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# Parliamentary Joint Committee on Human Rights

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## Inquiry into Compulsory Income Management

September 2024

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## Terms of reference

Section 243AA of the *Social Services (Administration) Act 1999* provides that the committee is required to review Part 3AA and Part 3B, so far as they relate to compulsory enhanced income management or compulsory income management, for compatibility with human rights.

The first review must be completed by the end of the period of 12 months beginning on the day the *Social Security (Administration) Amendment (Income Management Reform) Act 2023* commenced.

Each subsequent review under section 243AA must be completed within three years after the completion of the previous review.



# Abbreviations

4Rs Network	National Regional, Rural, Remote and Very Remote Community Legal Network
ACOSS	Australian Council of Social Service
the Act	<i>Social Security (Administration) Act 1999</i>
AHRC	Australian Human Rights Commission
AIMN	Accountable Income Management Network
ANAO	Australian National Audit Office
ANU	the Australian National University
APY	Anangu Pitjantjatjara Yankunytjatjara
CALD	culturally and linguistically diverse
CDC	cashless debit card
CERD	UN Committee on the Elimination of All Forms of Racial Discrimination
CESCR	UN Committee on Economic, Social and Cultural Rights
Closing the Gap	<i>National Agreement on Closing the Gap</i>
the committee	Parliamentary Joint Committee on Human Rights
Deloitte	Deloitte Access Economics
department	Department of Social Services
FRC	Family Responsibilities Commission
NAAJA	North Australian Aboriginal Justice Agency
NIM review	<i>New Income Management in the Northern Territory review</i>
NPY Women's Council	Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council
NT	Northern Territory
NTCOSS	NT Council of Social Service
NTER	Northern Territory Emergency Response
RMIT Policy Group	Social Work Policy and Advocacy Action Group from RMIT University
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples



# List of recommendations

## Recommendation 1

4.100 The committee recommends that the government amend the *Social Security (Administration) Act 1999* to make income management voluntary, including transitional provisions to facilitate a transition to voluntary income management over a period of time.

## Recommendation 2

4.101 The committee recommends that the government immediately amend the *Social Security (Administration) Act 1999* to establish more pathways out of compulsory income management, including to:

- establish a process by which a person may apply to permanently exit compulsory income management;
- provide that where a person has been subject to compulsory income management for a specified continuous period of time, an individualised assessment of their overall circumstances must occur to determine whether there is a basis for that person being subject to compulsory income management;
- provide that any person subject to compulsory income management may apply for an exemption on the basis that income management is not necessary for them;
- provide that where an exemption has been requested, an individualised assessment of the person's overall circumstances must take place to determine whether there is a basis for that person being subject to compulsory income management; and
- extend the maximum period of time for which an exemption may apply, and require an individualised assessment of a person's overall circumstances where a period of exemption has ended to determine whether there is a basis for that person again being subject to compulsory income management.

## Recommendation 3

4.102 The committee recommends that, in addition to recommendation 2, the government give consideration to investment in a full suite of local support programs, opportunities, and community-driven alternatives and the creation of real jobs, with proper award wages and conditions, adequate training and skills, and rebuilding local community decision-making.

#### **Recommendation 4**

**4.103** The committee recommends that the government give consideration to the funding of social services and free and low-cost legal services to support the administration of exemptions, and the transition to voluntary income management.

#### **Recommendation 5**

**4.104** The committee recommends that, if income management is no longer compulsory, the government should amend the *Social Security (Administration) Act 1999* to repeal section 243AA (the legislative provision requiring this committee to review compulsory income management).

#### **Recommendation 6**

**4.105** The committee recommends that data relating to applications and grants of exemptions or refusals from compulsory income management be monitored and publicly reported including detail on First Nations status, disability, age and other factors.

#### **Recommendation 7**

**4.106** The committee recommends that the government ensure participants are advised, in ways that are accessible and culturally appropriate, of the option to apply to be exempt from compulsory income management and the process to achieve this

# Chapter 1

## Introduction

### Initiation of the inquiry

- 1.1 The mandate of the Parliamentary Joint Committee on Human Rights (the committee) under paragraph 7(a) of the *Human Rights (Parliamentary Scrutiny) Act 2011* is to examine all bills and legislative instruments that come before either House of the Parliament for compatibility with human rights<sup>1</sup> and to report to both Houses of the Parliament on that issue.
- 1.2 In September 2023, the committee was given the function (under section 243AA of the *Social Security (Administration) Act 1999*) to examine Part 3AA and Part 3B, so far as they relate to compulsory enhanced income management or compulsory income management, for compatibility with human rights and report to the Parliament.
- 1.3 The committee must complete the first review by 4 September 2024.<sup>2</sup> Subsequent reviews must be completed within three years after the completion of the previous review.
- 1.4 In writing to invite submissions, the committee indicated that it sought submissions as to the compatibility of compulsory income management with human rights, and in particular:
  - whether compulsory income management has been effective in achieving its stated aims;
  - whether compulsory income management has caused, or contributed to, beneficial and/or detrimental outcomes;
  - the nature of any consultation undertaken with affected communities and groups in relation to the operation of compulsory income management;
  - how in practice income management has been applied, including how individual exemptions from compulsory income management have been considered;
  - the practical operation of the BasicsCard and SmartCard, particularly in remote communities; and

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<sup>1</sup> 'Human rights' is defined in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* to mean the rights and freedoms recognised or declared by seven international instruments: International Convention on the Elimination of all Forms of Racial Discrimination; International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights; Convention on the Elimination of All Forms of Discrimination Against Women; Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Rights of the Child; and Convention on the Rights of Persons with Disabilities.

<sup>2</sup> Subsection 243AA provides that the first review must be completed 'within 12 months after this section commences'. Section 243AA commenced on 4 September 2023.

- the extent to which compulsorily restricting the spending of welfare payments is consistent with international human rights law, particularly the rights to social security, an adequate standard of living, equality and non-discrimination, a private life, and the rights of the child.

### **Conduct of the inquiry**

- 1.5 The Chair of the committee, Mr Josh Burns MP, issued a media release on 28 March 2024 to call for submissions. The committee wrote to 77 stakeholders inviting them to make a submission to the inquiry by 5 May 2024, and advertised the inquiry on its website.
- 1.6 The committee received 30 public submissions, which were published on the committee website, and one confidential submission. A list of submissions received is included at Appendix 1.
- 1.7 The committee held two public hearings in relation to this inquiry. These hearings took place on 5 July and 29 July 2024 in Canberra. The committee heard evidence from a range of community organisations, peak bodies, academics, and the Department of Social Services. A list of witnesses for both public hearings are included at Appendix 2, and the Hansard transcripts are available on the committee website.

### **Structure of the report**

- 1.8 The report contains 4 chapters, as follows:
  - Chapter 1 sets out the details of the inquiry;
  - Chapter 2 sets out the background to the policies and legislation which have provided for income management and the committee's consideration of income management legislation;
  - Chapter 3 discusses the key issues raised by submitters and witnesses to the inquiry; and
  - Chapter 4 sets out the relevant international human rights law and analysis associated with compulsory income management, and the committee's views and recommendations.

### **Acknowledgements**

- 1.9 The committee acknowledges and thanks the organisations and individuals who contributed to the inquiry by making submissions, giving evidence at the public hearing and providing additional information.



# Chapter 2

## Background

- 2.1 This chapter sets out the background to policies and legislation which have provided for compulsory income management in Australia.
- 2.2 Compulsory income management refers to the compulsory quarantining of a portion of a person's social welfare payments to a bank card, which will prevent the quarantined funds from being used to purchase certain classes of goods and services. It has existed in various forms in Australia since 2007.
- 2.3 Section 243AA of the *Social Security (Administration) Act 1999* requires the committee to examine the human rights compatibility of income management (and enhanced income management) on an ongoing basis.<sup>1</sup> This being the first such inquiry, it is instructive to set out the legislative history of (and the corresponding inquiries and evaluations completed regarding) compulsory income management measures in assessing the human rights compatibility of the current framework. This chapter also outlines this committee's consideration of legislation relating to income management since 2012.

### Iterations of Income Management

#### NTER income management

- 2.4 Income management was first legislated for in 2007, pursuant to the *Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007*, as part of a policy known as the 'Northern Territory National Emergency Response' (NTER). This inserted new Part 3B into the *Social Security (Administration) Act 1999*, which provided that a person receiving certain social welfare payments may be subject to income management where they were: living in a declared area of the Northern Territory;<sup>2</sup> where concerns had arisen in relation to child protection or school enrolment or attendance;<sup>3</sup> or where they were required to participate by the Queensland Commission.<sup>4</sup> For those persons in the Northern Territory, income management applied to people who received

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<sup>1</sup> The first review under section 243AA must be completed within 12 months after this section commenced (by 4 September 2024), and each subsequent review must be completed within 3 years after the completion of the previous review (that is, by 4 September 2027 at the latest).

<sup>2</sup> *Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007*, section 123UB. Income management applied to people living in 73 prescribed communities and 10 town camp regions (Per Bray submission).

<sup>3</sup> *Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007*, sections 123UC–123UE.

<sup>4</sup> *Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007*, section 123UF.

income support payments and who lived in one of 73 prescribed Indigenous communities, their associated outstations, or the 10 town camp regions. The legislation contained provisions that limited the application of (effectively suspending) the *Racial Discrimination Act 1975* (Racial Discrimination Act) and Northern Territory and Queensland anti-discrimination legislation.

- 2.5 The portion of a person's social welfare payment which was income managed was quarantined to a bank card called the 'BasicsCard'. The BasicsCard allowed people to spend income managed funds at certain businesses, and did not allow the card holder to withdraw the funds as cash. In 2008, further trials of income management were rolled out in Cape York and selected areas in Western Australia.
- 2.6 NTER income management operated until August 2010. At this time there were 16 726 income support recipients on NTER Income Management.<sup>5</sup>

### **New Income Management**

- 2.7 In 2010, the *Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of the Racial Discrimination Act) Act 2010* amended the income management scheme. In particular, it extended income management to the entire Northern Territory (not just prescribed Indigenous communities), and repealed the provisions limiting the application of the Racial Discrimination Act.
- 2.8 New income management applied to people deemed to be at risk due to receipt of particular welfare payments for specified periods of time, including:
  - 'Disengaged Youth measure' (people aged 15-24 years who had been receiving one of the following payments for three out of six months: Youth Allowance; Newstart Allowance; Special Benefit; or Parenting Payment Partnered or Single); and
  - 'Long-term Welfare Payment Recipients measure' (people aged 25 years and older who had been receiving one of the following payments for more than one year (within the previous two years: Youth Allowance; Newstart Allowance; Special Benefit; or Parenting Payment Partnered or Single)).
- 2.9 People referred for income management by child protection authorities; and people assessed by Centrelink social workers as vulnerable to financial problems could also be subject to compulsory income management.<sup>6</sup>

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<sup>5</sup> Social Policy Research Centre, University of New South Wales, [Evaluating New Income Management in the Northern Territory: Final Evaluation Report](#), September 2014, p. 18.

<sup>6</sup> Social Policy Research Centre, University of New South Wales, [Evaluating New Income Management in the Northern Territory: Final Evaluation Report](#), September 2014, pp. 21–23.

## Stronger Futures

- 2.10 In 2012, the legislation providing for the Northern Territory National Emergency Response was repealed and replaced with a package of legislation known as 'Stronger Futures'.<sup>7</sup> This legislation extended income management beyond the NT, enabling income management referrals from a range of state and territory authorities. The scheme was extended to five locations across Australia: Bankstown (NSW); Greater Shepparton (VIC); Rockhampton and Logan (QLD); and Playford (SA). Between 2012 and 2014, income management was further extended to Anangu Pitjantjatjara Yankunytjatjara Lands and Ceduna in South Australia, and Laverton and Ngaanyatjarra lands in Western Australia. In 2015, Child Protection Income Management and Voluntary Income Management was expanded in the Greater Adelaide region of South Australia. In 2017, the *Social Services Legislation Amendment (Queensland Commission Income Management Regime) Act 2017* enabled income management to continue in Cape York and Doomadgee for a further two years, until 30 June 2019.
- 2.11 Eligibility for compulsory income management at this time varied depending on where a person resided. In the NT, a person on social welfare could be subject to compulsory income management following an individual assessment and referral to income management by a Centrelink social worker, child protection worker, or the Northern Territory Alcohol Mandatory Treatment Tribunal. Other people in the NT were subject to compulsory income management because they were members of a category or 'class':
- 'Long-term welfare payment recipients';
  - 'Disengaged youth'; or
  - 'Automatic vulnerable income management for young people'.<sup>8</sup>
- 2.12 While compulsory income management applied to 15 locations outside of the NT at that time, only the NT program primarily involved people subject to income management because of the length of time they had been receiving benefits (long-term welfare recipients and disengaged youth).
- 2.13 At this time, approximately 90 percent of people subject to income management in the NT were Indigenous (and around 60 per cent were female).<sup>9</sup> It was estimated that just over one-third of the total Indigenous population was subject

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<sup>7</sup> *Social Security Legislation Amendment Act 2012*.

<sup>8</sup> Persons: aged under 16 years receiving Special Benefit; aged between 16 and 24 years who have been granted a level of Youth Allowance at the Unreasonable to Live at Home level of payment; and aged under 25 years who have received Crisis Payment on release from prison or psychiatric confinement.

<sup>9</sup> Social Policy Research Centre, University of New South Wales, [Evaluating New Income Management in the Northern Territory: Final Evaluation Report](#), September 2014, p. 53.

to income management. Around 78 per cent of all people on income management were on compulsory income management.<sup>10</sup>

- 2.14 Part 3B income management provides that between 50 and 70 per cent of a person's social security payments are quarantined to the restricted 'BasicsCard'.

### **The Cashless Debit Card Trial**

- 2.15 In 2015, the *Social Security Legislation Amendment (Debit Card Trial) Act 2015* provided for a trial of the Cashless Debit Card (CDC) from 2016 to 30 June 2018 in three locations. Those locations were subsequently determined (by legislative instrument) to be Ceduna, Wyndham, and Kununurra/East Kimberley (WA). When compared with the BasicsCard, the CDC could be used at a wider range of merchants and tobacco purchase was permitted. A higher proportion of a person's income support, 80 per cent, was quarantined.
- 2.16 From 2018, the *Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Act 2018* increased the total number of trial participants overall, and expanded to the CDC trial to the Goldfields region (WA), and the Bundaberg and Hervey Bay region. In the initial three sites, the program applied to all persons on working age income support payments. In Bundaberg and Hervey Bay it applied to those aged 35 years and under on Parenting Payment, JobSeeker Payment and Youth Allowance (Job seeker).
- 2.17 In April 2019, the *Social Security (Administration) Amendment (Income Management and Cashless Welfare) Act 2019* extended the operation of the cashless debit card trial in three sites, and the income management program in Cape York, to 30 June 2020.
- 2.18 In September 2019, further legislation was introduced to extend the end date for existing cashless debit card trial areas to 30 June 2021, establish an end date for the CDC trial in the Cape York area of 31 December 2021, and remove the cap on the number of trial participants.<sup>11</sup> This legislation did not pass into law.
- 2.19 The operation of the CDC trial (and the Cape York income management scheme) was subsequently extended to 31 December 2020 by delegated legislation made in the context of the COVID-19 pandemic.<sup>12</sup>
- 2.20 In December 2020, the *Social Security (Administration) Amendment (Continuation of Cashless Welfare) Act 2020* then extended the operation of the CDC trial to 31 December 2022.

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<sup>10</sup> Social Policy Research Centre, University of New South Wales, [Evaluating New Income Management in the Northern Territory: Final Evaluation Report](#), September 2014, p. 50.

<sup>11</sup> Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019.

<sup>12</sup> Coronavirus Economic Response Package (Deferral of Sunsetting—Income Management and Cashless Welfare Arrangements) Determination 2020 [F2020L00572].

2.21 In 2022 (following a change in government), the *Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Act 2022* abolished the CDC program and transitioned certain individuals to the income management regime under Part 3B of the *Social Security (Administration) Act 1999*. The Act also provided that persons in Cape York may be required to transition from the CDC program to income management if the Queensland Family Responsibilities Commission required them to. All persons in the Northern Territory who had been subject to the CDC were subsequently transferred back to the income management BasicsCard.

### **Enhanced income management**

2.22 The *Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Bill 2022* was subject to significant amendment in the Senate before it finally passed the Parliament.<sup>13</sup> These amendments included introducing a new Part 3AA into the *Social Security (Administration) Act 1999* to provide for an 'Enhanced' income management regime for some social welfare payment recipients.<sup>14</sup>

2.23 The *Social Security (Administration) Amendment (Income Management Reform) Act 2023* then expanded the enhanced income management regime to include all of the eligibility measures that were in place under Part 3B. The explanatory materials accompanying this legislation stated that this was to give people subject to the Part 3B regime the choice to move to the enhanced regime, and to direct all new entrants to the enhanced regime 'while further consultation is undertaken on the long-term future of [income management]'.<sup>15</sup> Consequently, since 4 September 2023, participants on income management have been given the option to move to enhanced income management, and newly eligible participants have been subject to enhanced income management.

2.24 Enhanced income management operates in a similar way to Part 3B income management. The primary difference is that people subject to enhanced income management are provided with a 'SmartCard' as opposed to the BasicsCard. The SmartCard contains the quarantined portion of a person's social welfare payment. It can be used at most shops that accept Visa or eftpos, but cannot be used to purchase certain goods (alcohol, some gift cards and cash-like products, tobacco, pornography), and cannot be used to withdraw cash.

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<sup>13</sup> For the details of the passage of the bill (including related committee inquiries) see the bill [homepage](#).

<sup>14</sup> These provisions were not included in the bill as introduced. Rather, they were incorporated as government amendments to the bill in the Senate. See, [ParlInfo - Social Security \(Administration\) Amendment \(Repeal of Cashless Debit Card and Other Measures\) Bill 2022 \(aph.gov.au\)](#).

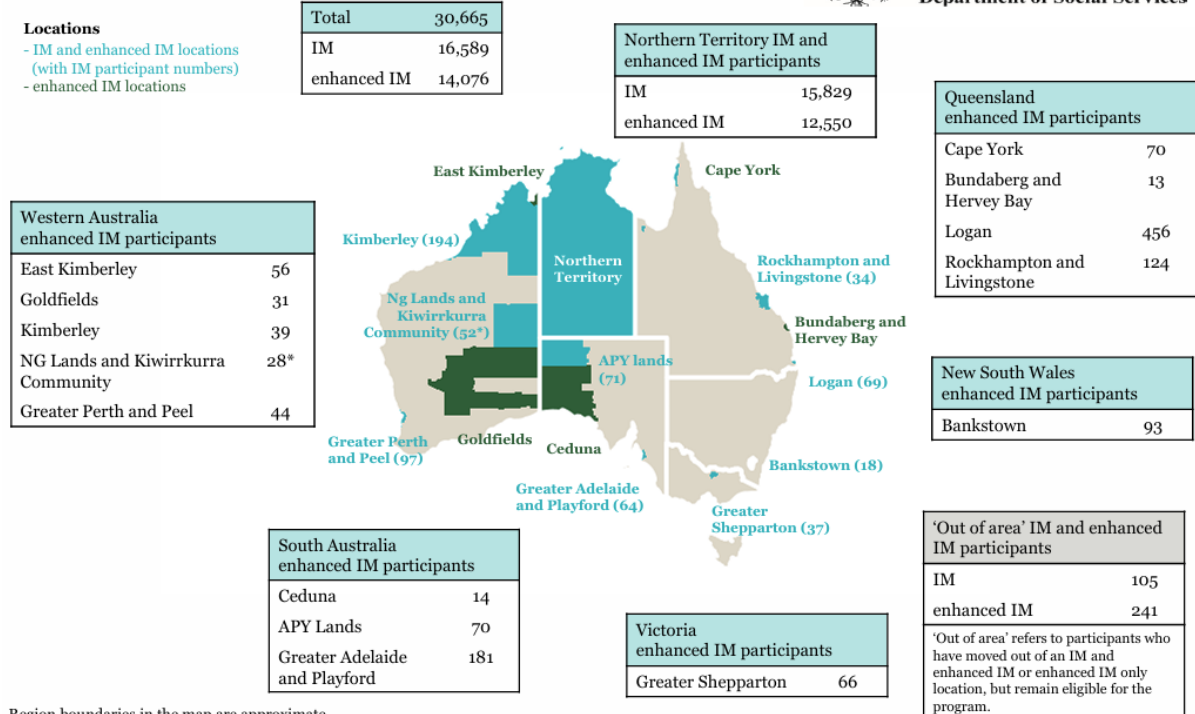
<sup>15</sup> *Social Security (Administration) Amendment (Income Management Reform) Bill 2023*, explanatory memorandum, p. 2.

**Figure 2.1: Income Management and Enhanced Income Management Participation (at 31 May 2024)**

Income Management (IM) and enhanced IM – Participant Data  
(as at Friday 31 May 2024)



Australian Government  
Department of Social Services



Source: [Income Management \(IM\) and enhanced IM – Participant Data | Department of Social Services, Australian Government \(dss.gov.au\)](#).

## 2.25 Enhanced income management currently operates in:

- Northern Territory
- Logan, Rockhampton, Livingstone, Bundaberg, Hervey Bay, and Cape York (Queensland)
- Bankstown (New South Wales)
- Greater Shepparton (Victoria)
- Greater Adelaide, Ceduna, Playford, Anangu Pitjantjatjara Yakunytatjara (South Australia); and
- Ngaanyatjarra (NG Lands) and Kiwirrkurra Community, Kimberley Region, Perth Metropolitan and Peel District (Western Australia).

## 2.26 Eligibility for enhanced income management differs in each location. A person may be individually assessed and subject to compulsory income management where:

- the Queensland Commission requires the person to be subject to the enhanced income management regime (Cape York Welfare Reform Communities and Doomadgee; 60–90 per cent of income support payments are income managed);

- a child protection officer of a state or territory requires the person to be subject to the enhanced income management regime (Queensland, Northern Territory, South Australia, Victoria, NSW and WA; 70 per cent of income support payments are income managed);
  - the person, or the person's partner, has a child who does not meet school enrolment requirements or has unsatisfactory school attendance; or
  - an officer or employee of a recognised State/Territory authority requires the person to be subject to the enhanced income management regime (currently where the Northern Territory Registrar of the Banned Drinker Register refers a person in the Northern Territory participants in relation to alcohol abuse; 70 per cent of income support payments is income managed).
- 2.27 People may be subject to compulsory enhanced income management where they fall within a class of persons classified as 'Vulnerable Welfare Payment Recipient' (in which case 50 per cent of their income support payments are income managed). People in the Northern Territory who are a member of the classes of persons known as 'Long Term Welfare Payment Recipients' or 'Disengaged Youth' may also be subject to compulsory enhanced income management (50 per cent of their income support payments are income managed).
- 2.28 At 31 May 2024, 30 655 people were subject to Part 3B income management or Part 3AA enhanced income management.<sup>16</sup> Between 50 and 90 per cent of a person's social welfare payment may be restricted to the 'SmartCard' where they are on enhanced income management.<sup>17</sup>
- 2.29 Temporary exemptions from enhanced income management may only be sought for one year, where a person is subject to income management pursuant to the 'disengaged youth' or 'long-term welfare payment recipient' measures.

### **Evaluations and assessments of income management measures**

- 2.30 Numerous evaluations of the iterations of income management (and relatedly, of cashless welfare trials) have been conducted independently, and at the request of the Department of Social Services.<sup>18</sup> These evaluations have broadly

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<sup>16</sup> Department of Social Services, [Income Management and enhanced Income Management Participant Data](#). The department advised that the estimate of the total costs to administer the enhanced Income Management program for the period between 4 September 2023 and 3 March 2024 is \$30.2 million. See, Department of Social Services, answer to question on notice IQ24-000146, 29 July 2024 (received 22 August 2024).

<sup>17</sup> *Social Security (Administration) Act 1999*, Part 3AA, Division 3 – portioning of welfare payments.

<sup>18</sup> ORIMA Research, [Evaluation of the Child Protection Scheme of Income Management and Voluntary Income Management Measures in Western Australia](#) (September 2010); Department of Families, Housing, Community Services and Indigenous Affairs, [Cape York Welfare Reform Evaluation](#) (2012); UNSW Social Policy Research Centre, [Voluntary Income management in the Anangu Pitjantjatjara](#)

found mixed results in relation to the efficacy of income management and cashless welfare. These are discussed in more detail in Chapter 3.

