

15 March 2019

Committee Chair
Senate Community Affairs Legislation Committee
Parliament House
CANBERRA ACT 2600

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

Dear Committee Chair

Submission to the Inquiry into the Social Security (Administration) Amendment (Income Management and Cashless Welfare) Bill 2019

The National Aboriginal and Torres Strait Islander Legal Services (**NATSILS**) and Human Rights Law Centre (**HRLC**) write to oppose the expansion of the cashless debit card trials set out in the *Social Security (Administration) Amendment (Income Management and Cashless Welfare) Bill 2019 (the Bill)*.

The Bill would expand the trials of the cashless debit card (**CDC**) in three locations – East Kimberly and the Goldfields region of Western Australia, and Ceduna in South Australia – from their scheduled end date of 30 June 2019 to 30 June 2020.¹

For people captured by the CDC trials, 80 per cent of their social security payments are quarantined. It is a blanket measure and involves no assessment of an individual's circumstances or ability to manage their finances.² Nor is there a clear process for linking people with wrap-around support services despite the purported goal of the CDC being to address alcohol, drug and gambling addiction. Many people without alcohol, drug or gambling problems are dragged into this controlling measure, which the Royal Australian & New Zealand College of Psychiatrists has described as being inappropriate to respond to people experiencing addiction disorders.³

We firmly believe that Aboriginal and Torres Strait Islander community driven, locally based solutions are longer lasting and address real issues. They allow people to utilise the strengths of their communities to take ownership of the challenges.

In opposing the expansion of the CDC trials in the above three regions, we note the following:

1. **The trials target, and disproportionately impact upon Aboriginal and Torres Strait Islander people and women:** Around 75 per cent of people captured by the trial in Ceduna, and 80 per cent in East Kimberly identify as Aboriginal and Torres Strait Islander. 54 per cent of participants in Ceduna and 59 per cent in East Kimberly are female. In the Goldfields, nearly half of those captured by the trial are Aboriginal and Torres Strait Islander people, 59 per cent of whom are female.⁴

¹ The Bill would also extend the income management program in Cape York to 30 June 2020. The Cape York program is considerably different to the CDC trials. This submission is limited to the expansion of the CDC trials.

² There are limited exemption provisions, including where the Secretary is satisfied that being a trial participant would seriously risk a person's mental, physical or emotional wellbeing, however the Secretary is not required to consider this prior to a person becoming a trial participant: Australian Government, *Social Security Guide* (4 February 2019) [8.7.4.15].

³ Royal Australian and New Zealand College of Psychiatrists, Submission No 3 to the Senate Community Affairs Legislation Committee, *Inquiry into the Social Security (Administration) Amendment (Income Management and Cashless Welfare) Bill 2019*, 27 February 2019.

⁴ ORIMA Research, *Cashless Debit Card Trial Evaluation: Final Evaluation Report* (Australian Government Department of Social Services, August 2017) 37; K Mavromaras et al, *Cashless Debit Card Baseline Data Collection in the Goldfields Region: Qualitative Findings* (University of Adelaide, February 2019) 10.

The UN Committee on the Elimination of Racial Discrimination has expressed concern about the discrimination faced by Aboriginal and Torres Strait Islander people and recommended that Australia “maintain only opt-in” forms of social security quarantining.⁵ The Australian Human Rights Commission has also raised concerns about the compulsory CDC trials being inconsistent with the *Racial Discrimination Act 1975 (Cth)*.⁶

2. **The CDC is inconsistent with human rights:** The Parliamentary Joint Committee on Human Rights (**the Committee**) has repeatedly raised concerns that both compulsory CDC and income management unjustifiably limit rights to social security, private and family life, equality and non-discrimination. The Committee has noted, in relation to income management, that there may be some benefits for those who *choose* to have payments quarantined, however the measure has “limited effectiveness” for most people compelled onto it.⁷

The Aboriginal and Torres Strait Islander Social Justice Commissioner has previously opposed expansions of the CDC trials, noting that the Australian Human Rights Commission does not consider the CDC trials to be compatible with Australia’s international human rights obligations.⁸

