that projects out.

Senator SIEWERT—I am happy to provide this question in writing if it is going to be too complex now. Would you be able to provide us with the cost per capita of the quarantining as it is occurring currently under the Northern Territory intervention. Are you assuming that the costs will be the same?

Mr Matthews—The one thing I can say is that it does not cost up on a unit. It is not X number of people times a certain amount. The costing process does not quite work out as simply as that. I am not quite sure whether that would be something that we could or would do.

Senator SIEWERT—Surely you know the number of people quarantined?

Mr Sandison—What we can provide is the dollar value. We can identify the numbers of people that perhaps are in the target groups. What we are saying is that we do not go through and then say, ‘For X number of people it is going to cost X thousand dollars,’ because there are different costings and circumstances, as you would realise, from remote areas into metro areas. The costing structure and the service delivery approach that are required of Centrelink are different. Obviously by having the total dollar value for the Northern Territory in income management and the notional number of people that we are expecting, there is an average, but it is not done on a straightforward per person price.

Senator SIEWERT—So how have you done it? Have you made some assumptions around what it will cost you in metropolitan areas?

Mr Sandison—I think we will have to take that on notice, but significant parts of costing assumptions and so on are advice to government and budget-in-confidence. The broad numbers of what the total cost was going to be across the forward estimates were announced, so we will take that on notice and provide you with what we can.

Senator SIEWERT—Thank you. That would give me a broad idea anyway. In your budget projections have you included additional support for people who are income quarantined? In WA the government is providing money for financial counselling. It is called different things in different places.

Mr Sandison—Financial counselling and other support activities.

Senator SIEWERT—Are you factoring those into your calculations? Are you providing those additional support services?

Mr Sandison—Yes, that is taken into account.

Senator SIEWERT—Could you provide us with detail on what additional services are being provided, how many and in which areas in the Northern Territory, for a start. Have you done any figures on how much this would cost to expand into other areas of Australia?

Mr Sandison—We can take that on notice. The answer to the second part is that we have not gone through a formal costing process to look at how we would roll it out nationally. If the government made a decision about a particular area we would then have to identify the number of people in the target groups for that area to be able to do any kind of costing. But, on the broad basis of looking at the service delivery and what is proposed for the Northern Territory, we will take it on notice and provide a description in detail to the extent that we can.

Senator SIEWERT—Could you clarify what the cost of this program is going to be for 2010-11.

Mr Sandison—By ‘program’ do you mean income management overall or the financial counselling program?

Senator SIEWERT—I mean overall for the income quarantining and then overall for the whole of the reform package. Could you clarify that for me?

Mr Sandison—We will take that on notice to the extent that we can. So you mean across all the other measures?

Senator SIEWERT—For 2010-11.

Mr Sandison—Across all the measures for the NTER.

Senator SIEWERT—Yes. Was it \$350 million? I am not trying to put you on the spot.

Mr Matthews—The press release quoted \$350 million over four years.

Senator SIEWERT—I just wanted to clarify that. I am not trying to be smart or trying to trap you into anything. If you could give me the detailed breakdown on each of the measures over the budget predictions per year, that would be very much appreciated. Thank you.

Mr Matthews—Yes.

CHAIR—Thank you very much. To the officers who were not questioned, I do apologise that you sat there. It is not that there is no interest in the components of the legislation to which you refer; it is just that, as you can see, there is a focus on income management. There could well be questions on notice to you. We deeply appreciate your time. My understanding is that we will be having you back to have a further hearing on this on 26 February. Obviously some of the issues will also come up in Senate estimates. Thank you very much.

Committee adjourned at 6.01 pm