- 2.31 The Australian National Audit Office has also conducted performance audits of the cashless welfare trials. These audits have concluded that: the department's approach to monitoring and evaluation of the trial was inadequate, meaning that it is difficult to conclude whether there had been a reduction in social harm;<sup>19</sup> the department had not demonstrated that the cashless debit card program was meeting its intended objectives;<sup>20</sup> and that the management of the transition from the CDC program to the enhanced income management program was largely effective.<sup>21</sup>
- 2.32 In May 2024, the University of Adelaide published a review of the cessation of the CDC, setting out elements of the CDC program transition which were perceived to have worked well and the challenges that were experienced.<sup>22</sup>

### **Consideration by the Australian Human Rights Commission**

- 2.33 The Australian Human Rights Commission has also assessed the utility of income management measures on several occasions, including through consultation with affected people.
- 2.34 In 2020, Aboriginal and Torres Strait Islander Social Justice Commissioner June Oscar AO conducted an extensive consultation process with Aboriginal and Torres Strait Islander women and girls, including relating to economic empowerment and income management.<sup>23</sup> The report noted comments from

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[Yankunytjatjara lands](#) (September 2014); Australian National University, Australian Institute of Family Studies, and Social Policy Research Centre, [Evaluating New Income Management in the Northern Territory: Final Evaluation Report](#) (September 2014); Deloitte Access Economics, [Consolidated Place Based Income Management Evaluation Report 2012-2015](#) (May 2015); Department of Social Services, [A review of Child Protection Income Management in Western Australia](#) (February 2014); ORIMA Research, [Cashless Debit Card Trial Evaluation](#) (August 2017); University of Adelaide, [Cashless Debit Card Baseline Data Collection in the Bundaberg and Hervey Bay Region: Qualitative Findings](#) (December 2019); University of Adelaide, [Evaluation of the Cashless Debit Card in Ceduna, East Kimberley and the Goldfields Region – Consolidated Report](#) (January 2021).

<sup>19</sup> Australian National Audit Office, *Performance Audit of "The Implementation and Performance of the Cashless Debit Card Trial"*, [Auditor-General Report No. 1 2018-2019](#) (July 2018).

<sup>20</sup> Australian National Audit Office, *The Implementation and Performance of the Cashless Debit Card Trial – Follow-on*. [Auditor-General Report No. 29 2021–22](#) (June 2022).

<sup>21</sup> Australian National Audit Office, *Performance Audit of "Transitional Arrangements for the Cashless Debit Card"*, [Auditor-General Report No. 48 of 2023-24](#) (June 2024).

<sup>22</sup> University of Adelaide, *Review of the Impact of the Cessation of the Cashless Debit Card: Final Report* (May 2024).

<sup>23</sup> See, Australian Human Rights Commission (AHRC), [Wiyi Yani U Thangani \(Women's Voices\): Securing Our Rights, Securing Our Future Report](#) (2020), in particular pp. 545-547. The consultation



Aboriginal and Torres Strait Islander women regarding the ‘top-down approach’ to the design and application of the cashless welfare card and lack of genuine consultation around its implementation; the absence of free, prior and informed consent; evidence that people affected by the card did not support the cashless welfare trial; and the perception that promising funding for wraparound services in the community only if the trial for the Cashless Card is accepted was coercive.<sup>24</sup> It included comments from affected women that cashless welfare measures were applied discriminatorily:

Different rules for White people. They think Aboriginal people are the only people who watch porn and drink alcohol. You live in the suburbs, you don’t have a Basics Card, but if you live in a Blackfulla camp, you have a Basics Card, a card where you can’t even draw money out. Is that racist? Discrimination? Impacting on our human rights. **Borrooloola women.**<sup>25</sup>

- 2.35 The Commissioner’s report also noted concerns regarding the practical realities of using the cards, particularly in very remote areas where key vendors were not participating or where an insufficient amount of income was convertible to cash to allow women to take advantage of value-for-money opportunities to buy second-hand goods, or pay for their children to access leisure activities; and a sense of loss of control, shame and disempowerment associated with compulsory participation.<sup>26</sup> The report noted that studies evaluating the effectiveness of welfare cards have had methodological limitations and produced mixed findings, and considered that there was no clear and compelling evidence that the cards have delivered on their objectives. In particular, it stated that women questioned the efficacy of welfare cards in addressing the underlying causes of harmful behaviour, stating that income management ‘rarely motivates forced participants to develop skills to manage their finances or obtain paid employment, or to better their parenting skills,’ and questioning the effectiveness of the card in meeting the more immediate objective of limiting the consumption of alcohol in their communities.<sup>27</sup>

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process involved travel to 50 communities across each Australian state and territory, 106 engagements and meeting with 2 294 women and girls, p. 18.

<sup>24</sup> AHRC, [Wiyi Yani U Thangani \(Women’s Voices\)](#) (2020) p. 545.

<sup>25</sup> AHRC, [Wiyi Yani U Thangani \(Women’s Voices\)](#) (2020) p. 545.

<sup>26</sup> AHRC, [Wiyi Yani U Thangani \(Women’s Voices\)](#) (2020) p. 546.

<sup>27</sup> AHRC, [Wiyi Yani U Thangani \(Women’s Voices\)](#) (2020) p. 547.

2.36 The Australian Human Rights Commission has also made broader comments regarding the compatibility of income management measures,<sup>28</sup> and the cashless welfare trial,<sup>29</sup> with human rights.

### **Consideration by Senate committees**

2.37 The Senate Standing Committee on Community Affairs has considered income management and cashless welfare measures on several occasions (including holding public hearings in affected areas).<sup>30</sup>

### **Consideration by the Parliamentary Joint Committee on Human Rights**

2.38 As part of its scrutiny function, the committee has examined all bills and legislative instruments related to income management (and cashless welfare) since the committee commenced operation in August 2012. The committee also conducted an inquiry into three Acts providing for income management (known as the Stronger Futures package of legislation) in 2013.<sup>31</sup>

2.39 The committee has stated on numerous occasions that subjecting an individual to mandatory income management and restricting how they may spend a portion of their social security payment engages and limits the rights to: social security, privacy and equality and non-discrimination, and may limit other

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<sup>28</sup> See, for example, AHRC, Submissions to the Senate Standing Committee on Community Affairs, [Inquiry into Stronger Futures in the Northern Territory Bill 2011 and two related Bills](#) (February 2012); [Inquiry into the Welfare Reform and Reinstatement of Racial Discrimination Act Bill 2009 and other Bills](#) (February 2010). See also, AHRC, [Submission on Exposure Draft of the Policy Outlines for Income Management](#) (2010).

<sup>29</sup> AHRC, Submissions to the Senate Standing Committee on Community Affairs, [Inquiry into Social Security \(Administration\) Amendment \(Repeal of Cashless Debit Card and Other Measures\) Bill 2022](#) (August 2022); [Inquiry into Social Security \(Administration\) Amendment \(Continuation of Cashless Welfare\) Bill 2020](#) (October 2020); [Inquiry into Social Security \(Administration\) Amendment \(Income Management to Cashless Debit Card Transition\) Bill 2019](#) (October 2019); [Inquiry into Social Services Legislation Amendment \(Cashless Debit Card Trial Expansion\) Bill 2018](#) (July 2018); [Inquiry into Social Services Legislation Amendment \(Cashless Debit Card\) Bill 2017](#) (September 2017); [Inquiry into Social Security Legislation Amendment \(Debit Card Trial\) Bill 2015](#) (October 2015).

<sup>30</sup> See, most recently, Senate Standing Committee on Community Affairs, [Review of legislative instruments made under Part 3AA or Part 3B of the Social Security \(Administration\) Act 1999 – Review 1](#) (February 2024); [Inquiry into the Social Security \(Administration\) Amendment \(Income Management Reform\) Bill 2023 \[Provisions\]](#) (June 2023); [Social Security \(Administration\) Amendment \(Repeal of Cashless Debit Card and Other Measures\) Bill 2022](#) (August 2022).

<sup>31</sup> Parliamentary Joint Committee on Human Rights, [2016 Review of Strong Futures measures](#) (16 March 2016). See also, [Eleventh Report of 2013: Stronger Futures in the Northern Territory Act 2012 and related legislation](#) (June 2013).

human rights (including the right to an adequate standard of living and the rights of the child).<sup>32</sup>

- 2.40 In 2013, the committee considered that there was little evidence to support claims that compulsory income management has brought about behavioural changes on a significant scale, and the evidence also suggests that many people subject to compulsory income management 'appear not to demonstrate the behaviour problems or financial difficulties which the measure was intended to remedy'. It concluded that, notwithstanding that the income management regime pursues legitimate goals, the government had not clearly demonstrated that: the income management regime constituted a permissible limit on the right to equality and non-discrimination, or that it constituted a justifiable limitation on the rights to social security and the right to privacy and family.<sup>33</sup>
- 2.41 In 2016, the committee again expressed concern that the income management regime was not rationally connected (that is, capable of achieving) its stated objectives (noting that three substantial evaluations of different aspects of the income management regime have been released indicating that income management is effective only when it is applied to participants after considering their individual circumstances, rather than applied coercively and compulsorily). The committee concluded that, in any case, compulsory income management was a disproportionate measure, having regard to:
- the imposition of significant conditions on the provision of income support payments being an intrusive measure involving a significant interference into a person's private and family life;
  - the inflexible operation of the scheme, noting in particular that the exemptions process appeared to discriminate in effect against Indigenous Australians; and
  - the availability of a range of less rights restrictive measures that may be developed and implemented in place of compulsory income management

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<sup>32</sup> See Parliamentary Joint Committee on Human Rights, *Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Bill 2022*, [Report 3 of 2022](#) (7 September 2022) pp. 15–26 and [Report 5 of 2022](#) (20 October 2022) pp. 39–55; [2016 Review of Strong Futures measures](#) (16 March 2016) pp. 37–62; [Eleventh Report of 2013: Stronger Futures in the Northern Territory Act 2012 and related legislation](#) (June 2013) pp. 45–62. The committee has made similar comments regarding measures relating to the Cashless Debit Card program. See, e.g. Parliamentary Joint Committee on Human Rights, [Thirty-first report of the 44th Parliament](#) (24 November 2015) pp. 21–36; [Report 7 of 2016](#) (11 October 2016) pp. 58–61; [Report 9 of 2017](#) (5 September 2017) pp. 34–40; [Report 11 of 2017](#) (17 October 2017) pp. 126–137; [Report 8 of 2018](#) (21 August 2018) pp. 37–52; [Report 2 of 2019](#) (2 April 2019) pp. 146–152; [Report 1 of 2020](#) (5 February 2020) pp. 132–142; [Report 14 of 2020](#) (26 November 2020) pp. 38–54; [Report 1 of 2021](#) (3 February 2021) pp. 83–102; [Report 14 of 2021](#) (24 November 2021) pp. 14–18.

<sup>33</sup> Parliamentary Joint Committee on Human Rights, [Eleventh Report of 2013: Stronger Futures in the Northern Territory Act 2012 and related legislation](#) (June 2013) pp. 45–62.

(including removal of compulsory categories of income management and trialling a voluntary program).<sup>34</sup>

2.42 In relation to cashless welfare measure, the committee has reached similar conclusions. Its assessment was summarised, most recently, in 2022:

[M]easures relating to the CDC program engage numerous human rights. The committee has found that, to the extent that the CDC program ensures a portion of an individual's welfare payment is available to cover essential goods and services, the CDC program could have the potential to promote rights, including the right to an adequate standard of living and the rights of the child. However, the committee has found that the CDC program also engages and limits a number of other human rights, including the rights to a private life, social security and equality and non-discrimination. In particular, it limits the rights to a private life and social security as it significantly intrudes into the freedom and autonomy of individuals to organise their private and family lives by making their own decisions about the way in which they use their social security payments. Further, as the CDC program disproportionately affects Aboriginal and Torres Strait Islander persons, it also engages and limits the right to equality and non-discrimination. In relation to whether this limitation on rights is reasonable, necessary and proportionate, the committee has previously found that, while the stated objective of the CDC program – to combat social harms caused by the use of harmful products – would constitute a legitimate objective, it is not clear that the CDC program is effective to achieve this objective, noting in particular, that the evaluations are inconclusive regarding its effectiveness, and whether it has caused or contributed to other harms. Additionally, the committee has held that it has not been clearly demonstrated that the CDC program constitutes a proportionate limit on human rights, having regard to the absence of adequate and effective safeguards to ensure that limitations on human rights are the least rights restrictive way of achieving the legitimate objective, and the absence of sufficient flexibility within the program to treat different cases differently. For these reasons, the committee has previously considered that the CDC program appears to impermissibly limit the rights to social security, a private life and equality and non-discrimination.<sup>35</sup>

2.43 In 2022, in examining the repeal of cashless welfare and transition of individuals back to income management, the committees reiterated its prior conclusion that the income management regime (including Part 3AA enhanced income management) was not accompanied by sufficient safeguards and risked

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<sup>34</sup> Parliamentary Joint Committee on Human Rights, [2016 Review of Strong Futures measures](#) (16 March 2016) pp. 61–62.

<sup>35</sup> Parliamentary Joint Committee on Human Rights, Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Bill 2022, [Report 3 of 2022](#) (7 September 2022) pp. 17-18.

impermissibly limiting the rights to social security, privacy and equality and non-discrimination.<sup>36</sup>

### **Consideration by United Nations bodies**

- 2.44 As this report considers the compatibility of income management measures with international human rights law, it is also instructive to note consideration of the measures by international human rights bodies.
- 2.45 The UN Committee on Economic, Social and Cultural Rights ('CESCR') (the international body of 18 independent experts that monitors implementation of the International Covenant on Economic, Social and Cultural Rights by State parties) has considered Australian income management and cashless welfare provisions.<sup>37</sup> In July 2017, at the conclusion of Australia's fifth periodic report, the CESCR expressed concern about mandatory income management schemes, disproportionately affecting indigenous peoples, and recommended that Australia consider 'maintaining only an opt-in income management scheme with appropriate oversight of decision-making and monitoring, and review existing and envisaged conditionalities for eligibility to social assistance and unemployment benefits and penalties for non-compliance, and ensure that all beneficiaries receive adequate benefits, without discrimination'.<sup>38</sup>
- 2.46 The UN Committee on the Elimination of All Forms of Racial Discrimination ('CERD')(the body of independent experts that monitors implementation of the UN Convention on the Elimination of All Forms of Racial Discrimination by its States parties) has been similarly critical of income management measures. In 2017, it expressed concern 'that indigenous peoples, including those living in remote areas, face discrimination in access to social security benefits, notably through the mandatory income-management scheme'.<sup>39</sup>
- 2.47 In October 2023, Australia submitted its sixth periodic report to the CESCR, stating relevantly:

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<sup>36</sup> Parliamentary Joint Committee on Human Rights, Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Bill 2022, [Report 5 of 2022](#) (20 October 2022) p. 55.

<sup>37</sup> While the CESCR also has the power to hear communications from individuals against States parties, no individual communications relating to Australian laws and policies may be made under the ICESCR. Australia has not accepted the CESCR's individual complaint jurisdiction arising from the Optional Protocol to International Covenant on Economic Social and Cultural Rights (10 December 2008).

<sup>38</sup> UN Committee on Economic, Social and Cultural Rights, *Concluding observations on the fifth periodic report of Australia* (11 July 2017) [E/C.12/AUS/CO/5](#), [31]–[32].

<sup>39</sup> UN Committee on the Elimination of All Forms of Racial Discrimination, *Concluding observations on the eighteenth to twentieth periodic reports of Australia* (26 December 2017) [CERD/C/AUS/CO/18-20](#), [23].

### **Opt-in income management**

The Australian Government has abolished mandatory income management, scrapping the Cashless Debit Card program and making the income management program voluntary for individuals or communities who wish to keep a form of income management. Cashless Debit Card participants have been able to opt-out of the program since October 2022, and all remaining participants transitioned to enhanced income management on 6 March 2023. In late 2022, the Australian Government Department of Social Services and the Minister for Social Services started consultations on the future of income management with state and territory governments. The government will decide how to reform income management after those consultations.<sup>40</sup>

- 2.48 However, people may be subject to mandatory enhanced income management under Part 3AA in much the same way that they may have been subject to income management under Part 3B. As such, mandatory income management does remain Australian law.
- 2.49 Other international law bodies have expressed concern regarding the privacy implications of cashless welfare measures and income management, including the extent to which these measures permit surveillance of social welfare recipients.<sup>41</sup>

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<sup>40</sup> Australia, *Sixth periodic report submitted by Australia under articles 16 and 17 of the Covenant, due in 2022* (received October 2023) [E/C.12/AUS/6](#), [235]–[237].

<sup>41</sup> See, for example, Special Rapporteur on extreme poverty and human rights, *Digital welfare states and human rights*, [A/74/493](#) (2019).

# Chapter 3

## Key issues raised

- 3.1 This chapter outlines the key issues raised by submitters and witnesses during the inquiry. Chapter 4 sets out the legal analysis as to the international human rights compatibility of Parts 3AA and 3B of the *Social Security (Administration) Act 1999*, as they relate to compulsory enhanced income management or compulsory income management—referred to collectively as 'compulsory income management'.
- 3.2 The committee received evidence from community groups, peak bodies, academics, and the Department of Social Services (the department). Submitters to the inquiry, and witnesses at the public hearing, raised a range of concerns about the human rights implications of mandatory income management and its effects in practice.
- 3.3 The evidence provided by submitters and witnesses expressed an overarching position that compulsory income management is applied in a blanket manner that does not take into account a person's individual circumstances or even need for compulsory income management, and that not only does it not achieve its primary objective of reducing hardship and deprivation, but in many cases, it significantly increases those negative effects.
- 3.4 Further, overwhelmingly the committee was told that the premise of compulsory income management is discriminatory and is based on historical notions that Aboriginal and Torres Strait Islander people cannot manage their own lives and finances.

Restrictions on human rights should not be permanent, but in Australia, through compulsory income management, the federal government has turned restricting human rights for First Nations people and other people on social security into an art form. The result is an ugly system of prejudice that entrenches inequality.<sup>1</sup>

- 3.5 The issues raised can be loosely grouped into the following categories:
- **limited evidence of positive impacts**, particularly in meeting the purported key goals of compulsory income management;
  - **evidence of harm caused**, shows negative impacts on children's health, increasing costs and financial complications, stress and stigma among others;
  - **discriminatory impact**, as compulsory income management disproportionately impacts Aboriginal & Torres Strait Islander persons, women and new migrants;

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<sup>1</sup> Dr Shelley Bielefeld, Private capacity, *Committee Hansard*, 5 July 2024, p. 36.

- **challenges in seeking exemptions**, where the criteria are limited and the evidential burden is set too high;
- **lack of consultation** with affected groups, including local support organisations, which leads to implementation failures; and
- **conduct of evaluations to date**, which have been noted to either be poorly conducted or where findings are selectively quoted to present a false sense of positive impact.

3.6 This chapter will examine the above issues in detail.

### **Positive impacts – limited evidence**

3.7 While there has been some evidence of positive impacts, that evidence has been limited and, in some cases, disputed as being the result of improper evaluation.

### **Purported purpose of income management**

3.8 The department outlined the key goals of income management are to:

- reduce hardship and deprivation by ensuring that welfare payments are used to meet the priority needs of welfare payment recipients and their dependents;
- provide budgeting support to welfare recipients to meet those priority needs;
- reduce the amount of welfare payments spent on alcohol, gambling, tobacco and pornographic material;
- reduce the likelihood that welfare recipients will be subject to harassment and abuse in relation to their welfare payments;
- encourage socially responsible behaviour, including in relation to the care and education of children; and
- improve the level of protection afforded to welfare recipients and their families.<sup>2</sup>

3.9 The department further submitted that enhanced income management, the newer form of compulsory income management which began in 2023, has a more streamlined set of purposes to:

- support vulnerable individuals to manage their welfare payments;
- ensure that a portion of the recipient's welfare payments is available to be spent on necessities, including food, housing, utilities, clothing and medical care, and
- reduce the amount of an individual's welfare payment that is available to purchase goods and services that contribute to social harm, including alcohol, tobacco, pornography or gambling services.<sup>3</sup>

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<sup>2</sup> Department of Social Services, *Submission 13*, p. 3.

<sup>3</sup> Department of Social Services, *Submission 13*, p. 4.



- 3.10 The department confirmed to the committee that compulsory income management will be phased out in favour of a voluntary model, reiterating that the government 'has committed to making income management voluntary for those individuals or communities who wish to keep a form of income management and to working with communities on these reforms'.<sup>4</sup> The department is undertaking consultation with affected communities, stakeholders and individuals, discussed in greater detail later in this chapter. The department advised the timeline is to conclude consultations towards the end of 2024 and then provide advice to government on future voluntary-based models, which may require the establishment of additional support services.<sup>5</sup>
- 3.11 A key concern expressed by submitters and witnesses regarding the stated goals of compulsory income management is that most people it impacts do not exhibit any behavioural concerns related to alcohol, illicit drugs, gambling or pornography.
- 3.12 The department stated that additional supports and social services had been provided to people in areas where the CDC trial operated, including drug and alcohol support and additional family violence services in Ceduna and East Kimberley.<sup>6</sup> However, the Centre for Policy Futures of the University of Queensland argued that the assumption that welfare recipients use alcohol and other drugs is erroneous. The centre cited statistics from its 2018–2021 study of compulsory income management that found respondents reported low instances of problems with alcohol and other drugs—87 per cent reported no problems with alcohol, 95 per cent reported no problems with drugs and 91 per cent reported no problems with gambling.<sup>7</sup>
- 3.13 Professor Matthew Gray and Dr J. Rob Bray PSM of the Centre for Social Policy Research at the Australian National University noted that overall, compulsory income management does not have effective positive impacts because to 'a large extent those subject to the measure do not experience the adverse outcomes which are targeted by the policy' and where individuals do have substance abuse histories, 'they can, and in fact in many cases do, engage in ways of working around the constraints of the policy'.<sup>8</sup>

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<sup>4</sup> Mrs Letitia Hope, Deputy Secretary, Families and Communities, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 44.

<sup>5</sup> Mr Patrick Burford, Group Manager, Families and Communities, Department of Social Services, *Committee Hansard*, 29 July 2024, p. 15.

<sup>6</sup> Department of Social Services, answer to question on notice IQ24-000139, 29 July 2024 (received 22 August 2024) in reference to Department of Social Services, answer to question on notice [SQ17-000149](#), 2016–2017 Senate Community Affairs Committee Additional Estimates.

<sup>7</sup> Centre for Policy Futures, University of Queensland, *Submission 10*, p. 7.

<sup>8</sup> Professor Matthew Gray and Dr J. Rob Bray, Australian National University, *Submission 30*, p. 27.

- 3.14 The Social Work Policy and Advocacy Action Group from RMIT University (RMIT Policy Group) noted that while compulsory income management is 'framed as a solution to drug and alcohol misuse, gambling, unemployment and social harms', the majority of compulsory income management participants do not have these issues as inclusion is instead based on broad criteria of geographic location, age and welfare history'.<sup>9</sup>
- 3.15 The discriminatory imposition of compulsory income management, where criteria is not based upon the risks and circumstances of an individual person but are instead based on being resident in a region with high populations of either Aboriginal and Torres Strait Islander persons or culturally and linguistically diverse (CALD) persons, is discussed in greater detail later in this chapter.

### **Limited evidence of positive impacts**

- 3.16 Multiple submitters noted that while the goals of compulsory income management are to improve food security of social security payment recipients and their dependents by limiting purchases such as alcohol, drugs and gambling, there is little concrete evidence these goals are being met.<sup>10</sup>
- 3.17 The Accountable Income Management Network (AIMN) outlined that evidence from the department itself—found in regulation impact statements—'have not demonstrated that compulsory income management successfully achieves the programs objectives of reducing the issues in communities caused by alcohol, drugs and gambling'.<sup>11</sup> AIMN also stated that where there have been voices supportive of compulsory income management in media, 'those media sources rarely give voice to those who are subjected to the card, and we believe that's the voice that's most important in determining what the future of income management will be in Australia'.<sup>12</sup>
- 3.18 The Centre for Excellence in Child and Family Welfare submitted that although a primary objective of compulsory income management is to support children's wellbeing by protecting them from harmful behaviours of their parent or caregiver, such as alcohol or drug abuse, there is minimal evidence that it 'changes their experience of socioeconomic disadvantage'.<sup>13</sup>

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<sup>9</sup> Social Work Policy and Advocacy Action Group, RMIT University, *Submission 5*, p. 3.

<sup>10</sup> See, for example: National Aboriginal Community Controlled Health Organisations, *Submission 12*; Aboriginal Peak Organisations NT, *Submission 18*, p. 2; and Social Work Policy and Advocacy Action Group, RMIT University, *Submission 5*, p. 3.

<sup>11</sup> Accountable Income Management Network, *Submission 6*, p. 2.

<sup>12</sup> Mr Simon Schrapel, AM, Convenor, Accountable Income Management Network and Chief Executive, Uniting Communities, *Committee Hansard*, 5 July 2024, p. 24.

<sup>13</sup> Centre for Excellence in Child and Family Welfare, *Submission 7*, pp. 1–2.