3. **There is a lack of evidence to support the interference with human rights and the expenditure of large sums to administer the CDC:** the Bill relies on conclusions drawn from an evaluation of the East Kimberly and Ceduna trials by ORIMA. As has been well-documented by academics and the Australian National Audit Office, ORIMA’s evaluation is seriously flawed and therefore unreliable.⁹ We further note concerns raised by academics about serious flaws in the recent baseline data report about the Goldfields trial.¹⁰

Far more robust and credible evaluations of income management, both place-based and NT-wide, support an end to compulsory forms of social security quarantining, including because of the lack of evidence of improved social outcomes and concerns that such measures actually create or deepen dependence on social security.¹¹ NATSILS has previously raised concerns about income management models being expanded by the Government in the absence of supportive evidence.

Conclusion

It is inappropriate for the Government to expand such a blanket, rights-limiting and discriminatory measure on the East Kimberly, Ceduna and Goldfields regions in the absence of any reliable evidence to justify the significant limitation of rights, together with the free, prior and informed consent of the Aboriginal and Torres Strait Islander peoples disproportionately targeted by the trials.

Finally, we note that in both the East Kimberly and Goldfields trial sites, there have been reports of promises about funding for ‘wrap-around services’, which would accompany the implementation of the CDC, not being properly met.¹² This is alarming, particularly given reports that \$34 million has been spent administering the

⁵ United Nations Committee on the Elimination of Racial Discrimination, *Concluding Observations on the eighteenth to twentieth periodic reports of Australia*, UN doc CERD/C/AUS/CO/18-20 (8 December 2017) [23].

⁶ Australian Human Rights Commission, Submission No 30 to the Senate Community Affairs Legislation Committee, *Inquiry into Social Services Legislation Amendment (Cashless Debit Card) Bill 2017* (29 September 2017).

⁷ Parliamentary Joint Committee on Human Rights, *2016 Review of Stronger Futures Measures* (16 March 2016) 52.

⁸ Australian Human Rights Commission, Submission No 30 to the Senate Community Affairs Legislation Committee, *Inquiry into Social Services Legislation Amendment (Cashless Debit Card) Bill 2017* (29 September 2017).

⁹ Australian National Audit Office, *The Implementation and Performance of the Cashless Debit Card Trial* (Auditor-General Report No 1 2018-19, 17 July 2018).

¹⁰ Matthew Gray and Rob Bray, Submission No 7 to the Senate Community Affairs Legislation Committee, *Inquiry into the Social Security (Administration) Amendment (Income Management and Cashless Welfare) Bill 2019*, undated.

¹¹ Rob Bray et al, *Evaluating New Income Management in the Northern Territory: Final Evaluation Report* (Australian National University, September 2014); Deloitte Access Economics, *Consolidated Place Based Income Management Evaluation Report 2012-2015* (May 2015).

¹² K Mavromaras et al, *Cashless Debit Card Baseline Data Collection in the Goldfields Region: Qualitative Findings* (University of Adelaide, February 2019) 8; Christopher Knaus, ‘Family violence rates rise in Kimberley towns with cashless welfare’ (*The Guardian*, 12 January 2018); Erin Parke, ‘Cashless welfare card divides East Kimberly as battle lines drawn over future’ (*ABC Online*, 24 August 2017).

CDC in these three regions.¹³ NATSILS have previously raised concerns about income management diverting much-needed resources from other program areas that could achieve genuine community-driven improvements in social outcomes.¹⁴

Contact

Should you have any queries about this submission, please contact Roxanne Moore, Legal Secretariat Officer, NATSILS on 0407 097 955 or Adrienne Walters, Senior Lawyer, HRLC on 0432 049 383.

Sincerely,

Karly Warner
Executive Officer
National Aboriginal and Torres Strait Islander Legal Services

Adrienne Walters
Senior Lawyer
Human Rights Law Centre

¹³ Australian Council of Social Services, Submission No 6 to the Senate Community Affairs Legislation Committee, *Inquiry into the Social Security (Administration) Amendment (Income Management and Cashless Welfare) Bill 2019* (7 March 2019).

¹⁴ National Aboriginal and Torres Strait Islander Legal Services, *Position Statement: Income Management* (2012), <http://www.natsils.org.au/portals/natsils/NATSILS%20Income%20Management%20Position%20Statement%2017-10-12.pdf>.