- 3.19 Professor Liesel Spencer, of the Western Sydney University School of Law, argued that the limited evaluation data available indicates that compulsory income management has not been successful on improving food security. Professor Spencer noted that while claims were made that the legislation would improve food security for welfare recipients subject to compulsory income management measures, the Australian Government later agreed that there was only a small increase in the purchase of healthy food items such as fruit and vegetables.<sup>14</sup>
- 3.20 Professor Spencer cited an evaluation conducted in Ceduna in South Australia, which found that while there may have been some improvement in food security, these may have been caused by the 'concurrent provision of additional social services in the Ceduna township over the course of the trial'.<sup>15</sup>
- 3.21 The Australian Council of Social Service (ACOSS) similarly argued that there is no conclusive evidence that compulsory income management achieves its objectives to reduce spending on tobacco, alcohol and gambling to help people better care for themselves and their children.<sup>16</sup> It pointed to a 2014 study done by the University of NSW Social Policy Research Centre which found that for alcohol, gambling and drug use, there may have been a reduction in moderate use, but serious use may have actually increased. Furthermore, the study 'could not find any substantive evidence of the program having significant changes relative to its key policy objectives, including changing people's behaviours'.<sup>17</sup> ACOSS also noted that no compulsory income management evaluation has found a positive effect on employment, 'despite this being one of the goals of income management'.<sup>18</sup>
- 3.22 A group of researchers from Charles Darwin University and Monash University conducted research on compulsory income management in the Northern Territory (NT) over 2021–2022, which found that the scheme 'was largely ineffective in achieving its stated aims of reducing social harms, including substance abuse'. That research found that cash could still be accessed to pay for alcohol or drugs, or the BasicsCard itself could be traded for those items. The researchers submitted that overall, compulsory income management in the NT 'has not substantially limited access to alcohol and these situations could also lead to further financial stress for individuals and families'.<sup>19</sup>

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<sup>14</sup> Professor Liesel Spencer, *Submission 25*, pp. 1–2.

<sup>15</sup> Professor Liesel Spencer, *Submission 25*, p.2.

<sup>16</sup> Australian Council of Social Service, *Submission 22*, p. 3.

<sup>17</sup> Australian Council of Social Service, *Submission 22*, p. 3.

<sup>18</sup> Australian Council of Social Service, *Submission 22*, p. 4.

<sup>19</sup> Charles Darwin University and Monash University, *Submission 13*, p. 2.

- 3.23 The Centre for Policy Futures at the University of Queensland conducted a study from 2018 to 2021 in four separate compulsory income management locations which looked at its impact on participants, as well as the views of other stakeholders such as frontline workers. Overall, the study found that 87 per cent of survey respondents did not find any benefits to compulsory income management and argued that the empirical case for continuing the scheme is weak at best.<sup>20</sup>
- 3.24 The Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council (NPY Women's Council) submitted that the one size fits all approach of income management did not consider the needs of people living remotely who:
- pay substantially more for store bought goods due to freight and travel costs;
  - speak English as a second language, making it nearly impossible to access Centrelink phone support without translators; and
  - income management in a cultural context where resources are shared according to family obligations.<sup>21</sup>
- 3.25 As outlined above, Anglicare noted that the most prominent review touting the benefits of the BasicsCard version of compulsory income management was very limited in scope and reviewed the functionality of the card itself rather than the success of the scheme in changing behaviours of participants. Anglicare further noted a four-year review conducted by researchers from the Australian National University and the University of NSW Social Policy Research Centre as 'the most comprehensive study to date' which could not find 'any substantive evidence of the program having significant changes relative to its key policy objectives, including changing people's behaviours'.<sup>22</sup>
- 3.26 The study found:
- no evidence of changes in spending patterns, improved financial wellbeing, or improved community wellbeing, including for children;
  - that income management did not increase people's ability to manage their money better; and
  - that it may harm people's ability to develop the skills to manage their own finances.<sup>23</sup>
- 3.27 Professor Gray and Dr Bray provided an extensive summary of a 2010–2014 evaluation they conducted along with other researchers into New Income

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<sup>20</sup> Centre for Policy Futures, University of Queensland, *Submission 10*, pp. 3, 10–11.

<sup>21</sup> Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, *Submission 2*, p. 3.

<sup>22</sup> Anglicare, *Submission 3*, p. 6.

<sup>23</sup> Anglicare, *Submission 3*, pp. 6–7.

Management in the Northern Territory review. They submitted that the review found that compulsory income management had little positive impact:

A wide range of measures related to consumption, financial capability, financial harassment, alcohol and related behaviours, child health, child neglect, developmental outcomes, and school attendance have been considered as part of this evaluation ... Despite the magnitude of the program the evaluation does not find any consistent evidence of income management having a significant systematic positive impact.<sup>24</sup>

- 3.28 Anglicare submitted that despite seventeen years of trials, every consultation conducted on income management over the past two decades—including both government evaluations and peer-reviewed independent research—has shown that 'compulsory income management has been an expensive failure'.<sup>25</sup>
- 3.29 Submitters also pointed to the program evaluations done by or on behalf of the department which claimed to have found positive outcomes of compulsory income management. Submitters argued that these evaluations are flawed, or in other cases have been selectively quoted or findings misrepresented to present a more positive view of the outcomes of compulsory income management. This issue of flawed evaluations is discussed in greater detail later in this chapter.
- 3.30 The department noted that it has had performance measures in place for compulsory income management—both the cashless debit card (CDC) and enhanced income management—to 'monitor the performance of IM Programs, and reviews and evaluations to assess the effectiveness of the overall approaches' which are reviewed on an annual basis. For example, the department submitted that performance measures indicated that 'CDC program data demonstrates improvement in social outcomes through analysis of card spending and use'.<sup>26</sup>
- 3.31 However, the department also agreed that it is 'hard to try and just separate out the impact of income management from other effects in relation to the communities'. The department noted that, for example, outcomes in relation to education can be impacted by state and territory government staffing decisions, while alcohol abuse can be impacted by alcohol bans, and these external factors made determining causation of changes in communities very difficult to determine either way.<sup>27</sup>

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<sup>24</sup> Professor Matthew Gray and Dr J. Rob Bray, Australian National University, *Submission 30*, p. 16.

<sup>25</sup> Anglicare, *Submission 3*, p. 6.

<sup>26</sup> Department of Social Services, answer to question on notice IQ24-000042, 13 June 2024 (received 4 July 2024).

<sup>27</sup> Mr Patrick Boneham, Branch Manager, Income Management Policy and Data, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 51.

3.32 The department further noted the latest report on CDC, the May 2024 *Review of the Impact of the Cessation of the Cashless Debit Card* by researchers from the University of Adelaide. The department noted that the review did not quantify the number of respondents who supported the cessation of the CDC,<sup>28</sup> and in relation to the Bundaberg-Hervey Bay region, respondents had generally indicated that the transition from the CDC had facilitated positive impacts for past participants in relation to financial management, but that there were no observed impacts on alcohol misuse, community safety outcomes or incidences of gambling over the review period.<sup>29</sup>

### **Positive impacts where program is voluntary**

3.33 Submitters and witnesses argued that where there are some positive impacts of compulsory income management, these are generally felt by the small numbers of voluntary income management participants, or where there is extensive wrap around services to provide additional tailored support.

3.34 The NPY Women's Council contended that where income management has positive effects, it is generally where engagement is voluntary:

An example includes Anangu living with acquired brain injuries having their income managed to ensure they are able to cover basic living costs. The successful outcomes of income management have been when they are voluntary and the strategy was self-identified and supported by Anangu themselves. Consent and self-determination remain at the heart of this positive experience.<sup>30</sup>

3.35 Anglicare noted that reviews of compulsory income management conducted by the Centre for Aboriginal Economic Policy Research found 'the most effective schemes were voluntary and target people with high-needs as part of a holistic set of services'.<sup>31</sup>

3.36 Professor Gray and Dr Bray similarly submitted that there is some evidence to show that compulsory income management may have positive impacts 'when used as part of an individually tailored program for some individuals' who have been specifically targeted due to personal or family vulnerabilities.<sup>32</sup>

3.37 The department advised that during consultations to discuss the future of income management, just over half of participants wanted to come off income management, 'with not much fewer wanting to stay', but that being able to

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<sup>28</sup> Department of Social Services, answer to question on notice IQ24-000138, 29 July 2024 (received 22 August 2024).

<sup>29</sup> Department of Social Services, answer to question on notice IQ24-000143, 29 July 2024 (received 22 August 2024).

<sup>30</sup> Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, *Submission 2*, p. 3.

<sup>31</sup> Anglicare, *Submission 3*, p. 7.

<sup>32</sup> Professor Matthew Gray and Dr J. Rob Bray, Australian National University, *Submission 30*, p. 16.

choose either way was a key message being heard from most consultation participants.<sup>33</sup>

- 3.38 In relation to calls from other witnesses that a more effective approach would be to provide wrap-around support services, the department submitted that the income management program 'provides vulnerable participants with intensive face-to-face support from Services Australia to ensure their income support payment is directed to essentials, such as food, housing, electricity and education', but did not provide evidence of exactly what those support services have been in the past, or where they are available.<sup>34</sup>
- 3.39 The department advised that moving forward, the government 'has committed up to \$130 million in funds to provide services and initiatives and to invest in community led priorities, including youth services, financial and digital literacy and guidance, job readiness, employment capability and cultural connections to services'.<sup>35</sup>

### **Family Responsibilities Commission model**

- 3.40 Professor Gray and Dr Bray pointed to the model run by the Family Responsibilities Commission (FRC) in the Cape York region, as such an individually tailored program, which unlike other compulsory income management programs, 'is highly targeted' and is used 'on a selective basis and only where it is considered that it would be useful for the individual given their circumstances'.<sup>36</sup>
- 3.41 The ongoing program of income management and how it operates in the Cape York region of Queensland under the FRC is discussed below.

#### **Box 3.1 Case study: Income management in Cape York and Doomadgee<sup>37</sup>**

Income management in the Cape York communities of Arukun, Coen, Hope Vale and Mossman Gorge as well as nearby Doomadgee is managed by the FRC, which holds formal decision-making powers delegated under Queensland legislation. All decision makers (except the Deputy Commissioner) under the *Family Responsibilities Commission Act 2008 (QLD)* are First Nations people and the FRC operates under a model of shared decision-making and self-determination for First Nations people.

<sup>33</sup> Mr Patrick Boneham, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 45 and Mrs Letitia Hope, Department of Social Services. *Committee Hansard*, 5 July 2024, p. 50.

<sup>34</sup> Department of Social Services, *Submission 14*, p. 3.

<sup>35</sup> Mrs Letitia Hope, Department of Social Services. *Committee Hansard*, 5 July 2024, p. 45.

<sup>36</sup> Professor Matthew Gray and Dr J. Rob Bray, Australian National University, *Submission 30*, pp. 6–7.

<sup>37</sup> Family Responsibilities Commission, *Submission 20*, pp. 2–18.

The FRC model of income management makes certain welfare payments conditional on the basis of three criteria that:

- reflect the values of the community;
- relate to behaviour which, if allowed to continue, would have a negative impact on child wellbeing; and
- where existing legislative and service delivery mechanisms aimed at addressing these dysfunctional behaviours are unable to realise the desired outcomes.

**Individual decisions:** Conditional income management orders are only made by the FRC after the opportunity has been provided to attend a conference with Local Commissioners. The orders can be implemented either by agreement or by order of the FRC as a last resort where it is reasonable, necessary, and proportionate in the circumstances.

**Time-limited:** All orders are time-limited to three, six, or a maximum of 12 months and automatically expire. A new order can only be entered into if the criteria for the individual remains.

**Review:** anyone can have their income management order reviewed to change the proportion of income, duration or to end the order. Decisions are made at a hearing where the person can demonstrate their circumstances have changed.

**Voluntary participation:** The number of voluntary income management orders has been growing. In 2020–21, there was an equal number of voluntary and ordered income management arrangements, and by 2022–23 voluntary orders were around double the conditional orders.

The FRC stated that the conditional income management aspect of the FRC model was designed to be a lever for behaviour change, to move people along a continuum to greater personal responsibility. Accordingly, if an individual is supported to meet social obligations and demonstrates behaviour change, income management is no longer a necessary support or lever. The FRC regarded the increase in voluntary income management as an important measure of individuals taking greater personal responsibility but argued that some element of compulsion remains necessary for the FRC to be effective.

**Human Rights compatibility:** The FRC argued that its program is compatible with relevant human rights provisions as it 'limits human rights only to the extent that is reasonable, necessary, and proportionate to individual circumstances, for a limited period (of no more than 12 months) upon which the income management arrangement automatically expires'. The FRC further noted that the commission is a bicultural institution where decisions 'are made by Elders or respected people within the community who are of good



standing' and where the establishing legislation 'enshrines the requirement to take Aboriginal tradition and Torres Strait Islander custom into account'.

**In conclusion:** The FRC argued that that income management alone cannot rectify the complex issues of trauma, poverty and neglect experienced in First Nations communities. However, it argued that the model of flexible income management implemented by the FRC can provide 'stability for households in crisis' and can 'be an effective catalyst to encourage behavioural change'.

The FRC stated that a 'holistic and consistent approach is needed to tackle extreme and entrenched disadvantage'.

- 3.42 The Commissioner and Chief Executive Officer of the FRC, Ms Tammy Williams, argued that the committee should endorse the FRC model as being compatible with Australia's human rights obligations:

The Family Responsibilities Commission Act prescribes effective safeguards and controls to ensure the limitations of human rights are only applied when necessary and are reasonable and proportionate to the need of individual circumstances. The Family Responsibilities Commission operates on the opposite basis from the blanket income management approaches. In essence, our starting point is that all adults in our communities are in fact capable to manage their own lives and to contribute to their communities.<sup>38</sup>

- 3.43 Commissioner Williams noted that interventions by the FRC are strictly time limited, and the legislative framework requires decision-makers to apply the least restrictive option, that decisions are made in the best interests of the child, and decision-makers must be satisfied that other decisions are not reasonable in the circumstances. Further, it was submitted that in the 'limited circumstances income management is applied, 65 per cent of those have been when clients have volunteered to participate in income management arrangements'.<sup>39</sup>
- 3.44 The Sex Discrimination Commissioner, Dr Anna Cody, told the committee that solutions must come from First Nations communities and be co-designed. In considering the FRC model, she informed the committee that 'if the model that they are talking about is a model that has actually come from communities and has been individually tailored to those communities, then it sounds like it could be a really effective model'.<sup>40</sup>
- 3.45 Dr Bray highlighted that the difference between compulsory income management and the FRC model is that the FRC model is a proportionate

<sup>38</sup> Ms Tammy Williams, Commissioner and Chief Executive Officer, Family Responsibilities Commission, *Committee Hansard*, 5 July 2024, p. 2.

<sup>39</sup> Ms Tammy Williams, Family Responsibilities Commission, *Committee Hansard*, 5 July 2024, pp. 2–3.

<sup>40</sup> Dr Anna Cody, Sex Discrimination Commissioner, Australian Human Rights Commission, *Committee Hansard*, 5 July 2024, p. 10.

response that 'considers the circumstances of the individual', and further noted that 'the FRC put up a reasonable case this morning as to why their policies were human rights compliant'.<sup>41</sup> Professor Gray concurred, noting that the FRC model 'very much came significantly from community, and I think that that is a really important point'.<sup>42</sup> Ms Judy Harrison of the National Regional, Rural, Remote and Very Remote Community Legal Network (4Rs Network) noted the FRC model emphasises voluntary participation and includes extensive wraparound support, both of which are positives.<sup>43</sup> Professor Schurer argued that the model of compulsory income management erodes trust and takes away the ability of people to make good decisions. However, she noted a model like the FRC income management model is a different approach:

So a participation model, a joint decision-making model, with joint responsibilities is a very good model that really asks for the community to step up and to co-design the right models. I've always thought that the Aboriginal health service providers in the NT are very well equipped to lead such initiatives together with the peak organisations. Whether you want to use the Queensland model or other models that are being proposed for the NT, I don't have a strong opinion on this.<sup>44</sup>

3.46 Dr Padraic Gibson of the Jumbunna Institute for Education and Research had a different view, advising against 'setting up local committees that can identify the bad people that can have their money controlled'. He argued that:

The fact that you have Indigenous involvement in a program of controlling Indigenous communities doesn't take away from the fact that what is going on, fundamentally, is that there is an idea that Indigenous people can't manage their money, as opposed to the rest of the community, who can. That needs to go.<sup>45</sup>

3.47 Instead, he advocated for 'self-determined programs that are about getting resources into the communities to alleviate the appalling poverty'.<sup>46</sup>

3.48 Dr Bray pointed to a program that was operated by the Arnhem Land Progress Aboriginal Corporation prior to the original implementation of CIM, the ALPA Foodcard which could be used in the association's many stores across the NT:

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<sup>41</sup> Dr J. Rob Bray, Private capacity, *Committee Hansard*, 5 July 2024, p. 34.

<sup>42</sup> Professor Matthew Gray, Private capacity, *Committee Hansard*, 5 July 2024, p. 34. See also, Robert Heron, *Submission 23*, p. 1.

<sup>43</sup> Ms Judy Harrison, Co-Convenor, National Regional, Rural, Remote and Very Remote Community Legal Network, *Committee Hansard*, 5 July 2024, p. 27.

<sup>44</sup> Professor Stefanie Schurer, Private capacity, *Committee Hansard*, 5 July 2024, p. 34.

<sup>45</sup> Dr Padraic John Gibson, Senior Researcher, Jumbunna Institute for Education and Research, University of Technology Sydney, *Committee Hansard*, 5 July 2024, p. 35.

<sup>46</sup> Dr Padraic John Gibson, Jumbunna Institute for Education and Research, University of Technology Sydney, *Committee Hansard*, 5 July 2024, p. 35.

They consulted with communities, and what they came up with was a card which people could choose how much money they wanted to put on and which could be used for healthy food purchases, and it said which members of the family could actually use the card, so you could send your children down to the store to get things. That card was basically operating quite well. Income management came along and decimated the use of the card, because everything was just dumped onto the BasicsCard, and people lacked that freedom. That is one example of a community led response which was quite effective, and it was basically destroyed.<sup>47</sup>

- 3.49 Associate Professor Elise Klein OAM advised caution in governments trying to replicate the FRC model for a number of reasons, including that income management in other locations was externally imposed, so it can never be a considered a 'self-determined idea' even if managed by Aboriginal organisations themselves.<sup>48</sup> She further noted that there had been previous attempts to replicate the model:

During one of the first rollouts in the East Kimberley and Ceduna, one of the objectives was community panels. They were an absolute disaster. They were pulled back straightaway because they were such a disaster in the discord, the disempowerment and the abuse of peoples' private data. It was a disaster, and the department pulled back.<sup>49</sup>

- 3.50 As noted above, the department has reiterated the government's commitment to ending the compulsory model of income management in favour of a voluntary program and the department is currently undertaking extensive consultations on the future of income management. These consultations are discussed in greater detail later in this chapter.

## Negative impacts

- 3.51 In addition to arguing that the positive impacts of compulsory income management were negligible, submitters and witnesses pointed to the many independent program evaluations which proved significant negative outcomes to individuals placed on compulsory income management. Numerous submitters pointed to a range of independent evaluations of income management that 'demonstrated the limited impact of these policies and the significant social harm and stigma they cause'.<sup>50</sup>
- 3.52 The key areas of negative impact of compulsory income management were described as:

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<sup>47</sup> Dr J. Rob Bray, Private capacity, *Committee Hansard*, 5 July 2024, p. 33.

<sup>48</sup> Associate Professor Elise Klein OAM, Private capacity, *Committee Hansard*, 5 July 2024, p. 42.

<sup>49</sup> Associate Professor Elise Klein, Private capacity, *Committee Hansard*, 5 July 2024, p. 41.

<sup>50</sup> Social Work Policy and Action Group RMIT University, *Submission 5*, p. 1. See also: Anglicare, *Submission 3*, p. 4; Charles Darwin University and Monash University, *Submission 13*, p. 1.

- impacts on women and children, including fleeing domestic violence, exacerbating family tensions and meeting children's needs;
- added pressures to share limited cash funds;
- increasing the cost of purchasing items by restricting people from the cash economy;
- adding further complexity to peoples' financial arrangements and budgeting;
- causing stigma and mental health concerns;
- privacy breaches; and
- causing feelings of disempowerment.

3.53 These issues are outlined below.

### **Women and children**

3.54 Many submitters and witnesses pointed to the negative impacts of compulsory income management on women, particularly in fulfilling their roles as mothers. Professor Beth Goldblatt (a professor of law at the University of Technology Sydney) advised that compulsory income management poses hardships on female carers who are recipients of social security payments, which hinders their access to the right to social security 'and, rather than promoting gender equality, reinforce women's disproportionate household responsibilities while imposing unfair new requirements'.<sup>51</sup>

3.55 Single Mother Families Australia submitted a range of negative impacts of the BasicsCard and the CDC that particularly impacted women and their children, with women reporting:

- difficulty purchasing bus fares, school lunches, and second-hand clothes;
- challenges in engaging in any market process that requires cash, such as bartering or buying local fresh produce;
- in some places, there was a requirement to line up at separate tills, adding to humiliation and an inability to acquire second-hand goods and services;
- the card prevented saving for larger items; and
- the card prevented putting money aside to have some funds to escape abuse.<sup>52</sup>

3.56 The Centre for Policy Futures cited examples from its study into compulsory income management which reported that it made it harder for participants to care and provide for their children:

They impact what I can and can't do with my children like take them out in the community. School excursions are cash only. The fair and Christmas

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<sup>51</sup> Professor Beth Goldblatt, *Submission 1*, p. 2.

<sup>52</sup> Single Mother Families Australia, *Submission 21*, p. 1.

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parade activities are predominantly cash only. I have 4 children and 20% doesn't get us far.<sup>53</sup>

3.57 Dr Shelley Bielefeld (an academic who has written extensively about income management) contended that compulsory income management 'can also have adverse and gendered impacts on women seeking to develop a pathway out of relying on social security payments' by thwarting efforts to engage in vocational training because some childcare cannot be paid with a BasicsCard.<sup>54</sup> She noted her field research—which included field studies and participant interviews—where she was told:

Well, the partner can take off with the card as well and then leave the kids with no income and no card; most of them are 80 per cent trapped on the card, and then the kids and the mum have got no income at all to last them a weekend.<sup>55</sup>

3.58 Professor Stephanie Schurer submitted evidence of a study she conducted with other researchers, which found that compulsory income management 'led to a significant reduction in child health, both at birth and during the first 5 years of life'. In particular, they found that children exposed to the scheme *in utero* averaged 85 grams lighter at birth and those children then spent 45 per cent more time in hospital throughout early childhood.<sup>56</sup> Professor Schurer further noted that a birthweight 'drop of 100 grams is roughly equivalent to the drop in the case of a woman being exposed to domestic violence while pregnant, being in a community hit by a hurricane or being exposed to Ramadan'. The study also found that after compulsory income management was first introduced 'school attendance dropped by five per cent'.<sup>57</sup> Professor Gray and Dr Bray noted such studies, expressing particular concern that the numbers of Indigenous children being assessed as developmentally vulnerable also increased since 2021.<sup>58</sup>

3.59 A range of experts pointed to compulsory income management as potentially increasing domestic violence risks for women. Australia's Sex Discrimination Commissioner pointed to the impact that compulsory income management has on women who are leaving domestic and family violence, as it prevents them from having access to their full income 'which they may need at that crucial moment, and so it goes counter to their right to safety and life free from

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<sup>53</sup> Centre for Policy Futures, University of Queensland, *Submission 10*, p. 5.

<sup>54</sup> Dr Shelley Bielefeld, *Submission 11*, p. 5.

<sup>55</sup> Dr Shelley Bielefeld, Private capacity, *Committee Hansard*, 5 July 2024, p. 40.

<sup>56</sup> Professor Stephanie Schurer, *Submission 4*, p. 3.

<sup>57</sup> Professor Stefanie Schurer, Private capacity, *Committee Hansard*, 5 July 2024, p. 30.

<sup>58</sup> Professor Matthew Gray and Dr J. Rob Bray, Australian National University, *Submission 30*, pp. 29–31.

violence'.<sup>59</sup> The commissioner further noted that compulsory income management can impact carers, primarily women, from being able to manage family finances and feed their children effectively.<sup>60</sup> Similarly, the Centre for Policy Futures argued that compulsory income management can exacerbate family tensions due to the increased economic stress it causes, thus itself potentially leading to increased domestic and family violence.<sup>61</sup>

- 3.60 A group of researchers from Charles Darwin University and Monash University likewise contended that compulsory income management 'can exacerbate issues such as family violence, where it has been seen being weaponised by men who use violence' and further, that it provides family violence perpetrators with additional avenues of control over their victims, which can then leave victim-survivors with no money to leave situations of violence and also impacts the family's food security.<sup>62</sup>

### **Added pressure to share cash**

- 3.61 Rather than protect compulsory income management participants from being forced to share their social security payments, many submitters argued that the scheme can in fact increase that risk. The NPY Women's Council argued that mandatory income management actually increased the risk of pressure on community members with cash to share what resources they had.<sup>63</sup>
- 3.62 Dr Bielefeld noted that during her research people reported that the BasicsCard made caring for families more difficult, and itself was a means through which the financial abuse of Elders occurred.<sup>64</sup> Dr Bielefeld described it as a 'micro economy of exploitation' that developed around CIM cards in particular locations:

The person who was doing the trading, who was actually the cardholder, was always getting less money in response to the bargain being made, if you will. The currency of the cashless debit card or the BasicsCard was treated as an inferior currency.<sup>65</sup>

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<sup>59</sup> Dr Anna Cody, Australian Human Rights Commission, *Committee Hansard*, 5 July 2024, p. 9.

<sup>60</sup> Sex Discrimination Commissioner, *Submission 16*, p. 4. See also: Ms Taylah Bell, Committee Member, Accountable Income Management Network and Project Officer, Remote Women's Access Project, Economic Justice Australia, *Committee Hansard*, 5 July 2024, p. 24; Mrs Jessica Stevens, Committee Member, Accountable Income Management Network; and Senior Advocacy Advisor, Uniting Communities, *Committee Hansard*, 5 July 2024, p. 26.

<sup>61</sup> Centre for Policy Futures, University of Queensland, *Submission 10*, p. 9.

<sup>62</sup> Charles Darwin University and Monash University, *Submission 13*, p. 2.

<sup>63</sup> Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, *Submission 2*, p. 3.

<sup>64</sup> Dr Shelley Bielefeld, *Submission 11*, p. 3.

<sup>65</sup> Dr Shelley Bielefeld, Private capacity, *Committee Hansard*, 5 July 2024, p. 39.

3.63 The Centre for Policy Futures cited multiple studies of compulsory income management which found that participants can still be subjected to financial harassment or 'humberging' from others. It also stated that cards can be taken and used just as easily as cash benefits.<sup>66</sup>

#### **Restriction from cash economy**

3.64 The reduction of ready cash means that compulsory income management blocks people from being able to shop at many stores, which are cheaper but require cash. Additionally, people are blocked from the second-hand goods market and must therefore purchase more expensive items.<sup>67</sup>

3.65 Dr Bielefeld noted that many participants in her research informed her that the BasicsCard limits the range of choices and often meant people could not purchase 'fuel in particular locations, bus fares, laundromats, some clothing stores, and some health services'.<sup>68</sup> One participant advised that the restriction on laundromats had health implications:

If you can't wash your clothes and your blankets and all of that, then you've got - with overcrowding, you've got all the kids sleeping together and they're going to end up with things like scabies, head lice are just going to run rampant, you're going to have ear infections and eye infections, all of that that's going to happen.<sup>69</sup>

3.66 Dr Bielefeld further noted the impact that compulsory income management has had on some participants with a disability. She described a situation where a woman had:

...experienced health outcomes so adverse that her health was irreparably damaged by the stress because she had trouble paying her rent and all sorts of problems with getting what she needed as a person with disability. The end result for that woman was irreparable damage to her body, where she was literally further disabled as a result of being put on this card... This sort of thing just shouldn't happen to people. No-one, under the guise of a 'This is good for you if you just realise it's good for you' kind of rationale, should be actually experiencing adverse health outcomes as a result of government interventions.<sup>70</sup>

3.67 The Centre for Policy Futures also provided examples of when compulsory income management participants are blocked from buying cheaper goods, including textbooks for study:

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<sup>66</sup> Centre for Policy Futures, University of Queensland, *Submission 10*, p. 8.

<sup>67</sup> Associate Professor Elise Klein and Dr Francis Markham, *Submission 8*, p. 2. See also: Social Work Policy and Advocacy Action Group, RMIT University, *Submission 5*, p. 3.

<sup>68</sup> Dr Shelley Bielefeld, *Submission 11*, p. 4.

<sup>69</sup> Dr Shelley Bielefeld, *Submission 11*, p. 4.

<sup>70</sup> Dr Shelley Bielefeld, Private capacity, *Committee Hansard*, 5 July 2024, p. 38.

It [CIM] has negative[ly] impacted my ability to buy second hand, ESPECIALLY TEXT BOOKS FOR UNIVERSITY. As these are quite expensive brand new, if I want to buy second hand ones I need 'approval' and then a waiting period for the buyer before I can purchase, most people want the ready cash so I lose items to someone who has the availability to pay instantly.<sup>71</sup>

3.68 The North Australian Aboriginal Justice Agency (NAAJA) further advised that in order to access the cash economy when needed, such as purchasing second hand goods or providing cash assistance under cultural obligations, their clients report resorting to other options such as exchanging items for cash or high-risk financial products such as pay day loans, which ultimately is more expensive.<sup>72</sup>

3.69 NAAJA indicated that compulsory income management can also make people vulnerable to predatory lending practices:

Our clients on income management can't do what many Australians do to find a good quality used fridge or second-hand washing machine. They can't use that money on places in the cash economy such as Facebook Marketplace. They don't have access to those markets. As a result, we have a lot of clients who have been forced to buy second-hand goods in the most expensive and exploitive ways possible. They are taking out payday loans online, they are signing up to consumer leases, where they will never actually own the item, and they are paying more than double or triple than what they would pay for that item in the cash economy. This is a detrimental consequence of compulsory income management.<sup>73</sup>

### **Complicated finances and budgeting**

3.70 Compulsory income management can also make finances more difficult for people, rather than streamline how they are able to spend their social security payments, with participants sometimes required to split the different bank accounts or sources for how they pay certain bills.<sup>74</sup>

3.71 The Centre for Policy Futures found in its study of compulsory income management that the majority of survey participants reported that they previously had no trouble managing their own money, but then being placed on CIM had actually caused financial strains:

I had no problems in the past, now I have received payment defaults, [late] ... payment fees, etc. All because my banking and income was changed. I am struggling to come back from almost complete ruin.

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<sup>71</sup> Centre for Policy Futures, University of Queensland, *Submission 10*, p. 5.

<sup>72</sup> North Australian Aboriginal Justice Agency, *Submission 19*, pp. 2–3.

<sup>73</sup> Mr Shane Foyster, Housing and Social Security Consultant Lawyer with the Northern Australia Aboriginal Justice Agency, *Committee Hansard*, 5 July 2024, p. 14.

<sup>74</sup> Dr Shelley Bielefeld, *Submission 11*, p. 7.



I have had more financial issues being on the [CIM] card than I have when I wasn't on it.

...

It [CIM] has added extra challenges and financial strain.<sup>75</sup>

3.72 In particular, the Centre for Policy Futures found that participants' direct debit payment schedules lapsed when being put on compulsory income management, leading to extra fees and charges, and people were having to manage 'separate pools of money deposited into separate accounts, and having to negotiate non-cash payments, has also made budgeting more difficult for some respondents'.<sup>76</sup> The RMIT Policy Group similarly argued that compulsory income management can make paying rent and bills more difficult, which in turn 'can have a flow-on effect on an individual's rental and credit history, further entrenching a reliance on welfare support and poverty'.<sup>77</sup>

3.73 NAAJA informed the committee that a major social housing provider in the NT recently advised they had 70 families on their books at risk of eviction and homelessness because the extra administrative burden of compulsory income management resulted in rent payments not being transferred from the NT Government:

The housing provider spoke to their counterparts in other states and territories, who had no solutions. Why? Because compulsory income management is predominantly a Northern Territory problem. The housing provider has even raised this issue with the Northern Territory Minister for Housing and has asked for our help to advocate with Services Australia, which we did by formally writing to them this Tuesday.<sup>78</sup>

3.74 Conversely, the department advised the committee that at recent consultations, they were told that some people found that compulsory income management:

... allowed them to better manage the money through the payment period. There was one male who called it 'Sunday money', which was getting him through to that Sunday before the next payment, so it gave him confidence that he would still have things at the back end of that payment period.<sup>79</sup>

3.75 The department further noted that due to the length of time that compulsory income management has been operating, some people have subject to the scheme for their entire adult lives, meaning that in the consultations to move to

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<sup>75</sup> Centre for Policy Futures, University of Queensland, *Submission 10*, p. 6.

<sup>76</sup> Centre for Policy Futures, University of Queensland, *Submission 10*, pp. 6–7.

<sup>77</sup> Social Work Policy and Advocacy Action Group, RMIT University, *Submission 5*, p. 3.

<sup>78</sup> Mr Shane Foyster, North Australian Aboriginal Justice Agency Ltd, *Committee Hansard*, 5 July 2024, p. 14.

<sup>79</sup> Mr Patrick Boneham, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 46.

voluntary income management, it is important to discuss mechanisms to support 'financial literacy to empower people to manage their resources well'.<sup>80</sup>

### **Stigma and mental health**

3.76 The stigma of being subject to compulsory income management, particularly when it is accessed via a BasicsCard, was noted by many submitters.<sup>81</sup>

3.77 Dr Bielefeld submitted that her research found that there was a lot of stigma around using the BasicsCard, where people were very uncomfortable using the card as it immediately identified them as 'on welfare'.<sup>82</sup> Professor Spencer noted that the shame and stigma associated with the BasicsCard was compounded by the lack of accompanying financial skills training.<sup>83</sup> Part of the stigma arose from people—often community Elders—being put in a position where their purchases were being called into question by store staff, often young people, as described by an Elder to Dr Bielefeld:

‘It was a really shameful sort of thing to have it, especially when I’m lined up here...I done my shopping and ... a young little white girl, said, oh, hold on a minute, I might have to check this. You may not be able to get this on your BasicCard. ... I was standing there and I told her, well stick your shopping, I’ll go somewhere else. ... it was really power play. Brought in a lot of supremacy stuff that just really re-traumatised a lot of people.’<sup>84</sup>

3.78 The Centre for Policy Futures noted that its study of compulsory income management outcomes showed 'significant decline in the mental health and well-being of CIM participants' including 'extreme mental exhaustion, depression and anxiety' with a "ripple effect" on the families and friends'. One respondent noted that compulsory income management felt similar to the financial control and abuse they suffered in a former domestic violence relationship.<sup>85</sup>

3.79 The Centre for Excellence in Child and Family Welfare pointed to recommendations from the Royal Commission into the Robodebt Scheme, which emphasised 'the need to design policies and processes with a focus on the people these are meant to serve'. The centre argued that it is 'unclear how income

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<sup>80</sup> Mrs Letitia Hope, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 48.

<sup>81</sup> See, for example: Centre for Policy Futures, University of Queensland, *Submission 10*, p. 9; Professor Matthew Gray and Dr J. Rob Bray, Australian National University, *Submission 30*, p. 17; and Dr Shelley Bielefeld, Private capacity, *Committee Hansard*, 5 July 2024, p. 38.

<sup>82</sup> Dr Shelley Bielefeld, *Submission 11*, p. 4.

<sup>83</sup> Professor Liesel Spencer, *Submission 25*, p. 6.

<sup>84</sup> Dr Shelley Bielefeld, *Submission 11*, p. 5.

<sup>85</sup> Centre for Policy Futures, University of Queensland, *Submission 10*, p. 10.

management can reflect the intent of, or sit comfortably alongside, this recommendation'.<sup>86</sup>

3.80 The department noted that 'shame' in having a BasicsCard and 'point-of-sale bias' was a consistent message from many communities heard during recent consultations.<sup>87</sup>

### **Privacy**

3.81 Several submitters raised privacy concerns in relation to compulsory income management. For example, ACOSS argued that the limitations on a person being able to purchase goods and services or access cash if they wish is itself a breach of the right, and highlighted that the BasicsCard identifies the holder as both on social security payments as well as being subject to compulsory income management.<sup>88</sup> ACOSS further noted that companies delivering compulsory income management are prevented from providing refunds directly to participants—companies must instead provide the refund to Services Australia, which then deposits the refund into the person's compulsory income management account:

This represents a gross breach of someone's privacy and autonomy because what should be a private transaction between a merchant and consumer includes a government agency.<sup>89</sup>

3.82 Economic Justice Australia stated that in addition to having their personal choices restricted, people on CIM are also subject to surveillance and data-sharing and cannot control how their data is used.<sup>90</sup>

### **Disempowerment**

3.83 In addition to the specific negative outcomes listed above, which impact individuals, many people pointed to the broader negative impacts of individual and community disempowerment caused by compulsory income management, largely because it is primarily imposed on Aboriginal and Torres Strait Islander communities—discussed further below.

3.84 NACCHO summarised these impacts as:

- It extends the legacy of colonisation and intergenerational disadvantage.
- It disproportionately targets Aboriginal and Torres Strait Islander communities and often exacerbates poverty.

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<sup>86</sup> Centre for Excellence in Child and Family Welfare, *Submission 7*, p. 2.

<sup>87</sup> Ms Justine Fievez, Branch Manager, Income Management Engagement and Support Services, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 46.

<sup>88</sup> Australian Council of Social Service, *Submission 22*, p. 7.

<sup>89</sup> Australian Council of Social Service, *Submission 22*, p. 7.

<sup>90</sup> Economic Justice Australia, *Submission 9*, p. 10.

- It perpetuates disempowerment and contributes to the stigmatisation of Aboriginal and Torres Strait Islander people.
- Rather than fostering independence and capacity-building, income management policies have inadvertently increased dependence on welfare for Aboriginal and Torres Strait Islander people.
- It has been found to have an adverse impact on birth outcomes.
- Research conducted by four universities involving 114 in-depth interviews conducted in Playford, Shepparton, Ceduna and Hinkler and a mixed-methods survey of 199 people at income management sites across Australia found there is an overwhelming number of negative experiences stemming from income management, including stigma and feelings of shame and frustration.<sup>91</sup>

3.85 Aboriginal Peak Organisations NT similarly contended that compulsory income management 'is a vehicle for disempowerment, and perpetuates stigmatisation of Aboriginal people'.<sup>92</sup> NAAJA compared compulsory income management policies with legal frameworks for decision-making and guardianship, arguing that it appears to breach these standards:

One thing that's important to understand in this, the way the system operates now in the Northern Territory, is people are assumed to not have a decision-making capacity and they have to prove otherwise.

An analogy is how we treat someone who has an acquired brain injury or dementia, in terms of financial guardianship. Our laws are very clear that we assume someone has capacity unless there's a medical report to say that they don't. We protect their right to make their own financial choices. But with compulsory income management, it's been reversed. It applies to a whole class of people and then they can apply for an exemption that lasts for up to 12 months.<sup>93</sup>

3.86 The Centre for Policy Futures concurred with this view and submitted that people on compulsory income management report a statistically significantly lower 'feeling that they had autonomy over their lives and wellbeing'. The centre argued that compulsory income management attempts to control negative behaviours 'is not only insufficient to sustain positive behaviour change in a person but is instead likely to lead to them experiencing lower confidence in their abilities, and to produce diminished effort and performance'.<sup>94</sup>

3.87 Dr Bielefeld noted compulsory income management participants reported to her they were having to go back on antidepressants for the first time in years because of the 'stigma and shame' associated with the scheme, and had feelings

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<sup>91</sup> National Aboriginal Community Controlled Health Organisations, *Submission 12*, p. 4.

<sup>92</sup> Aboriginal Peak Organisations NT, *Submission 18*, p. 2.

<sup>93</sup> Mr Shane Foyster, North Australian Aboriginal Justice Agency Ltd, *Committee Hansard*, 5 July 2024, p. 17.

<sup>94</sup> Centre for Policy Futures, University of Queensland, *Submission 10*, p. 10.

of frustration for the lack of consideration paid to the efforts already undertaken to improve their lives:

One of the men talking to me said: 'It's like I did nothing. It's like I did none of that work in rehab for all those years to get sober and to get clean. The government's still treating me as if I never did any of that, and they're treating me as if I'm just this person who is irresponsible, when I've taken all of these steps to try and improve my life and I contribute in all of these ways to try and help society.'<sup>95</sup>

### **Discriminatory impact**

3.88 Many submitters argued the selection criteria for compulsory income management is discriminatory, as it is based on an individual's geographic and demographic information rather than being based on individual circumstances.<sup>96</sup>

3.89 The 4Rs Network noted that most people subject to compulsory income management are 'included on a blanket approach' and that there is no legislative criteria that relates to the circumstances of an individual, where the onus is on the decision-maker to ensure the criteria for inclusion are demonstrated'.<sup>97</sup> Professor Gray and Dr Bray submitted that while there are a number of elements to compulsory income management which involve individual assessment, 'overwhelmingly persons subject to compulsory income management have been placed on this as a result of automatic processes driven by the form of income support payment they receive and the duration for which they have received it'. Their submission noted that only 0.8 per cent of people on compulsory income management in the NT were placed on the scheme pursuant to an individualised assessment.<sup>98</sup>

3.90 NAAJA similarly contended that many of their clients are placed 'under CIM regardless of their occupation of paid employment roles, and where there is no indication that income management is necessary'.<sup>99</sup> Mr Shane Foyster of NAAJA informed the committee:

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<sup>95</sup> Dr Shelley Bielefeld, Private capacity, *Committee Hansard*, 5 July 2024, p. 38.

<sup>96</sup> Centre for Excellence in Child and Family Welfare, *Submission 7*, p. 2. See also: Economic Justice Australia, *Submission 9*, p. 5; North Australian Aboriginal Justice Agency, *Submission 19*, pp. 2–3.

<sup>97</sup> National Regional, Rural, Remote and Very Remote Community Legal Network, *Submission 24*, p. 5. Co-convenor of the 4Rs Network, Ms Judy Harrison argued that geographic targeting is not necessarily discriminatory, but rather depends on what the effects of it are. She stated that if 'the effects are negative, then that's discriminatory' whereas if it is 'a special measure and it's enlarging rights and enlarging wellbeing, then that's permitted and aligned with human rights compliance'. See, Ms Judy Harrison, National Regional, Rural, Remote and Very Remote Community Legal Network, *Committee Hansard*, 5 July 2024, pp. 25–26.

<sup>98</sup> Charles Darwin University and Monash University, *Submission 13*, p. 10.

<sup>99</sup> North Australian Aboriginal Justice Agency, *Submission 19*, p. 1.

I see, theoretically, that it could be a tool to reach an end to improve someone's life, but, in the way that it's being applied in the Northern Territory, it has such a blanket operation. There are no resources to do that intensive case management or to do the referrals, and the decision-makers don't understand the lives of the people who are subject to it. I can see that there would definitely be some circumstances where it is helping some people, but it's a scattergun approach.<sup>100</sup>

3.91 ACOSS provided statistics showing that only a small number of people subject to compulsory income management exhibit the problematic behaviours that the scheme is intended to change:

- 80% of respondents said they had never gambled.
- 97% said they had never gambled or gambled more than what they could afford to lose.
- 90% said they had never used an illicit drug.
- Only 18% said they drank alcohol more than once per week, with around 81% saying they either never drank or drank less frequently than more than once per week.<sup>101</sup>

3.92 The department stated that throughout compulsory income management it 'has sought to give effect to government policy while maintaining the rights of individuals to receive social security and, so far as possible, minimising any disproportionate impact on certain groups, including Aboriginal and Torres Strait Islander peoples and children'.<sup>102</sup> It stated that prior to September 2023, 'a participant became subject to IM through various measures...targeted to specified groups of income support payment recipients'. The submission later detailed that those 'targeted' groups include anyone in the NT who has received JobSeeker payment, Youth Allowance, Special Benefit or Parenting Payment for more than one of past two years, or three of the last six months if under 24 years old.<sup>103</sup> However, NAAJA noted that as parenting payments are intended to last until a child is school age, including this category essentially means all parents receiving this payment will end up on compulsory income management.<sup>104</sup>

3.93 However, the department conceded that less than one per cent of people are subject to income management due to an individual assessment, increasing to less than 3 per cent for enhanced income management:

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<sup>100</sup> Mr Shane Foyster, North Australian Aboriginal Justice Agency Ltd, *Committee Hansard*, 5 July 2024, p. 16. See also Ms Judy Harrison, National Regional, Rural, Remote and Very Remote Community Legal Network, *Committee Hansard*, 5 July 2024, p. 23.

<sup>101</sup> Australian Council of Social Service, *Submission 22*, p. 4.

<sup>102</sup> Mrs Letitia Hope, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 45.

<sup>103</sup> Department of Social Services, *Submission 14*, pp. 4 and 6–7.

<sup>104</sup> Mr Shane Foyster, North Australian Aboriginal Justice Agency Ltd, *Committee Hansard*, 5 July 2024, p. 16.

### **Income Management (IM)**

As at 31 May 2024, 127 IM participants (less than one per cent of all compulsory IM participants) are on IM pursuant to an individualised assessment of their personal circumstances. This is defined as those on IM who are on the Child Protection, Supporting People at Risk, or Vulnerable Welfare Payment Recipient measures. Further there are 1,974 voluntary IM participants.

### **Enhanced IM**

As at 31 May 2024, 428 enhanced IM participants (3 per cent of all compulsory enhanced IM participants) are on IM pursuant to an individualised assessment of their personal circumstances. This is defined as those on enhanced IM who are on the Child Protection, Supporting People at Risk, or Vulnerable Welfare Payment Recipient measures. Further there are 570 voluntary IM participants and 70 participants in Cape York.<sup>105</sup>

- 3.94 The reasons for both cohorts being on income management (averaged at 1.8 per cent of all participants) is due to either being referred under a child protection order or by being assessed as a 'vulnerable welfare recipient' by Centrelink.<sup>106</sup>

### **Racial discrimination**

- 3.95 Submitters argued that the compulsory income management criteria constitutes racial discrimination, as it is applied in geographic regions that have high populations of either Aboriginal and Torres Strait Islander or CALD people.<sup>107</sup>
- 3.96 Professor Gray and Dr Bray noted in their submission that income management was first introduced as part of the NTER, and at that time as 'almost all persons subject to the measure were Aboriginal' it required a suspension of the *Racial Discrimination Act 1975* 'which had been suspended to allow for the targeting of specific Indigenous communities as prescribed areas'. New Income Management, they contended, was then introduced in August 2010 in a form that was not a breach of racial discrimination laws.<sup>108</sup> AIMN submitted that when compulsory income management was originally applied to all remote Aboriginal communities and Town Camps in the NT this was discriminatory, because residents of Town Camps—with an exclusively Aboriginal population—are subject to compulsory income management, but residents of

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<sup>105</sup> Department of Social Services, answer to question on notice IQ24-000047, 13 June 2024 (received 4 July 2024).

<sup>106</sup> Mr Patrick Boneham, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 53.

<sup>107</sup> See, for example: Economic Justice Australia, *Submission 9*, p. 8; Centre for Excellence in Child and Family Welfare, *Submission 7*, p. 2; North Australian Aboriginal Justice Agency, *Submission 19*, p. 3; Professor Liesel Spencer, *Submission 25*, p. 4; Anglicare, *Submission 3*, p. 6; Australian Council of Social Service, *Submission 22*, p. 6; and Council of Single Mothers and their Children, *Submission 28*, p. 1.

<sup>108</sup> Professor Matthew Gray and Dr J. Rob Bray, Australian National University, *Submission 30*, p. 6.

neighbouring low-income areas who are not Aboriginal are not subject to geographic determinants for automatic inclusion.<sup>109</sup>

*Aboriginal and Torres Strait Islander people*

3.97 Statistics show that in the NT, around 90 per cent of people subject to compulsory income management are Aboriginal and Torres Strait Islander people, and the national average is that 80 per cent of all people on CIM are Aboriginal and Torres Strait Islander people.<sup>110</sup>

3.98 Anglicare Australia argued that the impact of compulsory income management disproportionately impacting Aboriginal and Torres Strait Islander people was 'symptomatic of a colonising approach to working with First Nations communities adopted by successive governments' and further noted that 'many First Nations peoples who voluntarily transitioned from income management in the Northern Territory to the cashless debit card...went on to be compulsorily transferred back to income management in 2022 after its abolition'.<sup>111</sup> ACOSS also argued that Aboriginal and Torres Strait Islander people are also more likely to be denied an exemption from compulsory income management.<sup>112</sup> This is discussed further below.

3.99 Professor Beth Goldblatt cited the 2010 report of the United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of Indigenous people, James Anaya, which found the compulsory income management policy to be racially discriminatory.<sup>113</sup>

3.100 Associate Professor Elise Klein and Dr Francis Markham provided a statistical breakdown of compulsory income management participants by race, citing that of the 24 000 individuals in the NT subject to the scheme, 80 per cent—or around 19 200—are likely to be Aboriginal or Torres Strait Islander persons:

Put differently, around 36% of working-age Indigenous people in the NT are subject to CIM simply because they have been unable to find work for an extended period. Nationally, less than 0.2% of working-age adults are subject to CIM. Clearly, Indigenous adults in the Northern Territory are unfairly targeted for CIM on the basis of their race and place of residence.<sup>114</sup>

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<sup>109</sup> Accountable Income Management Network, *Submission 6*, p. 4.

<sup>110</sup> National Aboriginal Community Controlled Health Organisations, *Submission 12*, p. 4.

<sup>111</sup> Anglicare, *Submission 3*, p. 6.

<sup>112</sup> Australian Council of Social Service, *Submission 22*, p. 6.

<sup>113</sup> Professor Beth Goldblatt, *Submission 1*, p. 1.

<sup>114</sup> Associate Professor Elise Klein and Dr Francis Markham, *Submission 8*, pp. 2–3.



### *Culturally and Linguistically Diverse people*

3.101 Professor Spencer submitted outcomes from field research she conducted in 2017 on the operation of the BasicsCard in Bankstown, western Sydney. Her research found:

- the least expensive food retail outlets were not approved to accept the BasicsCard;
- accessing information about where the BasicsCard can be used to purchase food locally is complicated and information is unreliable;
- government rules about shop signage are not being adhered to;
- halal meat is not sold in any shop accepting the BasicsCard in Bankstown CBD;
- the small number of shops accepting the BasicsCard in Bankstown means people on CIM are excluded from participation in most of the local food landscape and food culture; and
- physical, economic and social access to food security is constrained for CIM participants.<sup>115</sup>

3.102 Professor Spencer went on to contend that rather than improving food security, compulsory income management 'has had the effect of placing further, non-physical, barriers to participation and belonging in the path of people who are already vulnerable to social exclusion'.<sup>116</sup>

3.103 Professor Spencer contended that although compulsory income management purported to be place-based via its geographic regions, there has not been 'sufficient or any attention been paid to the five trial sites as separate and distinct places with local conditions which might impact upon the success or otherwise of the scheme'.<sup>117</sup> Professor Spencer also noted the Refugee Council of Australia has argued that the BasicsCard creates difficulties for CALD people to obtain culturally appropriate food.<sup>118</sup>

### *Women*

3.104 Professor Goldblatt noted that in addition to concerns of race discrimination, concerns have 'extended to gender discrimination due to the numbers of women subject to income management and the role of women who often have responsibility for shopping for families, and the way that income management has limited their shopping options sometimes increasing the burdens of them, which are additional to their disproportionate caring obligations'.<sup>119</sup>

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<sup>115</sup> Professor Liesel Spencer, *Submission 25*, p. 8.

<sup>116</sup> Professor Liesel Spencer, *Submission 25*, p. 9.

<sup>117</sup> Professor Liesel Spencer, *Submission 25*, p. 8.

<sup>118</sup> Professor Liesel Spencer, *Submission 25*, p. 6.

<sup>119</sup> Professor Beth Goldblatt, *Submission 1*, pp. 1–2.

3.105 Dr Anna Cody, the Sex Discrimination Commissioner, stated that 'women disproportionately carry the responsibility for looking after children, and thus the impact of the compulsory income management regime has on First Nations women is contrary to human rights'.<sup>120</sup>

### **Exemptions and reviews**

3.106 Concerns were also raised in evidence to the inquiry that people face many difficulties when seeking an exemption from, or of review of, their compulsory income management arrangements.

3.107 Economic Justice Australia argued that seeking exemptions was made more difficult because 'the Enhanced Income Management legislation is so complex that it is impenetrable, even for people experienced in statutory interpretation', with variations by states 'further complicating the extent and operation of affected individuals' review and appeal rights'.<sup>121</sup> It pointed to the Services Australia website as being an additional barrier to seeking reviews or exemptions from compulsory income management, as the instructions on review and appeal rights are generic and therefore 'of limited assistance for other than straightforward social security decisions'. Where a person does successfully lodge a review request, the instructions for the Services Australia officers conducting the review are similarly convoluted and difficult to follow:

The self-evident complexity and opacity of compulsory income management appeal rights constitute a significant barrier to both internal and external review of decisions, the result being that vulnerable participants at risk of or already experiencing acute harm as a result of being subjected to compulsory income management are denied access to statutory internal appeal rights.<sup>122</sup>

3.108 NAAJA similarly argued that the complexity of social service legislation, policy guidelines and evidentiary requirements means that people require specialist legal assistance to apply for exemptions. It noted that permanent exemptions are not allowed, so people must continually seek an exemption at least every 12 months, further increasing the burden on legal services, which NAAJA estimates to be at least 25 hours per application.<sup>123</sup>

3.109 NAAJA outlined one case where it had provided assistance to a mother of two children in a very remote region of the NT who fell under income management 13 years ago under blanket geographic criteria:

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<sup>120</sup> Dr Anna Cody, Sex Discrimination Commissioner, Australian Human Rights Commission, *Committee Hansard*, 5 July 2024, p. 9.

<sup>121</sup> Economic Justice Australia, *Submission 9*, pp. 5–6. See Also Women's Legal Service NSW, *Submission 29*, p. 2.

<sup>122</sup> Economic Justice Australia, *Submission 9*, pp. 6–7.

<sup>123</sup> North Australian Aboriginal Justice Agency, *Submission 19*, pp. 1–2.

Our lawyer estimates that they spent over 20 hours helping this client to understand her rights, to gather all the documents—school records and medical records—and then submitting it to Centrelink. Yet five months later, there is still no decision. This is the system that operates right now and does not give people a permanent way out of this financial control. Even if she was successful in seeking an exemption, the exemption currently available under the legislation is only for 12 months and then it resets and she is back on compulsory income management all over again. She would have to get all those records again every 12 months.<sup>124</sup>

3.110 NAAJA further argued that the 12 month exemption maximum is not logical for the parenting payment as, unlike JobSeeker payments which are intended as a temporary support while seeking employment, parenting payments are expected to be paid for many years.<sup>125</sup> It also argued that exemptions are made more difficult because 'decision-makers are often in call centres thousands of kilometres away and have no idea about the cultural context or even the geographic context of where you're operating'.<sup>126</sup>

3.111 The 4Rs Network submitted that individual review of a person's inclusion in compulsory income management is not part of legislative provisions, which the Network contended are constructed to 'reduce exits and maintain geographic coverage'. The Network also noted that the cost of compulsory income management would 'dramatically escalate' if regular reviews of individual's cases was involved, particularly if that were a reviewable and appealable decision.<sup>127</sup>

3.112 Dr Bielefeld presented findings from her research that compulsory income management participants found that exemptions from the scheme were seen as not accessible in practice, because the process was too difficult. Additionally, her research found that for many people 'the impact of having choice removed in the first instance was sufficiently disempowering that further attempts at exercising agency were seen as futile in terms of trying to have budgetary autonomy restored'.<sup>128</sup>

3.113 Professor Gray and Dr Bray noted that exemptions are generally on grounds of 'being full-time apprentices or students; meeting certain parenting requirements; or where persons only receive a relatively small proportion of an

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<sup>124</sup> Mr Shane Foyster, North Australian Aboriginal Justice Agency Ltd, *Committee Hansard*, 5 July 2024, p. 14.

<sup>125</sup> Mr Shane Foyster, North Australian Aboriginal Justice Agency Ltd, *Committee Hansard*, 5 July 2024, p. 16.

<sup>126</sup> Mr Shane Foyster, North Australian Aboriginal Justice Agency Ltd, *Committee Hansard*, 5 July 2024, p. 16.

<sup>127</sup> National Regional, Rural, Remote and Very Remote Community Legal Network, *Submission 24*, p. 5.

<sup>128</sup> Dr Shelley Bielefeld, *Submission 11*, pp. 9–10.

income support payment' (due to income tests). This means that for participants without children, the only way they can gain an exemption is to gain employment with sufficient earnings, or if they cease claiming their income support entitlement completely.<sup>129</sup>

3.114 Professor Gray and Dr Bray further submitted that exemptions are difficult to achieve and appear to be disproportionately given to non-Indigenous participants. As detailed in the figure below, a parenting exemption is primarily given to non-Indigenous persons.<sup>130</sup>

**Figure 3.1 Income Management exemptions, by type and Indigenous status, 1 March 2024**

Exemption Type	Whether Indigenous:		Total
	Indigenous	Non-Indigenous	
Full Time Apprentices	<5	n.p.	8
Full Time Students	39	296	33
Parenting Requirements	273	416	689
Regular Paid Employment	<5	<5	<5
< 25% of Max Payment	5	9	14
Auto < 25% Of Max Rate Payment	376	270	646
Child Participating in Approved Activity	<5	<5	6

<5: The department does not publish cell counts where there are one or more, but fewer than five, persons.

n.p. Not published to avoid derivation of '<5' cells.

Source: Professor Matthew Gray and Dr J. Rob Bray, Australian National University, Submission 30, p. 11.

3.115 Professor Gray and Dr Bray submitted that exemptions are promoted in program guidelines as 'one of the principal means by which income management seeks to promote "personal responsibility and positive social behaviour"', but as it is a mechanism disproportionately used by non-Indigenous people with children, there is little evidence of 'access to exemptions operating as an incentive for changing behaviours, or of income management playing a role in preparing people to be in a situation in which they can gain an exemption'.<sup>131</sup> They outlined that a person placed on compulsory income management under a 'youth trigger' can be excluded if inclusion would place the person's mental, physical or emotional wellbeing at risk, or it would not be practicable to income manage the particular person. They noted that neither exemption grounds bears 'any relationship to the objectives of the program, such as whether the person had any adverse outcomes, or the ability of the individual to manage their money'.<sup>132</sup>

<sup>129</sup> Professor Matthew Gray and Dr J. Rob Bray, Australian National University, Submission 30, p. 11.

<sup>130</sup> Professor Matthew Gray and Dr J. Rob Bray, Australian National University, Submission 30, p. 11.

<sup>131</sup> Professor Matthew Gray and Dr J. Rob Bray, Australian National University, Submission 30, p. 12.

<sup>132</sup> Professor Matthew Gray and Dr J. Rob Bray, Australian National University, Submission 30, p. 12.

3.116 Economic Justice Australia additionally noted that there are no sunset clauses for the compulsory income management scheme itself, which means that it 'can potentially continue indefinitely, there being no timeframe for transitioning to a purely voluntary scheme – despite the Government's statements that this is their intention'.<sup>133</sup>

3.117 The department noted that while exemptions are handled by Services Australia, a separate entity, there are two general criteria for exemptions:

The first one—if you have dependent children, they're basically evidentiary in relation to whether the child has had immunisation or whether they're attending school. Then there's one which is a decision made by Services Australia in relation to vulnerability indicators. Those vulnerability indicators include things like homelessness, whether there is evidence of financial coercion, and financial mismanagement.<sup>134</sup>

3.118 The department argued that it was unable to 'draw conclusions about structural issues' that may lead to a difference in exemption rates. It further advised that Services Australia does 'do a lot of work within [the] first nations community' including a 'strong first nations or Indigenous service officer network, that they lean into within these spaces'. The department further noted that the disparity of exemption rates between indigenous and non-indigenous persons was reduced over time:

From 2010 there was a fairly significant disparity. From 2021 that disparity starts to reduce. So, for example, in 2010, there's about an 81 per cent success rate for non-indigenous and 34 for Indigenous. In relation to, in 2022, that had narrowed from 96-75. And from 2024, that had reduced again to 98-91 per cent.<sup>135</sup>

### **Lack of consultation with affected groups**

3.119 In addition to concerns with how specific aspects of compulsory income management impact individual people's lives, many submitters and witnesses contended that there has been limited appropriate consultation on the policy approach, which has led to such poor implementation outcomes.<sup>136</sup>

3.120 The NPY Women's Council pointed out that the *National Agreement on Closing the Gap* (Closing the Gap) policy includes *Priority Reform 1, Shared Decision Making*, which recommends 'the need for policy partnerships in policy areas that are place-based and drive community-led outcomes through an investment in

<sup>133</sup> Economic Justice Australia, *Submission 9*, p. 3.

<sup>134</sup> Mr Patrick Boneham, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 49.

<sup>135</sup> Mrs Letitia Hope and Mr Patrick Boneham, Department of Social Services, *Committee Hansard*, 29 July 2024, pp. 10 and 11.

<sup>136</sup> See, for example: Mrs Jessica Stevens, Accountable Income Management Network, *Committee Hansard*, 5 July 2024, p. 23; and Jumbunna Institute of Indigenous Education and Research, *Submission 26*, p. 3.

community-led development initiatives'. It stated that compulsory policies breach this principle,<sup>137</sup> noting that remote communities were not consulted when the scheme was first introduced, and therefore the scheme 'failed to acknowledge the experiences of people living in poverty and the limited access to permanent employment' and that income management would not change this reality.<sup>138</sup>

3.121 NACCHO similarly highlighted that the lack of consultation breached a central component of Closing the Gap, which is genuine partnership and shared decision-making with Aboriginal and Torres Strait Islander people'.<sup>139</sup> AIMN contended there has been a lack of consultation with affected groups and noted that the first time they met with the department to discuss compulsory income management was in March 2024, with no consultation opportunities prior to this.<sup>140</sup> AIMN further asserted that the approach to consultation has been harmful and divisive:

By and large community based consultations have not effectively engaged with those for whom the policy has directly impacted and instead has created greater community friction by seeking and obtaining the views of others in the community about those on income support payments.<sup>141</sup>

3.122 The NT Council of Social Service (NTCOSS) submitted that consultation and engagement with affected communities has been limited. NTCOSS noted that the department undertook consultation between November 2023 and February 2024 on the future on income management. NTCOSS recommended the department publish the results of the consultation and ensures transparency for decisions on compulsory income management moving forward.<sup>142</sup>

3.123 Dr Bielefeld submitted that her research into CIM found there was no initial consultation when the policy was first introduced, and subsequent consultation was 'where coerced cardholders were only given an option to continue the program with or without exemptions rather than cease the program altogether'. Dr Bielefeld submitted that this lack of consultation and community buy-in for compulsory income management 'has been an ongoing source of anger, grief, frustration, and resentment amongst many people subject to the program'.<sup>143</sup>

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<sup>137</sup> Closing the Gap, 6. Priority Reform One – Formal partnerships and shared decision-making, cited in Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, *Submission 2*, p. 2. See also: Aboriginal Peak Organisations NT, *Submission 18*, p. 2.

<sup>138</sup> Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, *Submission 2*, p. 3.

<sup>139</sup> National Aboriginal Community Controlled Health Organisations, *Submission 12*, p. 4.

<sup>140</sup> Accountable Income Management Network, *Submission 6*, p. 3.

<sup>141</sup> Accountable Income Management Network, *Submission 6*, p. 4.

<sup>142</sup> NT Council of Social Service, *Submission 15*, p. 2.

<sup>143</sup> Dr Shelley Bielefeld, *Submission 11*, p. 8.

Similarly, researchers from Charles Darwin University and Monash University noted their research 'highlighted a lack of consultation with communities in relation to compulsory income management in the Northern Territory' where consultation was described as 'limited, tokenistic or absent across all iterations' of compulsory income management in the NT, leading to an 'under-prepared social services sector'.<sup>144</sup>

3.124 The department acknowledged that, in the past, some community consultation in relation to income management had been handled poorly, but did outline that in some cases it was not a matter that it 'wasn't an effective communication approach' but because it was 'a truncated time'.<sup>145</sup> However, looking forward, the department discussed the ongoing consultations regarding the future of income management, reiterating the policy position that the government 'has committed to making income management voluntary for those individuals or communities who wish to keep a form of income management and to working with communities on these reforms'.<sup>146</sup>

3.125 The department advised that it is in consultation with communities and stakeholders on the future of income management, in relation to the government's position that compulsory income management would be phased out in favour of a voluntary model.<sup>147</sup>

3.126 The department advised those consultations are:

- being conducted by First Nations organisation ETMP, which has 'extensive experience in working with First Nations and culturally and linguistically diverse peoples';
- as of June 2024, ETMP/the department consulted with just under 4,000 community members from 72 communities across the NT, the APY Lands in South Australia, the East Kimberley region in Western Australia and Shepparton in Victoria;
- since December 2022, consulted with over 200 community organisations; Commonwealth, state and territory governments; peak bodies, including Economic Justice Australia; the Centre for Excellence in Child and Family Welfare; CatholicCare; and various land councils across the Northern Territory;
- consultations include a lead senior cultural adviser and facilitators with cultural connections and ties to communities in the NT. Department staff were present as notetakers only and did not participate in discussion; and

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<sup>144</sup> Charles Darwin University and Monash University, *Submission 13*, p. 2.

<sup>145</sup> Mr Patrick Burford, Department of Social Services. *Committee Hansard*, 29 July 2024, p. 5.

<sup>146</sup> Mrs Letitia Hope, Department of Social Services. *Committee Hansard*, 5 July 2024, p. 44.

<sup>147</sup> Mrs Letitia Hope, Department of Social Services. *Committee Hansard*, 5 July 2024, p. 44.

- consultation materials were in 14 languages and interpreters were present at face-to-face consultations.<sup>148</sup>

3.127 The department noted that consultations were conducted over time—from November 2023 and May 2024—with the team spending days with large communities to 'build relationships' and show a 'commitment to hearing their stories and gathering their views on the future of this program'.<sup>149</sup> It stated that the next stage of consultation is to seek views on the process to support people to transition off compulsory income management, the process for people to stay on the scheme, and the support necessary should they choose to do so.<sup>150</sup>

3.128 The department noted that the clear message from consultations is that people want a choice to remain or exit from compulsory income management, and that the program should be voluntary.<sup>151</sup>

### Concerns regarding conduct of evaluations

3.129 As outlined earlier in this chapter, where there has been claims that the compulsory income management approach has had positive impacts on individuals and communities, witnesses and submitters have argued those evaluations have been either improperly carried out, or the findings have been misrepresented.

3.130 In their submission, Professor Gray and Dr Bray summarised a range of evaluation findings, and noted concerns with the manner in which these evaluations were conducted:

- **Social Policy Research Centre (2014)** evaluation of introduction of voluntary income management in Anangu Pitjantjatjara Yankunytjatjara (APY) Lands. The evaluation found the introduction was positively viewed and may have made modest contributions to addressing community challenges. However, Professor Gray and Dr Bray contend that early optimistic findings should be tested against later sharp declines in participation, from 233 persons to 68.
- **ORIMA (2010)** undertook an early evaluation of Child Protection and Voluntary Income Management in WA and was largely positive in its findings. Professor Gray and Dr Bray contend the evaluation was 'mainly reliant upon the viewpoints of stakeholders, especially those involved in

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<sup>148</sup> Mrs Letitia Hope and Ms Justine Fievez, Department of Social Services, *Committee Hansard*, 5 July 2024, pp. 44–47.

<sup>149</sup> Mrs Letitia Hope, Department of Social Services, *Committee Hansard*, 5 July 2024, pp. 44–45.

<sup>150</sup> Mrs Letitia Hope, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 45.

<sup>151</sup> Mrs Letitia Hope and Ms Justine Fievez, Department of Social Services, *Committee Hansard*, 5 July 2024, pp. 45–46. See also Mrs Letitia Hope, Department of Social Services, *Committee Hansard*, 29 July 2024, p. 7.



- implementing the program, and some surveys of participants focused on self-reported change' but did not evaluate any changes in actual outcomes.
- **Department of Social Services (2014)** conducted a qualitative evaluation of Child Protection compulsory income management in WA, which found that intermediaries reported it to be a useful tool, and participants reported both positive and negative experiences of the scheme. Professor Gray and Dr Bray contended that an independent evaluation of the same program found that compulsory income management effectiveness is dependent on the 'willingness of families to engage with services and with a process of change' and was 'reported to have very little impact where parents/carers are not committed to change'.
  - **ORIMA (2016–17)** conducted an evaluation of the cashless debit card in Ceduna and East Kimberley and reported the trial was effective in reducing both gambling and alcohol consumption and potentially also illicit drug use. Professor Gray and Dr Bray highlighted concerns with the study due to the lack of baseline data and a control population, the method of sample selection and interviewing approach, the confounding of population data and the highly limited use of administrative data.
  - **University of Adelaide (2021)** conducted a study of the cashless debit card in the Goldfields, East Kimberly and Ceduna sites. This study reported that compulsory income management reduced alcohol consumption and gambling, and 'was reported to make things better for those who were probably the most vulnerable and who needed it most'. Professor Gray and Dr Bray contended that the study was flawed as it relied on 'retrospective change questions' which are known to be unreliable, and further, that the chapter outlining participants' perceived changes was then taken as factual outcomes in the report's conclusion chapter.<sup>152</sup>

3.131 Professor Gray and Dr Bray also raised concerns with the manner the department was presenting findings of the above evaluations, arguing there has been 'a consistent pattern of highly selective use, and misrepresentation of the evaluation findings by the department and successive governments'. They cited a department 2022 document, *Reforming the Cashless Debit Card and Income Management*, which made claims on the positive impacts of compulsory income management that Professor Gray and Dr Bray refer to as 'a deliberate attempt to mislead' and noted:

The way in which these particular figures were cherry picked out of a discussion which compared these with other results, and where the evaluation found that these did not accurately reflect actual outcomes, can

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<sup>152</sup> Professor Matthew Gray and Dr J. Rob Bray, Australian National University, *Submission 30*, pp. 15–23.

only be considered as a deliberate policy to give readers an erroneous understanding of the evaluation findings.<sup>153</sup>

3.132 The department stated that it did not agree with this characterisation.<sup>154</sup>

3.133 Professor Gray and Dr Bray further noted limitations on compulsory income management-related data—in that it is being produced inconsistently by the department—limits the capacity of researchers to undertake fulsome and accurate analysis. Their submission noted different data sets being reported between 'Income Management' and 'Enhanced Income Management', particularly the proportion of Aboriginal and Torres Strait Islander people subject to the different restrictions.<sup>155</sup>

### **Auditor-General reviews**

3.134 The Australian National Audit Office (ANAO) echoed concerns around the appropriateness of evaluations of various compulsory income management operations. The ANAO has conducted three performance audits into the scheme's operation.<sup>156</sup> Its report of 2018–19 found that it was difficult to conclude whether the cashless debit card trial 'was effective in achieving its objective of reducing social harm' because while the department established appropriate arrangements to implement the trial, 'its approach to monitoring and evaluation was inadequate'.<sup>157</sup> A later report of 2021–22 found this lack of appropriate program evaluation continued, as the department had implemented the 2018–19 report recommendations relating to 'risk management, procurement and contract management, partly implemented the recommendations relating to performance monitoring, and did not effectively implement the recommendations relating to cost–benefit analysis, post-implementation review and evaluation. ANAO advised of the 2021–22 findings that:

Internal performance measurement and monitoring processes for the CDC [Cashless Debit Card] program are not effective. Monitoring data exists, but it is not used to provide a clear view of program performance due to limited performance measures and no targets...

The CDC program extension and expansion was not informed by an effective second impact evaluation, cost–benefit analysis or post-implementation review. Although DSS evaluated the CDC Trial, a

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<sup>153</sup> Professor Matthew Gray and Dr J. Rob Bray, Australian National University, *Submission 30*, pp. 24–25.

<sup>154</sup> Mr Patrick Boneham, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 53.

<sup>155</sup> Professor Matthew Gray and Dr J. Rob Bray, Australian National University, *Submission 30*, p. 1.

<sup>156</sup> See, Auditor-General Report No. 19 2012–13 *Administration of New Income Management in the Northern Territory*; Auditor-General Report No. 1 2018–19 *The Implementation and Performance of the Cashless Debit Card Trial*; and Auditor-General Report No. 29 2021–22 *Implementation and Performance of the Cashless Debit Card Trial*.

<sup>157</sup> Australian National Audit Office, *Submission 17*, p. 18.

second impact evaluation was delivered late in the implementation of the CDC program, had similar methodological limitations to the first impact evaluation and was not independently reviewed. A cost–benefit analysis and post-implementation review on the CDC program were undertaken but not used.<sup>158</sup>

3.135 Professor Gray and Dr Bray provided further analysis of the ANAO reviews and cited the 2018–19 report as finding 'a lack of robustness in data collection' and further, that 'the department's evaluation did not make use of all available administrative data to measure the impact of the trial including any change in social harm'.<sup>159</sup>

### **Deloitte Access Economics reviews**

3.136 Deloitte Access Economics (Deloitte) conducted a range of reviews of compulsory income management on behalf of the department, which found limited positive benefits. Professor Gray and Dr Bray cited the *Key conclusions* of the 2015 Deloitte review as finding compulsory income management 'did not appear to have a substantial or sustained impact on the level of alcohol, tobacco or gambling consumption, although face-to-face interviews confirmed that it had been effective for some individuals'. However, they also argued that findings based on individual interviews must be taken with some hesitancy, due to the limitations of 'retrospective change questions' where 'reported perceptions can at times be fallible and may reflect more general issues of outlook or other changes in the environment in which people live'.<sup>160</sup>

3.137 Professor Spencer contended that the Deloitte reviews of compulsory income management in Bankstown NSW were of limited utility because:

- there were small numbers of respondents;
- the evaluation data was not disaggregated by location of trial sites;
- the evaluation also did not extend to an analysis of price and range of available food products available in food retail outlets approved to accept the BasicsCard; and
- the evaluation did not assess the impact of the price and range of available food products on food security for households subject to CIM measures.<sup>161</sup>

3.138 Professor Spencer noted that, in any case, the overall finding of the report series was that food security did not improve in a statistically significant way.<sup>162</sup>

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<sup>158</sup> Australian National Audit Office, *Submission 17*, p. 19.

<sup>159</sup> Professor Matthew Gray and Dr J. Rob Bray, Australian National University, *Submission 30*, p. 21.

<sup>160</sup> Professor Matthew Gray and Dr J. Rob Bray, Australian National University, *Submission 30*, pp. 17–18.

<sup>161</sup> Professor Liesel Spencer, *Submission 25*, pp. 3–4.

<sup>162</sup> Professor Liesel Spencer, *Submission 25*, p. 3.

3.139 Anglicare submitted that the 2015 Deloitte review was based on a survey of 547 participants from the trial sites, including 124 participants (nearly 25 per cent) who signed on to the scheme voluntarily. That review primarily studied the functionality of the BasicsCard—whether participants were able to use the card for purchases and did it quarantine a designated amount of income—as opposed to studying whether the program of compulsory income management achieved its designated purpose of improving money management and food security.<sup>163</sup>

3.140 Anglicare further submitted that the Deloitte review found that 26 per cent of survey respondents said it helped them with their money situation, but 59 per cent reported that the BasicsCard made their money situation worse, and 53 per cent said there were goods that they would like to buy but are not able to. Anglicare submitted that the Deloitte review:

...showed that the card made no impact on how participants rated their health. No data was presented on child welfare, as these results were not published.<sup>164</sup>

### **Review of Cessation of the Cashless Debit Card**

3.141 The most recent review of compulsory income management funded by the department was conducted by researchers at the University of Adelaide, published in May 2024. The review studied the impacts of the cessation of the CDC and subsequent move to enhanced income management in October 2022.<sup>165</sup> The report notes that conclusions in the review were largely drawn from interviews, cautioning that 'the quantitative data available to the review has little power to demonstrate the impact of the cessation of the CDC', and that while the review assessed the impacts and outcomes of the cessation of the CDC 'no causal statements could be issued from the analyses'.<sup>166</sup>

3.142 The review found the cessation of the CDC had some positive impacts, around 'reduced feelings of discrimination and increased personal agency' however some respondents noted that 'at times this greater freedom over money had resulted in poor decision-making'.<sup>167</sup> It also found significant negative impacts from the cessation of the CDC, including:

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<sup>163</sup> Anglicare, *Submission 3*, p. 6.

<sup>164</sup> Anglicare, *Submission 3*, p. 6.

<sup>165</sup> University of Adelaide, *Review of the Impact of the Cessation of the Cashless Debit Card: Final Report*, May 2024, p. 6.

<sup>166</sup> University of Adelaide, *Review of the Impact of the Cessation of the Cashless Debit Card: Final Report*, p. 19.

<sup>167</sup> University of Adelaide, *Review of the Impact of the Cessation of the Cashless Debit Card: Final Report*, p. 4.

- financial management: poorer outcomes in financial management and budgeting, increases in financial coercion. Data showed an increase in Centrelink urgent payments following cessation of CDC;
- alcohol, illicit drug and gambling misuse: qualitative evidence showed considerable increase in alcohol consumption and misuse in some regions, along with higher incidents of public drinking and intoxication and rates of alcohol-related violence, but limited impact on illicit drug use;
- health and wellbeing: concerns raised in some regions of declining levels of child wellbeing and welfare following CDC program cessation, including increased emergency department admissions;
- safety and violence: stakeholders in some locations reported increased criminal activity and worsening perceptions of community safety since the ending of the CDC program; and
- support service usage: increased support service need was reported since the ending of the CDC program, particularly demand for emergency relief services.<sup>168</sup>

## Other issues

3.143 Many submitters agreed, while addressing poverty and food security of social security payments was a positive goal that should be prioritised by governments, compulsory income management was not an appropriate mechanism, and that there were other more effective mechanisms to address the causes of poverty and disadvantage. For example, the RMIT Policy Group referred to the compulsory income management approach as 'a reductionist approach to complex issues that need a whole-of-person approach to understand and address the barriers to meaningful engagement in life and society'.<sup>169</sup> Similarly, the 4Rs Network argued that 'to achieve good support for women, children and others who are at risk of domestic and family violence there need to be targeted responses, not generalised, blanket responses which have diverse and unpredictable effects'. The network recommended that legislation should be better 'tuned to what it's trying to achieve and not try and do that in a blanket way'.<sup>170</sup>

3.144 Anglicare recommended greater investment in entry-level job creation and raising the rate of social security payments above the Henderson Poverty Line.<sup>171</sup>

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<sup>168</sup> University of Adelaide, *Review of the Impact of the Cessation of the Cashless Debit Card: Final Report*, pp. 4–5.

<sup>169</sup> Social Work Policy and Advocacy Action Group, RMIT University, *Submission 5*, p. 4.

<sup>170</sup> Ms Judy Harrison, National Regional, Rural, Remote and Very Remote Community Legal Network, *Committee Hansard*, 5 July 2024, p. 27.

<sup>171</sup> Anglicare, *Submission 3*, pp. 9–11.

ACOSS similarly recommended increases in social security payments.<sup>172</sup> AIMN recommended 'the Social Security Act is amended to include a statement of objects which briefly outline the purposes of the Act and recite the relevant human rights obligations'.<sup>173</sup> The 4Rs Network also recommended social security legislation be amended to include human rights obligations and that government ensure access to independent social security advocacy and legal help.<sup>174</sup> The Centre for Excellence in Child and Family Welfare recommended a more effective alternative to compulsory income management would be engagement with community service organisations for wrap-around supports including financial counselling.<sup>175</sup>

3.145 Multiple submitters argued that the small number of positive benefits of compulsory income management could be increased if the scheme was made a wholly voluntary program.<sup>176</sup> In this regard, the department confirmed that compulsory income management will be phased out in favour of a voluntary model.<sup>177</sup>

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<sup>172</sup> Australian Council of Social Service, *Submission 22*, p. 8.

<sup>173</sup> Accountable Income Management Network, *Submission 6*, p. 5.

<sup>174</sup> National Regional, Rural, Remote and Very Remote Community Legal Network, *Submission 24*, pp. 7–8.

<sup>175</sup> Centre for Excellence in Child and Family Welfare, *Submission 7*, p. 2.

<sup>176</sup> See, for example: Centre for Policy Futures, University of Queensland, *Submission 10*, p. 11; Council of Single Mothers and their Children, *Submission 28*, p. 1; Social Work Policy and Advocacy Action Group, RMIT University, *Submission 5*, p. 4.

<sup>177</sup> Mrs Letitia Hope, Deputy Secretary, Families and Communities, Department of Social Services. *Committee Hansard*, 5 July 2024, p. 44.

# Chapter 4

## Human rights assessment

- 4.1 This chapter outlines and analyses the international human rights law associated with compulsory income management (under Part 3B of the *Social Security (Administration) Act 1999* (the Act)) and compulsory enhanced income management (under Part 3AA).
- 4.2 Where a person voluntarily elects to be subject to income management this does not raise concerns from a human rights perspective. This inquiry examines the human rights implications of being compulsorily subject to income management, a matter which the Parliamentary Joint Committee on Human Rights (the committee) has previously considered on numerous occasions.<sup>1</sup>
- 4.3 This chapter sets out the rights that may be promoted and limited by income management, and how those human rights apply. For those rights that are limited, this chapter assesses whether the limitation is permissible under international human rights law, such that it pursues a legitimate objective, is rationally connected to that objective and is a proportionate means of achieving that objective.
- 4.4 This chapter concludes that compulsory income management appears to impermissibly limit the rights to social security, a private life and equality and non-discrimination, and may impermissibly limit further rights (including the right to an adequate standard of living, right to health and the rights of the child). This conclusion accords with the committee's prior consideration of bills and legislative instruments providing for compulsory income management (and, relatedly, cashless welfare).

### Rights possibly promoted

- 4.5 The Department of Social Services (the department) noted that the objectives of income management under Part 3B are to:

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<sup>1</sup> See Parliamentary Joint Committee on Human Rights, *Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Bill 2022*, [Report 3 of 2022](#) (7 September 2022) pp. 15–26 and [Report 5 of 2022](#) (20 October 2022) pp. 39–55; [2016 Review of Strong Futures measures](#) (16 March 2016) pp. 37–62; [Eleventh Report of 2013: Stronger Futures in the Northern Territory Act 2012 and related legislation](#) (June 2013) pp. 45–62. The committee has made similar comments regarding measures relating to the Cashless Debit Card program. See, e.g. Parliamentary Joint Committee on Human Rights, [Thirty-first report of the 44<sup>th</sup> Parliament](#) (24 November 2015) pp. 21–36; [Report 7 of 2016](#) (11 October 2016) pp. 58–61; [Report 9 of 2017](#) (5 September 2017) pp. 34–40; [Report 11 of 2017](#) (17 October 2017) pp. 126–137; [Report 8 of 2018](#) (21 August 2018) pp. 37–52; [Report 2 of 2019](#) (2 April 2019) pp. 146–152; [Report 1 of 2020](#) (5 February 2020) pp. 132–142; [Report 14 of 2020](#) (26 November 2020) pp. 38–54; [Report 1 of 2021](#) (3 February 2021) pp. 83–102; [Report 14 of 2021](#) (24 November 2021) pp. 14–18.

- reduce immediate hardship and deprivation by ensuring that the whole or part of certain welfare payments is directed to meeting the priority needs of the recipient of the welfare payment and their children, partner or other dependants (if any);
- ensure that recipients of certain welfare payments are given support in budgeting to meet priority needs;
- reduce the amount of certain welfare payments available to be spent on alcoholic beverages, gambling, tobacco products and pornographic material;
- reduce the likelihood that recipients of welfare payments will be subject to harassment and abuse in relation to their welfare payments;
- encourage socially responsible behaviour, including in relation to the care and education of children;
- improve the level of protection afforded to welfare recipients and their families.<sup>2</sup>

These objects are contained in Part 3B of the Act.<sup>3</sup>

4.6 The department stated that the objectives of the enhanced income management regime (under Part 3AA) are to:

- support vulnerable individuals to manage their welfare payments;
- ensure that a portion of the recipient's welfare payments is available to be spent on necessities, including food, housing, utilities, clothing and medical care, and
- reduce the amount of an individual's welfare payment that is available to purchase goods and services that contribute to social harm, including alcohol, tobacco, pornography or gambling services.<sup>4</sup>

4.7 These objects are not contained in Part 3AA of the Act. The statement of compatibility accompanying the Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Bill 2022, which introduced Part 3AA, stated that enhanced income management seeks to ensure that income management 'in prescribed community areas can continue as intended to address and curtail passive welfare, antisocial behaviour and entrenched disadvantage'.<sup>5</sup> The department has also stated that the objective of enhanced

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<sup>2</sup> Department of Social Services, *Submission 14*, p. 3.

<sup>3</sup> *Social Security (Administration) Act 1999*, Part 3B, section 123TB (objects).

<sup>4</sup> Department of Social Services, *Submission 14*, p. 4.

<sup>5</sup> Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Bill 2022, [supplementary explanatory memorandum relating to amendment sheet TK324](#), p. 25.



income management is 'to ensure continuity for participants while the government makes decisions on the future of' income management.<sup>6</sup>

- 4.8 As detailed in Chapter 3, numerous witnesses and submitters strongly challenged the evidence that income management had achieved its stated objectives. Dr J. Rob Bray, a researcher at the Australian National University who has written extensively about income management, stated:

[I]n the Northern Territory one-third of the Aboriginal and Torres Strait Islander population aged 15 years and over have been subject to income management. One of the objectives of income management was supposedly to get changes at the community level. When you're treating one-third of the entire population—and most probably the most disadvantaged one-third of that population—you would expect that, if that policy worked, you would see some positive outcomes...Just look at that data; that result is not there.<sup>7</sup>

- 4.9 Associate Professor Elise Klein OAM, of the Crawford School at the Australian National University (ANU), similarly argued that 'the government has never been able to show how these measures are helpful to people subjected to them'.<sup>8</sup> Dr Francis Markham, Research Fellow at the ANU Centre for Aboriginal Economic Policy Research, further stated that there has been no decline in child protection matters in the Northern Territory since CIM was introduced:

[W]hen upwards of a third of remote-living Aboriginal people are on the card, and the most disadvantaged third, if it were an effective way of combatting child abuse and neglect you'd expect to see that flow through to those aggregate figures... I don't think there's been any improvement. I think there has been a worsening...<sup>9</sup>

- 4.10 The committee has previously stated that, to the extent that income management ensures a portion of an individual's welfare payment is available to cover essential goods and services, the income management regime could have the potential to promote a number of human rights, including the right to social security, an adequate standard of living and the rights of the child.<sup>10</sup> If participation in income management were purely voluntary, it could promote a number of human rights and would not limit any human rights.

<sup>6</sup> Australian National Audit Office, *Performance Audit of "Transitional Arrangements for the Cashless Debit Card"* [Auditor-General Report No. 48 of 2023-24](#) (June 2024) p. 48.

<sup>7</sup> Dr J. Rob Bray, Private Capacity, *Committee Hansard*, 5 July 2024, pp. 32–33.

<sup>8</sup> Associate Professor Elise Klein OAM, Private Capacity, *Committee Hansard*, 5 July 2024, p. 37. See, for example, Stephen Roche et al, 'How effective is conditional welfare support for enhancing child wellbeing? An examination of compulsory income management (welfare payment quarantining) in Australia', *Children and Youth Services Review*, vol. 131, 2021.

<sup>9</sup> Dr Francis Markham, Private Capacity, *Committee Hansard*, 5 July 2024, p. 43.

<sup>10</sup> See, for example, See Parliamentary Joint Committee on Human Rights, *Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Bill 2022*, [Report 3 of 2022](#) (7 September 2022) pp. 15–26 and [Report 5 of 2022](#) (20 October 2022) pp. 39–55.

4.11 The department stated that it can be challenging to identify the impact of income management separately from the effects of other measures (such as, decisions relating to school staffing, or alcohol bans).<sup>11</sup> It further advised that:

The government has committed to making income management voluntary for those individuals or communities who wish to keep a form of income management and to working with communities on these reforms. The Department of Social Services is in consultation with communities and stakeholders on the future of income management. This includes the Northern Territory and other income management sites, as well as communities which were part of the cashless debit card program.<sup>12</sup>

### **Rights limited**

4.12 The committee has also stated on numerous occasions that subjecting an individual to compulsory income management and restricting how they may spend a portion of their social security payment engages and limits several human rights, and in particular:

- the right to social security;
- the right to privacy; and
- the right to equality and non-discrimination.

4.13 Further, evidence raised in this inquiry indicated that compulsory income management may engage and limit other human rights, including the right to an adequate standard of living, the rights of the child, and the right to health.

4.14 These rights may generally be limited where the limitation is reasonable, necessary and proportionate. This is further explained below.

### ***The rights to social security and an adequate standard of living***

4.15 By restricting how a person may spend a portion of their social security payment (including a substantial portion), compulsory income management engages and limits the right to social security.

4.16 The right to social security recognises the importance of adequate social benefits in reducing the effects of poverty and plays an important role in realising many other economic, social and cultural rights, in particular the right to an adequate standard of living and the right to health.<sup>13</sup>

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<sup>11</sup> Mr Patrick Boneham, Branch Manager, Income Management Policy and Data, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 50.

<sup>12</sup> Mrs Letitia Hope, Deputy Secretary, Families and Communities, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 44.

<sup>13</sup> International Covenant on Economic, Social and Cultural Rights, article 9. See also, UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008).

4.17 The right to social security encompasses the right to access and maintain benefits, whether in cash or 'in kind'.<sup>14</sup> Restricted forms of cash transfers such as compulsory income management are, therefore, unlikely to be considered *inherently* incompatible with the right to social security.<sup>15</sup> However, several requirements apply. In this regard, Mr Jamie Burton KC (a barrister specialising in social security law) stated:

In human rights law states enjoy a discretion or margin of appreciation to devise poverty reduction policies which are most appropriate for their circumstances. That said, in order to be compatible with human rights, any social security scheme or measure must abide by certain norms of international human rights law.<sup>16</sup>

4.18 International human rights law requires that social security benefits must be adequate in amount and duration.<sup>17</sup> States must also have regard to the principles of human dignity and non-discrimination so as to avoid any adverse effect on the levels of benefits and the form in which they are provided.<sup>18</sup> They must guarantee the equal enjoyment by all of minimum and adequate protection, and the right includes the right not to be subject to arbitrary and unreasonable restrictions of existing social security coverage.<sup>19</sup>

4.19 The qualifying conditions for social welfare benefits must also be reasonable, proportionate and transparent.<sup>20</sup> Consequently, as Mr Jamie Burton KC observed, the eligibility rules for compulsory income management must be compatible with the core overarching requirements of legal measures governing social security, including protecting against arbitrariness.<sup>21</sup> Public authorities are responsible for ensuring the effective administration or supervision of a social security system.<sup>22</sup> Persons or groups who have experienced violations of

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<sup>14</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [2].

<sup>15</sup> Mr Jamie Burton KC, *Submission 31*, p. 4.

<sup>16</sup> Mr Jamie Burton KC, *Submission 31*, pp. 3–4.

<sup>17</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [22].

<sup>18</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [22].

<sup>19</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [4] and [9].

<sup>20</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [24].

<sup>21</sup> Mr Jamie Burton KC, *Submission 31*, p. 5.

<sup>22</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [11].

their right to social security should have access to effective judicial or other remedies at both national and international levels.<sup>23</sup>

- 4.20 Further, international law requires that the beneficiaries of social welfare schemes must be able to participate in the administration of the system. Consequently, the details of social security restrictions (including the goods on which restricted funds may be spent) must be developed with recipients pursuant to a participatory and inclusive process.<sup>24</sup> Such participatory mechanisms must ensure that participation is 'authentic, takes into account the existing asymmetries of power within the community, and is tailored to ensure the broadest participation possible by vulnerable and disadvantaged groups'.<sup>25</sup> This relates closely to the consultation requirements that arise in relation to measures which impact Indigenous people, which is discussed in more detail below.
- 4.21 If persons subject to compulsory income management experienced difficulties in accessing and meeting their basic needs (such as food, clothing and housing) the measure may also engage and limit the right to an adequate standard of living. This right requires Australia to take steps to ensure the availability, adequacy and accessibility of food, clothing, water and housing for all people in Australia, and also imposes on Australia the obligations listed above in relation to the right to social security.<sup>26</sup>
- 4.22 Australia has two types of obligations in relation to economic, social and cultural rights. It is obliged to take reasonable measures within its available resources to progressively secure broader enjoyment of the right to an adequate standard of living and to social security. It also has immediate obligations to satisfy certain minimum aspects of the rights; not to unjustifiably take any backwards steps that might affect enjoyment of the rights; and to ensure the rights are made available in a non-discriminatory way.<sup>27</sup> In this regard, the UN Committee on Economic, Social and Cultural Rights has identified a 'minimum core' to the

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<sup>23</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [77]. Australia has not accepted the complaints mechanism jurisdiction of the UN Committee on Economic, Social and Cultural Rights by becoming party to the *Optional Protocol to International Covenant on Economic Social and Cultural Rights* (10 December 2008) which establishes the complaints mechanism. As such, people cannot make individual complaints in relation to alleged breaches of the CESCR against Australia.

<sup>24</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [26].

<sup>25</sup> Special rapporteur on extreme poverty, Ms Magdalena Sepúlveda, *The Human Rights Approach to Social Protection* (2012) [28].

<sup>26</sup> International Covenant on Economic, Social and Cultural Rights, article 11.

<sup>27</sup> See, UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [40].

right to social security, requiring that States Parties ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education, and ensure the right of access to social security systems or schemes on a non-discriminatory basis, especially for disadvantaged or marginalised individuals or groups.<sup>28</sup> Where there is a possibility that compulsory income management could cause individuals to be put into a situation where the minimum requirement is not being satisfied, that would raise concerns as to whether the minimum core obligation were satisfied.

4.23 Mr Jamie Burton KC observed that compulsory income management:

reduces the purchasing autonomy of recipients and therefore the relationship between the amount (which remains unchanged) and the adequacy of the benefit might potentially be undermined inadvertently ((if particular retailers...or geographic locations must be used, for example)). This requires vigilance: in particular, the CIM method “should be monitored regularly to ensure that beneficiaries are able to [obtain in practice] the goods and services they require to realize their Covenant rights” ...It is also often the case that essential goods are disproportionately expensive for lower income families. Plainly, the Committee will wish to understand if CIM is contributing to the “poverty premium phenomenon”.<sup>29</sup>

4.24 As to the right to an adequate standard of living (which encompasses the rights to food and adequate housing), the UN Committee on Economic, Social and Cultural Rights has stated that food must be economically accessible, meaning that personal or household financial costs associated with the acquisition of food for an adequate diet should be at a level such that the attainment and satisfaction of other basic needs are not threatened or compromised.<sup>30</sup> Further, the UN Committee on Economic, Social and Cultural Rights has explained that the right to housing dimension of the right to an adequate standard of living refers not merely to a roof over one's head, but to the right to live somewhere in 'security, peace and dignity'.<sup>31</sup>

### *The right to equality and non-discrimination*

4.25 Compulsory income management measures have a disproportionate impact on Aboriginal and Torres Strait Islander people in practice. While Aboriginal and

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<sup>28</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [59].

<sup>29</sup> Mr Jamie Burton KC, *Submission 31*, p. 5.

<sup>30</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment 12: the right to adequate food* (1999) [13].

<sup>31</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment 4: the right to adequate housing* (1991) [7].

Torres Strait Islander people are estimated to constitute just 3.8 per cent of the Australian population,<sup>32</sup> at 31 May 2024, 82.2 per cent of all participants in the compulsory income management system were Aboriginal or Torres Strait Islander.<sup>33</sup> As such, compulsory income management engages and limits the right to equality and non-discrimination.

- 4.26 The right to equality and non-discrimination establishes an immediate obligation on states, and provides that everyone is entitled to enjoy their rights without discrimination of any kind and that all people are equal before the law and entitled without discrimination to equal and non-discriminatory protection of the law.<sup>34</sup>
- 4.27 The right to equality encompasses both 'direct' discrimination (where measures have a discriminatory intent) and 'indirect' discrimination (where measures have a discriminatory effect on the enjoyment of rights).<sup>35</sup> Indirect discrimination occurs where 'a rule or measure that is neutral at face value or without intent to discriminate', exclusively or disproportionately affects people with a particular protected attribute (including race, gender and age).<sup>36</sup> The UN Committee on Economic, Social and Cultural Rights has observed that discrimination undermines the fulfilment of economic, social and cultural rights for a significant proportion of the world's population.<sup>37</sup> It has stated that eliminating discrimination in practice requires paying sufficient attention to

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<sup>32</sup> Australian Bureau of Statistics, [Estimates of Aboriginal and Torres Strait Islander Australians](#) (at 30 June 2021).

<sup>33</sup> Department of Social Services, answer to question on notice IQ24-000041, 13 June 2024 (received 4 July 2024).

<sup>34</sup> International Covenant on Civil and Political Rights, articles 2 and 26. Article 2(2) of the International Covenant on Economic, Social and Cultural Rights also prohibits discrimination specifically in relation to the human rights contained in the International Covenant on Economic, Social and Cultural Rights. See also UN Committee on Economic, Social and Cultural Rights, *General Comment 20: non-discrimination in economic, social and cultural rights* (2009) [7].

<sup>35</sup> UN Human Rights Committee, *General Comment 18: Non-discrimination* (1989).

<sup>36</sup> *Althammer v Austria*, UN Human Rights Committee Communication no. 998/01 (2003) [10.2]. The prohibited grounds of discrimination are race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Under 'other status' the following have been held to qualify as prohibited grounds: age, nationality, marital status, disability, place of residence within a country and sexual orientation. The prohibited grounds of discrimination are often described as 'personal attributes'.

<sup>37</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment 20: non-discrimination in economic, social and cultural rights* (2009) [1].

groups of individuals which suffer historical or persistent prejudice, and not merely comparing the formal treatment of individuals in similar situations.<sup>38</sup>

4.28 International human rights law prohibits discrimination on several grounds, including race, colour, sex, and 'other status'. International human rights law recognises the particular risk of discrimination against Indigenous people.<sup>39</sup> The UN Committee on Economic, Social and Cultural Rights has advised that the term 'other status' reflects the fact that the nature of discrimination varies according to context and evolves over time.<sup>40</sup> It has stated that these additional grounds 'are commonly recognized when they reflect the experience of social groups that are vulnerable and have suffered and continue to suffer marginalization'.<sup>41</sup> It has also set out examples of the types of other status which will be captured, including:

- a person's economic and social situation (individuals and groups of individuals must not be arbitrarily treated on account of belonging to a certain economic or social group or strata within society); and
- place of residence (the exercise of rights should not be conditional on, or determined by, a person's current or former place of residence, such as whether an individual lives in an urban or a rural area).<sup>42</sup>

4.29 Compulsory income management operates only in prescribed geographical areas, and largely in areas which the Australian Bureau of Statistics classifies as 'very remote'.<sup>43</sup> As such, it treats people differently based on their place of residence. In this regard, the UN Committee on Economic, Social and Cultural Rights has observed that the exercise of rights should not be conditional on, or determined by, a person's current or former place of residence, including whether they live in a rural area, and has expressed concern at the disparities in the enjoyment of economic, social and cultural rights generally between rural

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<sup>38</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment 20: non-discrimination in economic, social and cultural rights* (2009) [8].

<sup>39</sup> See, recent consideration of the particular risk of discrimination faced by Indigenous women: Special Rapporteur on the rights of indigenous peoples, *Report on Indigenous women and girls*, A/HRC/30/41 (2015).

<sup>40</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment 20: non-discrimination in economic, social and cultural rights* (2009) [27].

<sup>41</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment 20: non-discrimination in economic, social and cultural rights* (2009) [27].

<sup>42</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment 20: non-discrimination in economic, social and cultural rights* (2009).

<sup>43</sup> The Australia Bureau of Statistics utilises a [standard](#) to divide Australia into five classes of remoteness, characterised by a measure of relative geographical access to services.

and urban areas.<sup>44</sup> The UN Committee on Economic, Social and Cultural Rights has also expressed particular concern to Australia regarding the mandatory income management scheme and its disproportionate impact on Aboriginal and Torres Strait Islander people, the availability of services in rural and remote areas, and a general lack of data about the extent of poverty across the country.<sup>45</sup>

*When differential treatment will not be unlawful*

4.30 Differential treatment (including the differential effect of a measure that is neutral on its face) will not constitute unlawful discrimination if the differential treatment is based on reasonable and objective criteria such that it serves a legitimate objective (one which, where an economic, social and cultural right is in question, is solely for the purpose of promoting the general welfare in a democratic society),<sup>46</sup> is rationally connected to that objective and is a proportionate means of achieving that objective (having regard also to the effects of the measure).<sup>47</sup> This test is set out below from paragraph [4.49].

*Consultation*

4.31 International law establishes specific requirements regarding consultation where a measure will impact on Indigenous peoples. Australia has an obligation to consult with Indigenous peoples in relation to actions which may affect them.<sup>48</sup> Free, prior and informed consent is a human rights norm grounded in the fundamental rights to self-determination and to be free from racial discrimination guaranteed by the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial

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<sup>44</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment 20: non-discrimination in economic, social and cultural rights* (2009) [34].

<sup>45</sup> UN Committee on Economic, Social and Cultural Rights, *Concluding observations on the fifth periodic report of Australia* (11 July 2017) E/C.12/AUS/CO/5 [31], [34] and [40].

<sup>46</sup> International Covenant on Economic, Social and Cultural Rights, article 4.

<sup>47</sup> UN Human Rights Committee, *General Comment 18: Non-Discrimination* (1989) [13] and UN Committee on Economic, Social and Cultural Rights, *General Comment 20: non-discrimination in economic, social and cultural rights* (2009) [13]. See also *Althammer v Austria*, UN Human Rights Committee Communication No. 998/01 (2003) [10.2].

<sup>48</sup> The UN Human Rights Council has recently provided guidance on the right to be consulted, as part of its Expert Mechanism on the Rights of Indigenous Peoples, stating that 'states' obligations to consult with indigenous peoples should consist of a qualitative process of dialogue and negotiation, with consent as the objective' and that consultation does not entail 'a single moment or action but a process of dialogue and negotiation over the course of a project, from planning to implementation and follow-up'. See UN Human Rights Council, *Free, prior and informed consent: a human rights-based approach - Study of the Expert Mechanism on the Rights of Indigenous Peoples*, A/HRC/39/62 (2018) [15]–[16].



Discrimination.<sup>49</sup> The UN Committee on the Rights of the Child has emphasised to Australia the importance of consultation regarding the planning and implementation of policies that impact Indigenous children in particular.<sup>50</sup>

- 4.32 The requirement of consultation is further elaborated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).<sup>51</sup> UNDRIP provides context as to how human rights standards under international law apply to the particular situation of Indigenous peoples. UNDRIP states that a state must consult and cooperate with Indigenous peoples in good faith in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.<sup>52</sup> Consultation should protect the right of Indigenous peoples to 'influence the outcome of decision-making processes affecting them', which is 'not a mere right to be involved in such processes or merely to have their views heard'.<sup>53</sup>
- 4.33 Several submitters raised concerns that consultation had not been undertaken *prior to* the imposition of compulsory income management (which, as outlined in Chapter 2, has existed in various forms since 2007). For example, Dr Shelley Bielefeld—a senior law lecturer who has written extensively about income management—stated that, in her research speaking to people directly affected by compulsory income management, many interviewees expressed frustration about 'the unending compulsory income management approaches being deployed by the federal government in a top-down manner'.<sup>54</sup> Similarly, Associate Professor Elise Klein stated:

The United Nations Declaration on the Rights of Indigenous Peoples sets out the right to free, prior and informed consent, which has never been given when it comes to compulsory income management in this country. I underline that consultation is not free, prior and informed consent. The peak bodies of the Northern Territory, where most people who are subject to compulsory income management live, have been unequivocal that they

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<sup>49</sup> UN Human Rights Council, *Free, prior and informed consent: a human rights-based approach - Study of the Expert Mechanism on the Rights of Indigenous Peoples*, A/HRC/39/62 (2018) [1].

<sup>50</sup> UN Committee on the Rights of the Child, *Concluding observations on the combined fifth and sixth periodic reports of Australia* (1 November 2019) CRC/C/AUS/CO/5-6\* [46]; and *Concluding observations on Australia* (28 August 2012), CRC/C/AUS/CO/4 [30]

<sup>51</sup> While the Declaration is not included in the definition of 'human rights' under the *Human Rights (Parliamentary Scrutiny) Act 2011*, it provides clarification as to how human rights standards under international law, including under the International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights, apply to the particular situation of indigenous peoples. See UN Declaration on the Rights of Indigenous Peoples, preamble.

<sup>52</sup> UN Declaration on the Rights of Indigenous Peoples, article 19.

<sup>53</sup> UN Human Rights Council, *Free, prior and informed consent: a human rights-based approach - Study of the Expert Mechanism on the Rights of Indigenous Peoples*, A/HRC/39/62 (2018) [15]–[16].

<sup>54</sup> Dr Shelley Bielefeld, Private Capacity, *Committee Hansard*, 5 July 2024, p. 36.

want compulsory income management abolished. Their consent for compulsory income management has never been seriously sought by any government since 2007 and has never been granted.<sup>55</sup>

- 4.34 The department advised the committee that recent consultation undertaken in relation to the future of income management has been ‘the most comprehensive engagements with community undertaken on income management to date’:

As at 24 June 2024, we have consulted with 72 communities across the Northern Territory, the APY Lands in South Australia, the East Kimberley region in Western Australia and Shepparton in Victoria. Just under 4,000 community members have participated in these consultations. Since December 2022, we have also consulted with over 200 community organisations; Commonwealth, state and territory governments; peak bodies, including Economic Justice Australia; the Centre for Excellence in Child and Family Welfare; CatholicCare; and various land councils across the Northern Territory...Their success is a result of the department's partnering with First Nations organisation ETMP and of the time we are committing to ensuring communities and individuals have an opportunity to talk directly to government.<sup>56</sup>

- 4.35 The department stated that the consultation described consisted of ‘spending time in community’, including the promotion of consultation activities in local languages, holding community events and break-out groups.<sup>57</sup> It stated that the message from the consultations was consistently that people want to be able to choose whether to be on income management:

From the nearly 4,000 consultations held to date, the department has identified that there is a clear message that people want choice on whether to stay on the program or leave. Although we have heard many would choose to leave, there are also many individuals who have said they would choose to stay on the program. We have also heard in submissions from many stakeholders who have raised issues similar to those, particularly where the programs have met their objectives. We see a clear preference to allow people to choose whether to participate in the program.

...

During consultations, it was also made clear that communities want us to continue to work with them on what comes next, and we are committed to doing that. The next stage is to ask communities and stakeholders their views on the process to support people to transition off the program and the process for people to stay on it, should they choose. It will seek their views on the assistance and information they want to help them make that choice,

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<sup>55</sup> Associate Professor Elise Klein, Private Capacity, *Committee Hansard*, 5 July 2024, p. 37.

<sup>56</sup> Mrs Letitia Hope, Deputy Secretary, Families and Communities, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 44.

<sup>57</sup> Mrs Letitia Hope, Deputy Secretary, Families and Communities, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 47.

and we will also seek their advice on what they will need to support them once they have made that decision.<sup>58</sup>

### *The right to privacy*

- 4.36 Subjecting an individual to compulsory income management—including restricting how they may spend a portion of their social security payment, and providing for the use and disclosure of their personal information to administer that restriction—engages and limits the right to a privacy.<sup>59</sup>
- 4.37 The right to privacy is multifaceted. It includes respect for informational privacy, including the right to respect for private and confidential information, particularly the storing, use and sharing of such information.<sup>60</sup> The right to privacy also prohibits unlawful and arbitrary interferences with an individual's privacy, family, correspondence or home.<sup>61</sup> The term 'arbitrary interference' is intended to guarantee that even interference provided for by law should be in accordance with the provisions, aims and objectives of the International Covenant on Civil and Political Rights and should be, in any event, reasonable in the particular circumstances.<sup>62</sup> This includes a requirement that the state does not arbitrarily interfere with a person's private and home life.<sup>63</sup> A private life is linked to notions of personal autonomy and human dignity. It includes the idea that individuals should have an area of autonomous development; a 'private sphere' free from government intervention and excessive unsolicited intervention by others.

### *The rights of the child*

- 4.38 Compulsory income management engages and may limit the rights of the child. Children may be directly subject to compulsory income management where they meet the criteria of 'disengaged youth' (which includes children aged between 15 and 17 years). Further, children in families where a parent or

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<sup>58</sup> Mrs Letitia Hope, Deputy Secretary, Families and Communities, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 45.

<sup>59</sup> International Covenant on Civil and Political Rights, article 17.

<sup>60</sup> Every person should be able to ascertain which public authorities or private individuals or bodies control or may control their files and, if such files contain incorrect personal data or have been processed contrary to legal provisions, every person should be able to request rectification or elimination of these records. UN Human Rights Committee, *General Comment No. 16: Article 17* (1988) [10]. See also, *General Comment No. 34 (Freedom of opinion and expression)* (2011) [18].

<sup>61</sup> International Covenant on Civil and Political Rights, articles 17 and 23. UN Human Rights Committee, *General Comment No. 16: Article 17* (1988) [3]–[4].

<sup>62</sup> UN Human Rights Committee, *General Comment No. 16: Article 17* (1988) [4].

<sup>63</sup> The UN Human Rights Committee further explains that this right is required to be guaranteed against all such interferences and attacks whether they emanate from state authorities or from natural or legal persons: *General Comment No. 16: Article 17* (1988).

guardian is subject to income management are affected by the application of compulsory income management in practice.

- 4.39 Children have special rights under human rights law taking into account their particular vulnerabilities. Under the Convention on the Rights of the Child, children have the right to benefit from social security and to a standard of living adequate for a child's physical, mental, spiritual, moral and social development.<sup>64</sup>
- 4.40 States parties are required to ensure that, in all actions concerning children, the best interests of the child are a primary consideration.<sup>65</sup> This requires legislative, administrative and judicial bodies and institutions to systematically consider how children's rights and interests are or will be affected directly or indirectly by their decisions and actions.<sup>66</sup> The child's best interests includes the enjoyment of the rights set out in the UN Convention on the Rights of the Child, and, in the case of individual decisions, 'must be assessed and determined in light of the specific circumstances of the particular child'.<sup>67</sup>
- 4.41 The UN Committee on the Rights of the Child has explained that the expression 'primary consideration' means that the child's best interests must be given primacy, and 'may not be considered on the same level as all other considerations'.<sup>68</sup> It is a concept involving:

A substantive right: The right of the child to have his or her best interests assessed and taken as a primary consideration when different interests are being considered in order to reach a decision on the issue at stake, and the guarantee that this right will be implemented whenever a decision is to be made concerning a child, a group of identified or unidentified children or children in general...

A rule of procedure: Whenever a decision is to be made that will affect a specific child, an identified group of children or children in general, the decision-making process must include an evaluation of the possible impact (positive or negative) of the decision on the child or children concerned. Assessing and determining the best interests of the child require procedural guarantees. Furthermore, the justification of a decision must show that the right has been explicitly taken into account. In this regard, States parties shall explain how the right has been respected in the decision, that is, what

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<sup>64</sup> Convention on the Rights of the Child, articles 26 and 27.

<sup>65</sup> Convention on the Rights of the Child, article 3(1).

<sup>66</sup> UN Committee on the Rights of Children, *General Comment 14 on the right of the child to have his or her best interest taken as primary consideration* (2013).

<sup>67</sup> UN Committee on the Rights of the Child, *General comment 14 on the right of the child to have his or her best interests taken as a primary consideration* (2013) p. 3.

<sup>68</sup> UN Committee on the Rights of the Child, *General comment 14 on the right of the child to have his or her best interests taken as a primary consideration* (2013); see also *IAM v Denmark*, UN Committee on the Rights of the Child Communication No.3/2016 (2018) [11.8].

has been considered to be in the child's best interests; what criteria it is based on; and how the child's interests have been weighed against other considerations, be they broad issues of policy or individual cases.<sup>69</sup>

- 4.42 The UN Committee on Economic, Social and Cultural Rights has emphasised that the provision of benefits (in the form of cash or services) is crucial for realising the rights of the child.<sup>70</sup> The Convention on the Rights of the Child likewise provides that the underlying purpose of any such assistance is to ensure an adequate standard of living for families and children,<sup>71</sup> and article 27(3) of the Convention requires the state to assist parents or carers of children, through social assistance and support, to realise a child's right to an adequate standard of living.
- 4.43 It appears that in most cases no individualised assessment is undertaken as to whether compulsory income management is in the best interests of an affected child. The overwhelming majority of people are subject to compulsory income management based on their place of residence and receipt of social welfare payments during a specified period, with no individualised assessment of their circumstances. Submissions regarding the best interests of a child would also not be a basis for seeking an exemption from income management. Consequently, this aspect of the compulsory income management scheme raises questions regarding whether Australia's obligation to ensure that, in all actions concerning children, the best interests of the child are a primary consideration has been met. In this regard, Dr Anna Cody, the Sex Discrimination Commissioner, expressed concern regarding the compatibility of the scheme with the rights of the child.<sup>72</sup>

#### *The right to health*

- 4.44 To the extent that the compulsory imposition of income management has a deleterious impact on people's health,<sup>73</sup> it may also engage and limit the right to health.

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<sup>69</sup> UN Committee on the Rights of the Child, *General comment 14 on the right of the child to have his or her best interests taken as a primary consideration* (2013) [6].

<sup>70</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 19: The Right to Social Security* (2008) [18].

<sup>71</sup> See also Convention on the Rights of the Child, article 27(3).

<sup>72</sup> Dr Anna Cody, Sex Discrimination Commissioner, *Committee Hansard*, 5 July 2024, p. 9. See also, Associate Professor Elise Klein, *Committee Hansard*, 5 July 2024, p. 37.

<sup>73</sup> For example, a research project demonstrating a causal relationship between the imposition of compulsory income management and lower birth weights and higher hospital attendances among children. See, Professor Stephanie Schurer, *Submission 4*.

4.45 The right to health is the right to enjoy the highest attainable standard of physical and mental health.<sup>74</sup> It is a right to have access to adequate health care (including reproductive and sexual healthcare) as well as to live in conditions that promote a healthy life (such as access to safe drinking water, housing, food, and a healthy environment).<sup>75</sup>

4.46 Professor Stephanie Schurer, a professor of economics at the University of Sydney, provided evidence relating to a peer reviewed research project she had undertaken, which she stated demonstrated a causal relationship between the imposition of compulsory income management and poor health outcomes.<sup>76</sup> She stated that the graduated roll-out of the policy in different communities created a ‘perfect natural experiment’ by which you could exclude the impact of seasonal variations and other variables.<sup>77</sup> She stated, in particular:

We found overall that children who were exposed to the introduction of income management while they were in utero were born with a lower birth weight, a statistically significant drop in birth weight by 100 grams. To put that into perspective, the drop of 100 grams is roughly equivalent to the drop in the case of a woman being exposed to domestic violence while pregnant, being in a community hit by a hurricane or being exposed to Ramadan. It's twice as large as the drop in birth weight related to losing a father in the family as a shock...One in five children were more likely to be born with low birth weight.

When we followed these children who were exposed to the policy in utero, by age 5 they had spent almost five times as many days in hospital as the children who were not exposed to the policy in utero. This adds up to five additional days spent in a hospital by the age of five, mainly due to infections that these children contracted.<sup>78</sup>

4.47 Professor Schurer also stated that the research project also found that when compulsory income management was rolled out in a community, in the first five months of the policy introduction, school attendance dropped by five per cent (translating to approximately three to nine days lower school attendance).<sup>79</sup>

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<sup>74</sup> International Covenant on Economic, Social and Cultural Rights, article 12(1).

<sup>75</sup> UN Economic, Social and Cultural Rights Committee, *General Comment No. 14: the right to the Highest Attainable Standard of Health* (2000) [4]. See also, *General Comment No. 12: the right to food (article 11)* (1999); *General Comment No. 15: the right to water (articles 11 and 12)* (2002); and *General Comment No. 22: the right to sexual and reproductive health* (2016).

<sup>76</sup> Professor Stephanie Schurer, *Committee Hansard*, 5 July 2024, p. 30. See further, *Submission 4*.

<sup>77</sup> Professor Stephanie Schurer, *Committee Hansard*, 5 July 2024, p. 31.

<sup>78</sup> Professor Stephanie Schurer, *Private Capacity, Committee Hansard*, 5 July 2024, p. 30.

<sup>79</sup> Professor Stephanie Schurer, *Private Capacity, Committee Hansard*, 5 July 2024, p. 30. Associate Professor Elise Klein echoed these concerns. See, Associate Professor Elise Klein, *Private Capacity, Committee Hansard*, 5 July 2024, p. 37.

4.48 Dr Shelley Bielefeld also stated that in research she had conducted with people who had been subject to compulsory income management, people had reported returning to antidepressant medication, experiencing irreparable health damage due to stress,<sup>80</sup> and worsening family violence.<sup>81</sup>

### **Permissible limitations on human rights**

4.49 International human rights law recognises that reasonable limits may be placed on most rights and freedoms—there are very few absolute rights which can never be legitimately limited.<sup>82</sup> All other rights may be limited provided the limitation meets certain standards. The imposition of a restriction on how a person receives and may access and use part of their social welfare payment, can be regarded as a limitation on the rights identified above.

4.50 In general, limitations on human rights may be permissible where the limitation:

- pursues a legitimate objective (one that is necessary and addresses an issue of public or social concern that is pressing and substantial enough to warrant limiting the right);
- is rationally connected to (that is, capable of achieving) that objective; and
- is a proportionate means of achieving that objective.

4.51 With respect to proportionality, some of the matters it is necessary to consider are: whether a proposed limitation is sufficiently circumscribed; whether it is flexible enough to treat different cases differently, and is accompanied by sufficient safeguards; whether any less rights restrictive alternatives could achieve the same stated objective; and whether there is the possibility of oversight and the availability of review.

4.52 The application of this general test is further qualified by specific requirements that apply to economic, social and cultural rights, such as the rights to social security and an adequate standard of living.

### ***Legitimate objectives for limiting economic, social and cultural rights***

4.53 With respect to a legitimate objective, the International Covenant on Economic, Social and Cultural Rights establishes a specific restriction on the reasons for which, and the manner in which, economic, social and cultural rights may be limited. Article 4 of this Convention establishes that States parties may limit economic, social and cultural rights only insofar as this may be compatible with the nature of those rights, and 'solely for the purpose of promoting the general

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<sup>80</sup> Dr Shelley Bielefeld, Private Capacity, *Committee Hansard*, 5 July 2024, p. 38.

<sup>81</sup> Dr Shelley Bielefeld, Private Capacity, *Committee Hansard*, 5 July 2024, pp. 39–40.

<sup>82</sup> Some human rights obligations are absolute under international law, that is, a State cannot lawfully limit the enjoyment of an absolute right in any circumstances. For example, the right not to be subjected to torture, cruel, inhuman or degrading treatment or punishment may never be permissibly limited.

welfare in a democratic society'.<sup>83</sup> This has the effect that, applying the general limitation test, the only legitimate objective in the context of economic, social and cultural rights is a limitation for the 'promotion of general welfare'. In addition, the UN Committee on Economic, Social and Cultural Rights has advised that:

[T]he benefits of the limitation in promoting the general welfare must outweigh the impacts on the enjoyment of the right being limited. The more serious the impact on the [individual's] Covenant rights, the greater the scrutiny that must be given to the grounds invoked for such a limitation.<sup>84</sup>

4.54 As to when a limitation will be compatible with the nature of economic, social and cultural rights, the UN Committee on Economic, Social and Cultural Rights appears to indicate that minimum essential levels and corresponding minimum core obligations under each right represent the nature of the rights.<sup>85</sup> That is, even if a limitation were for the promotion of general welfare, if it was regarded as constituting a non-fulfilment of the minimum core obligations associated with economic, social and cultural rights, then it would go against the nature of those rights.<sup>86</sup> The term 'general welfare' is to be interpreted restrictively in this context, and should not be taken to impliedly include reference to public order, public morality and respect for the rights and freedoms of others.<sup>87</sup> Rather, 'general welfare' refers primarily to the economic and social well-being of the people and the community as a whole, meaning that a limitation on a right which disproportionately impacts a vulnerable group may not meet the definition of promoting 'general welfare'.<sup>88</sup> In this regard, the UN Committee on Economic, Social and Cultural Rights has indicated that references to broad concepts like 'economic development' cannot easily justify limitations of

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<sup>83</sup> International Covenant on Economic, Social and Cultural Rights, article 4.

<sup>84</sup> *Pardo v Spain*, UN Committee on Economic, Social and Cultural Rights, Communication No. 52/2018, E/C.12/67/D/52/2018 [9.4].

<sup>85</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 3: the nature of states parties' obligations* (14 December 1990) E/1991/23(Supp) [10].

<sup>86</sup> For further discussion see, Amrei Muller, 'Limitations to and derogations from economic, social and cultural rights', *Human Rights Law Review*, vol. 9, no. 4, 2009, pp. 580–581.

<sup>87</sup> Amrei Muller, 'Limitations to and derogations from economic, social and cultural rights', *Human Rights Law Review*, vol. 9, no. 4, 2009, p. 573. See also, Phillip Alston and Gerard Quinn, 'The Nature and Scope of States Parties' Obligations under the International Covenant on Economic, Social and Cultural Rights', *Human Rights Quarterly*, vol. 9 no. 2, 1987, pp. 201–202.

<sup>88</sup> Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, June 1986 [52]. See also, Amrei Muller, 'Limitations to and derogations from economic, social and cultural rights', *Human Rights Law Review*, vol. 9, no. 4, 2009, p. 573; Erica-Irene A Daes, 'The Individual's Duties to the Community and the Limitations on Human Rights and Freedoms under Article 29 of the Universal Declaration of Human Rights', *Study of the Special Rapporteur of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities*, E/CN.4/Sub.2/432/Rev.2 (1983) pp. 123–124.



economic, social and cultural rights, particularly noting that policies directed towards economic development often limit these rights of certain individuals or groups without 'promoting general welfare'.<sup>89</sup>

## Human rights assessment of compulsory income management

### *Legitimate objective*

- 4.55 As set out above, there are several stated objectives for Part 3B income management, and Part 3AA enhanced income management. They broadly relate to reducing immediate hardship and deprivation, encouraging socially responsible behaviour and supporting vulnerable individuals to manage their welfare payments. These are likely to constitute legitimate objectives under international human rights law insofar as they appear to be directed to the general welfare of society.
- 4.56 However, it is noted that 'general welfare' is to be interpreted restrictively, and should not be taken to impliedly include reference to public order and respect for the rights and freedoms of others.<sup>90</sup> The term refers primarily to the economic and social well-being of the people and the community *as a whole*, meaning that a limitation on a right which disproportionately impacts a vulnerable group may not meet the definition of promoting 'general welfare'.<sup>91</sup>
- 4.57 Further, even if a limitation is for the promotion of general welfare, if it was regarded as constituting a non-fulfilment of the minimum core obligations associated with economic, social and cultural rights, then it would go against the nature of those rights. Many parliamentary inquiries have previously noted extensive evidence as to the higher cost of basic goods and services in remote and rural parts of Australia, high rates of poverty among Aboriginal and Torres

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<sup>89</sup> See, for example, UN Committee on Economic, Social and Cultural Rights, *Concluding observations: Egypt* (23 May 2000) E/C.12/1/Add.44 [10]; and *Concluding observations: Kyrgyzstan* (1 September 2000) E/C.12/1/Add.49 [29]. In addition, comparative jurisprudence from the European Court of Human Rights would appear to indicate that where a limitation relates to a right which is vital for a person's immediate survival (such as the right to an adequate standard of living), the more a state will be required to demonstrate that there is a pressing social need justifying that interference. See, for example, *Dudgeon v United Kingdom*, European Court of Human Rights (1981) [52].

<sup>90</sup> Amrei Muller, 'Limitations to and derogations from economic, social and cultural rights', *Human Rights Law Review*, vol. 9, no. 4, 2009, p. 573. See also, Phillip Alston and Gerard Quinn, 'The Nature and Scope of States Parties' Obligations under the International Covenant on Economic, Social and Cultural Rights', *Human Rights Quarterly*, vol. 9 no. 2, 1987, pp. 201–202.

<sup>91</sup> Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, June 1986 [52]. See also, Amrei Muller, 'Limitations to and derogations from economic, social and cultural rights', *Human Rights Law Review*, vol. 9, no. 4, 2009, p. 573; Erica-Irene A Daes, 'The Individual's Duties to the Community and the Limitations on Human Rights and Freedoms under Article 29 of the Universal Declaration of Human Rights', *Study of the Special Rapporteur of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities*, E/CN.4/Sub.2/432/Rev.2 (1983) pp. 123–124.

Strait Islander people (particularly in remote areas), and concerns regarding the adequacy of social welfare payments generally.<sup>92</sup> Many submitters stated that people subject to income management may be unable to participate in the cash-based second-hand market, and so are unable to decide to budget their money by buying used goods.<sup>93</sup> Mr Shane Foyster, Housing and Social Security Consultant Lawyer with the Northern Australia Aboriginal Justice Agency, provided a recent example of the effect of this isolation:

Just this week, one of our lawyers spoke to a client who travelled a 400-kilometre round trip to the nearest Centrelink in a regional centre in the NT so they could sort out their income management, collect their BasicsCard and buy food for their kids. This is someone who actually has employment. He is a responsible father. He has one of the few part-time jobs available in the remote community in which he lives. He said he couldn't access his income management money to buy food for his kids without driving a five-hour round trip to visit Centrelink in person. These are ongoing issues that happen every day in the Northern Territory.<sup>94</sup>

4.58 This evidence is set out in greater detail in Chapter 3.

4.59 Several witnesses and submitters also noted circumstances in which technological issues had prevented the use of an income management bank card to purchase basic foodstuffs,<sup>95</sup> and argued that bureaucratic administrative processes (including between agencies, and between state and federal bodies) have caused people to be put at risk of homelessness. Mr Shane Foyster of the Northern Australia Aboriginal Justice Agency raised the following contemporary example:

Just a few days ago our lawyers were informed by a major social housing provider in the Northern Territory that there were 70 families on their books at risk of eviction and homelessness. They identified to us in writing that the reason for this was in fact that those people were on income management. The housing provider had received properties to manage for the Northern Territory government and rent was meant to be transferred over to that housing provider. But, unfortunately, because income management has all of these extra administrative hurdles, with attendance on compulsory income management, their rent didn't transfer over and it never got paid.

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<sup>92</sup> See, for example, Senate Standing Committee on Community Affairs (References), *The extent and nature of poverty in Australia: Final Report* (February 2024).

<sup>93</sup> See, Anglicare Australia, *Submission 3*, p. 8; Associate Professor Elise Klein and Dr Francis Markham, *Submission 8*, p. 2; Centre for Policy Futures, *Submission 10*, p. 5; Northern Australia Aboriginal Justice Agency, *Submission 19*, p. 3; Associate Professor Liesel Spencer, *Submission 25*, p. 7.

<sup>94</sup> Mr Shane Foyster, Housing and Social Security Consultant Lawyer with the Northern Australia Aboriginal Justice Agency, *Committee Hansard*, 5 July 2024, p. 14.

<sup>95</sup> See, for example, Mr Jared Sharp, Principal Legal Officer, North Australian Aboriginal Justice Agency Ltd, *Committee Hansard*, 5 July 2024, p. 13; Dr Anna Cody, Sex Discrimination Commissioner, Australian Human Rights Commission, *Committee Hansard*, 5 July 2024, p. 12.

Other tenants who were not on compulsory income management didn't have this problem. The housing provider spoke to their counterparts in other states and territories, who had no solutions. Why? Because compulsory income management is predominantly a Northern Territory problem. The housing provider has even raised this issue with the Northern Territory Minister for Housing and has asked for our help to advocate with Services Australia, which we did by formally writing to them this Tuesday.<sup>96</sup>

4.60 Consequently, it appears there is a risk, in practice, that there are circumstances in which the minimum core obligations in relation to social security (and the right to an adequate standard of living) may not be met in relation to a cohort of people subject to compulsory income management.

### *Rational connection*

4.61 Under international human rights law, it must also be demonstrated that any limitation on a right has a rational connection to the objective sought to be achieved. The key question is whether the relevant measure is likely to be effective in achieving the objective/s being sought.

4.62 As noted above, and as discussed in Chapter 3, numerous witnesses and submitters strongly argued that income management had not been demonstrated to have achieved its stated objectives. Indeed, numerous evaluations and reviews undertaken since 2007 have called into question the extent to which compulsory income management (and, relatedly, the cashless debit card trial) have been demonstrated to be effective to achieve their stated aims (these are outlined in detail in Chapters 2 and 3). The committee has previously had regard to that evidence, and has repeatedly expressed concern as to whether these measures are rationally connected to (that is, effective to achieve) their stated objectives.<sup>97</sup> The department itself stated that it can be challenging to identify the impact of income management separately from the effects of other measures (such as, decisions relating to school staffing, or alcohol bans).<sup>98</sup>

4.63 Consequently, concerns remain as to the extent to which compulsory income management has been demonstrated to be rationally connected to (that is, effective to achieve) its stated objective.

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<sup>96</sup> Mr Shane Foyster, Housing and Social Security Consultant Lawyer with the Northern Australia Aboriginal Justice Agency, *Committee Hansard*, 5 July 2024, p. 14.

<sup>97</sup> See, for example, Parliamentary Joint Committee on Human Rights, Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019, [Report 6 of 2019](#) (5 December 2019) pp 46–47; Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2018, [Report 8 of 2018](#) (21 August 2018) pp. 37–53; and [Report 11 of 2017](#) (17 October 2017) pp. 126–137.

<sup>98</sup> Mr Patrick Boneham, Branch Manager, Income Management Policy and Data, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 50.

### *Proportionality*

4.64 A key aspect of whether a limitation on a right can be justified is whether the limitation is proportionate to the objective being sought. This necessitates consideration of several matters, including the extent of any interference with human rights: the greater the interference, the less likely the measure is to be considered proportionate. It is also necessary to consider: whether a proposed limitation is sufficiently circumscribed; whether it is accompanied by sufficient safeguards; whether any less rights restrictive alternatives could achieve the same stated objective; and whether there is the possibility of oversight and the availability of review.

4.65 Associate Professor Elise Klein argued that compulsory income management interferes considerably with human rights:

[G]iven the ineffectiveness of compulsory income management in meeting its policy objectives—and the problems with those objectives in the first place—it is difficult to sustain a rational argument for the continuation of compulsory income management. Furthermore, compulsory income management can hardly be argued to be the least intrusive means of reaching its objectives, if it is so ineffective in doing so. There are many other options and alternatives that could be considered that have fewer adverse impacts on human rights. Proportionality also needs to consider the length of time that people are subjected to compulsory income management. We have a situation in the Northern Territory where the same cohort of First Nations people have been subject to this measure in different iterations since the intervention in 2007. This means that some people have lived their whole adult lives having their human rights restricted through compulsory income management.<sup>99</sup>

4.66 The department advised that less than 5 people have been subject to compulsory income management continuously since 2008 (approximately 16 years).<sup>100</sup> It also advised that over 50 per cent of participants have been on income management for over 10 years.<sup>101</sup> The department also stated that, at 31 May 2024, the average length of time a participant has been subjected to any form of compulsory income management is approximately 3.2 years.<sup>102</sup> It indicated that this period of time reflects circumstances where a person has either left a geographical area subject to compulsory income management, or no longer received income

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<sup>99</sup> Associate Professor Elise Klein, Private Capacity, *Committee Hansard*, 5 July 2024, p. 37.

<sup>100</sup> Department of Social Services, answer to question on notice IQ24-000042, 13 June 2024 (received 4 July 2024).

<sup>101</sup> Mr Patrick Burford, Group Manager, Communities Group, Department of Social Services, *Committee Hansard*, 29 July 2024, p. 16.

<sup>102</sup> Department of Social Services, answer to question on notice IQ24-000042, 13 June 2024 (received 4 July 2024).

support payments.<sup>103</sup> The department provided statistics indicating that Aboriginal and Torres Strait Islander participants are subject to compulsory income management for more than three times as long as non-Indigenous participants, on average. While the average time spent on compulsory income management overall is 1 188 days, non-indigenous participants have been subject to compulsory income management for an average of 512 days, whereas Aboriginal and Torres Strait Islander people have been subject to an average of 1 682 days.<sup>104</sup>

- 4.67 Consequently—in addition to the day-to-day interference each person subject to compulsory income management experiences—a significant proportion of participants have been subject to the regime for over 10 years, and there are people in this cohort who have been subject to these restrictions for up to 16 years. This constitutes a considerable interference with human rights.

*Sufficiently circumscribed*

- 4.68 A further aspect of whether compulsory income management is a proportionate limit on rights is whether it is sufficiently circumscribed, and whether it applies as a blanket measure.
- 4.69 Some of the measures which may result in people becoming subject to income management require an individualised assessment of an individuals' circumstances for them to be placed on income management. This is the case with respect to the Child Protection, Supporting People at Risk, and Vulnerable Welfare Payment Recipient measures. However, in practice, people are rarely placed on income management pursuant to these measures, and the overwhelming majority of people are placed on compulsory income management with no assessment of their individual circumstances. At 31 May 2024, less than one per cent of compulsory income management participants, and three per cent of enhanced income management participants, were subject to compulsory income management pursuant to an individualised assessment of their personal circumstances.<sup>105</sup>

**Figure 4.1: Income Management participants, at 31 May 2024, by measure**

Assessment	Measure	IM	EIM	Total
	Long Term Welfare Payment Recipient	11,162	9,134	<b>26,319</b>

<sup>103</sup> Mr Patrick Boneham, Branch Manager, Income Management Policy and Data, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 49.

<sup>104</sup> Department of Social Services, answer to question on notice IQ24-000147, 29 July 2024 (received 22 August 2024).

<sup>105</sup> Department of Social Services, answer to question on notice IQ24-000047, 13 June 2024 (received 4 July 2024).

No individualised assessment	Disengaged Youth	3,114	2,909	
Individualised assessment	Vulnerable Welfare Payment Recipient – Youth	211	839	<b>1,050</b>
	Vulnerable Welfare Payment Recipient	115	413	<b>528</b>
	Child Protection	n.p.	15	<b>n.p.</b>
	Supporting People at Risk	<5	0	<b>&lt;5</b>
	Cape York	0	70	<b>70</b>
	Nominee	0	126	<b>126</b>
<b>Total</b>		<b>14615</b>	<b>13,506</b>	<b>28,111</b>

Source: Derived from statistics provided by the Department of Social Services, answer to question on notice IQ24-000041, 13 June 2024 (received 4 July 2024).

4.70 93.6 per cent of all compulsory income management participants are subject to income management because they meet the criteria of either ‘long term welfare payment recipient’ or ‘disengaged youth’, meaning they are either:

- (a) a person aged 25 and over in the Northern Territory who has been receiving Job Seeker, Youth Allowance, Special Benefit, or Parenting Payment (partnered or single) for over 12 months; or
- (b) a person aged between 15 and 24 years in the Northern Territory who has been receiving one of those social welfare payments for three of the previous six months.

4.71 Mr Shane Foyster of the Northern Australia Aboriginal Justice Agency expressed concern at the blanket operation of these two measures with very broad criteria:

Consider, for example, someone who's on parenting payment—a mother with children. If she's receiving parenting payment for more than one year in a two-year period, her income, including all of her family tax benefit payments—all of her payments for her children—are income managed. Someone who's on parenting payment is very likely to be on parenting payment for a long period of time, because the purpose of that payment is for them to be able to care for their children.<sup>106</sup>

4.72 This raises significant questions as to whether the qualifying conditions for these compulsory income management measures are sufficiently circumscribed, and whether income management is sufficiently individualised. It is not clear that a period of six months to one year during which time a person has continually

<sup>106</sup> Mr Shane Foyster, Housing and Social Security Consultant Lawyer with the Northern Australia Aboriginal Justice Agency, *Committee Hansard*, 5 July 2024, pp. 15–16.

received a particular social welfare payment necessarily reflects some kind of vulnerability in relation to that person. Further, it is not possible to exit compulsory income management while still receiving a relevant social welfare payment and living in an affected geographical area. For example, in the case of youth allowance, it would appear that if a person studied a degree for several years, during which time they received youth allowance continuously to support that study, they would be subject to income management unless they obtained a temporary exemption each year. In the case of parenting payment, it would appear that if a parent chose to take time out of the workforce to raise children (despite being otherwise employed) they would be subject to income management if they lived in the Northern Territory, unless they obtained a temporary exemption each year.

- 4.73 Mr Foyster also argued that, because these blanket measures operate in the Northern Territory, it may be less likely that measures which would require an individualised assessment of a person's circumstances (for example, if a person was at risk of their children being removed from their care), are utilised:

[T]here is this particular measure about child protection. There's a particular policy that allows income management to be applied in exactly that context—to help someone—and in every other state and territory that might be used in a way that is targeted. But, because there is a blanket operation of these two measures in the Northern Territory, it's probably not used because it's not needed, because everyone is already on compulsory income management if they're receiving, for example, parenting payment and they've received parenting payment for more than one year in a two-year period.<sup>107</sup>

- 4.74 Dr Francis Markham, similarly, argued that the blanket application of compulsory income management to people based on the long-term welfare recipient measures is inappropriate because the root causes of unemployment are not being addressed:

In the Northern Territory, in particular, almost all the people on income management are there through the long-term unemployment or youth measure. These are measures where, essentially, you end up having your income managed because you're unemployed. The reason people are unemployed isn't that they're addicted. It's not that they're bad parents. It's that there are no jobs in the places they live. Until that problem is dealt with—until there's some form of economic development, jobs programs and the like, some form of decent way to subsist on social security, some way to supplement the private market in remote communities—there's still going to be a high degree of poverty, and there are still going to be the social problems that arise from poverty. People will still be triggering these measures if income management continues to exist, not because they're bad people, not because they have drug and alcohol problems but simply

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<sup>107</sup> Mr Shane Foyster, Housing and Social Security Consultant Lawyer with the Northern Australia Aboriginal Justice Agency, *Committee Hansard*, 5 July 2024, p. 16.

because they live where their ancestors have lived for tens of thousands of years, and there are no jobs.<sup>108</sup>

- 4.75 Ms Taylah Bell (Committee member of the Accountable Income Management Network and Remote Women's Access Project Officer for Economic Justice Australia) also expressed concern regarding the capacity of the minister to extend compulsory income management to new regions and jurisdictions by way of their discretion (via legislative instrument).<sup>109</sup> Several submitters also expressed concern that, because Part 3B and Part 3AA of the Act are not subject to sunseting, compulsory income management could operate indefinitely, suggesting that the scheme is not sufficiently circumscribed.<sup>110</sup> In this regard, Dr Shelley Bielefeld argued:

Compulsory income management programs have long violated the human rights of program participants and generated a range of detrimental outcomes for coerced cardholders. Restrictions on human rights should not be permanent, but in Australia, through compulsory income management, the federal government has turned restricting human rights for First Nations people and other people on social security into an art form. The result is an ugly system of prejudice that entrenches inequality. When governments set in place systems that ensure that some people are treated as though they are less human than others, less deserving of human dignity than others, it results in a host of problems for those people thus treated. Bearing the burden of discrimination comes at a cost: worse health outcomes, worse earning capacity and structurally generated poverty. I therefore strongly recommend that compulsory income management programs be stopped and that the federal government create a genuinely supportive social security system that does not stigmatise or punish people in need of support.<sup>111</sup>

#### *Flexibility and safeguards*

- 4.76 The flexibility of compulsory income management (that is, its capacity to treat different cases differently), and the presence of safeguards, are also relevant considerations in assessing proportionality.
- 4.77 Noting the broad blanket application of compulsory income management in practice, the capacity to seek an exemption from the scheme is a significant consideration. The department advised that exemptions from both Part 3B and Part 3AA income management are only available in relation to people under the disengaged youth or long-term welfare payment recipient measures, and only

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<sup>108</sup> Dr Francis Markham, Private Capacity, *Committee Hansard*, 5 July 2024, p. 42.

<sup>109</sup> Ms Taylah Bell, *Committee Hansard*, 5 July 2024, p. 22.

<sup>110</sup> See, for example, The Jumbunna Institute for Indigenous Education and Research, *Submission 26*, p. 5; and Economic Justice Australia, *Submission 9*, p. 3.

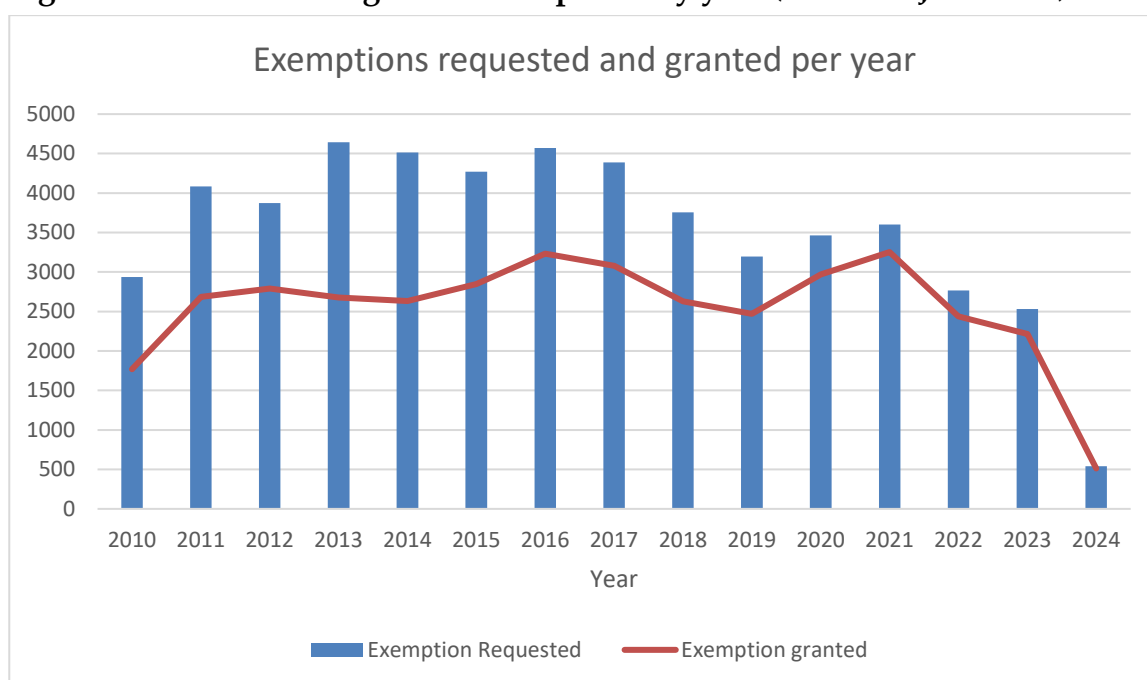
<sup>111</sup> Dr Shelley Bielefeld, Private Capacity, *Committee Hansard*, 5 July 2024, pp. 36–37.



remain valid for up to 12 months.<sup>112</sup> This means that, currently, 93.6 per cent of all compulsory income management participants are eligible to apply for a temporary exemption.

4.78 However, as a proportion of all people in this category, only a small number of exemptions are sought in practice. For example, while 26 319 people are currently eligible to apply for a temporary exemption, only 3 072 exemptions from income management, and 878 exemptions from enhanced income management were sought from 2023–2024 (to June 2024).<sup>113</sup> That equates to approximately 15 per cent of eligible participants seeking an exemption during that period.

**Figure 4.2: income management exemptions by year (2010 – 14 June 2024)**



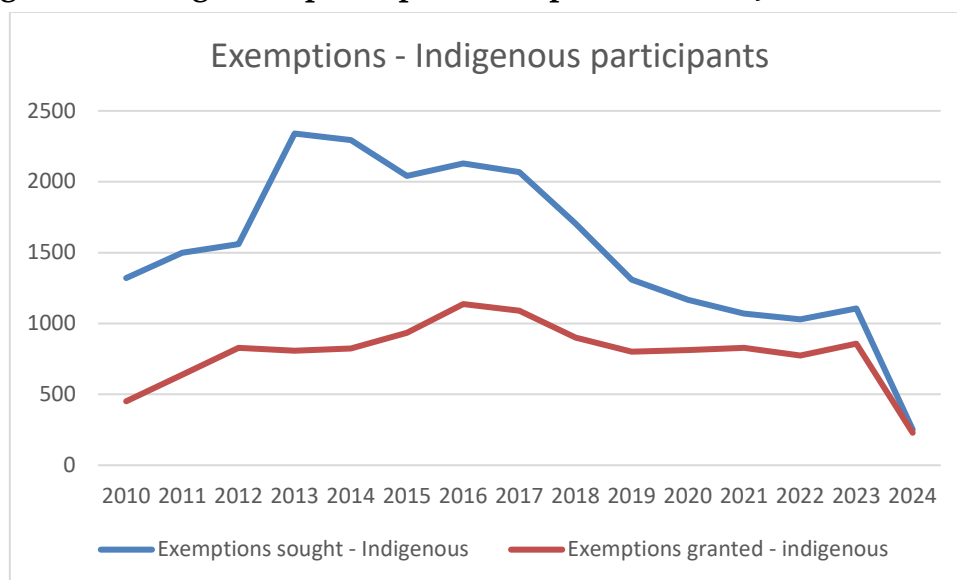
Source: Derived from statistics provided by the department. See, Department of Social Services, answer to question on notice IQ24-000044, 13 June 2024 (received 4 July 2024).

<sup>112</sup> Department of Social Services, answer to question on notice IQ24-000046, 13 June 2024 (received 4 July 2024). See also, Department of Social Services, *Submission 14*, p. 7. The Department's Guide to Social Policy Law advises that an exemption may be reassessed prior to the end of the 12-month exemption period in cases where an individual's circumstances have significantly changed. See, Department of Social Services, *Guide to Social Policy Law, Social Security Guide* (Version 1.318, released 1 July 2024), at [11.1.14.10](#) (overview of exemptions from income management)

<sup>113</sup> The department advised that of the 878 exemptions from enhanced income management that were sought from 2023 – June 2024, 416 (47 per cent) were granted. See, Department of Social Services, answer to question on notice IQ24-000044, 13 June 2024 (received 4 July 2024).

- 4.79 The department advised that, overall, 71 per cent of all exemptions requested are granted, stating that this process is administered by Services Australia.<sup>114</sup> The department stated that the main reasons for exemptions being rejected are because a person has not supplied the required evidence, or the evidence has been regarded as being insufficient.<sup>115</sup> The data also indicates that the proportion of exemptions granted has increased with time, and that most people who do apply for a temporary exemption are successful. While it could be argued that the exemptions process therefore has safeguard value, it equally suggests that there was no basis for those exempted persons having been subject to compulsory income management.
- 4.80 The data provided also indicates that Aboriginal and Torres Strait Islander participants have been less likely than non-Indigenous participants to apply for an exemption from income management in practice, and less likely to receive one, since 2010.

**Figure 4.3: Indigenous participant exemptions (2010 – June 2024)**

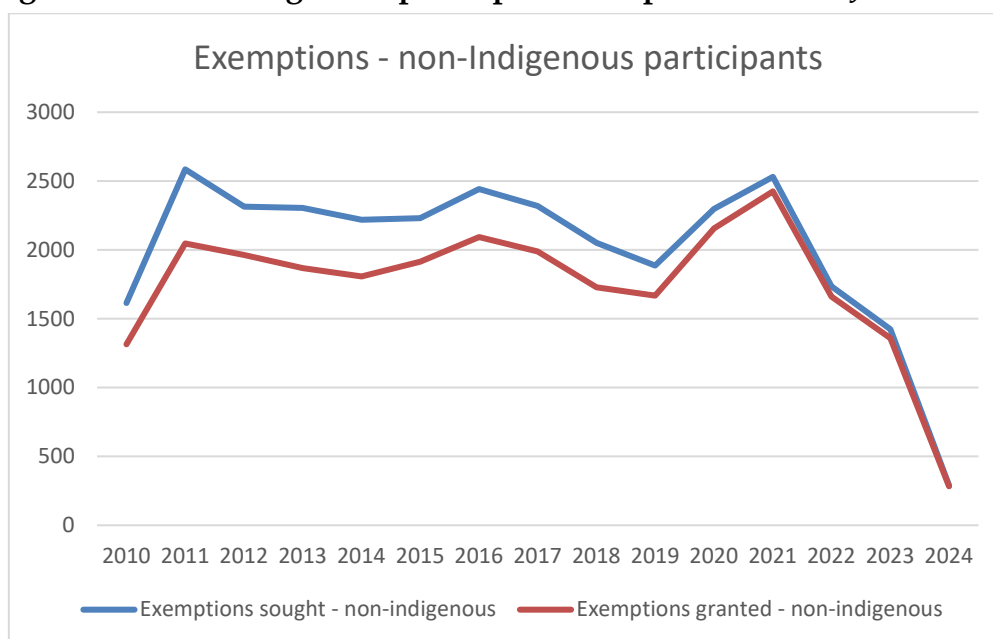


Source: Derived from statistics provided by the department. See, Department of Social Services, answer to question on notice IQ24-000044, 13 June 2024 (received 4 July 2024)

<sup>114</sup> Mr Patrick Boneham, Branch Manager, Income Management Policy and Data, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 49.

<sup>115</sup> Department of Social Services, answer to question on notice IQ24-000140, 29 July 2024 (received 22 August 2024).

**Figure 4.4: Non-Indigenous participant exemptions (2010 – June 2024)**



Source: Derived from statistics provided by the department. See, Department of Social Services, answer to question on notice IQ24-000044, 13 June 2024 (received 4 July 2024).

4.81 Mr Patrick Boneham, Branch Manager, Income Management, Policy and Data Branch at the department, stated that the disparity between Indigenous and non-Indigenous applications in terms of being exempted from compulsory income management had narrowed over time:

in relation to successful applications, from a proportion of total made to those which were successfully agreed to...For example, in 2010 it was 81 [non-Indigenous] to 34 [Indigenous]; in 2011, 79 to 43; in 2012, 85 to 53; in 2013, 81 to 35; in 2014, 81 to 36; in 2015, 86 to 46; in 2016, 86 to 53; in 2017, 86 to 53; in 2018, 84 to 53; in 2019, 88 to 61; in 2020, 94 to 70; in '21, 96 to 77; in '22, 96 to 75; in '23 I think it was 95 to 75; and in '24, 98 to 91.<sup>116</sup>

4.82 The committee heard evidence that applying for an exemption is a challenging process. Mr Shane Foyster, Housing and Social Security Consultant Lawyer with the Northern Australia Aboriginal Justice Agency, described the challenge in securing an exemption from compulsory income management for a client in practice:

To apply for an exemption from compulsory income management, people need to demonstrate their financial capacity and competence to a very high

<sup>116</sup> Mr Patrick Boneham, Branch Manager, Income Management, Policy and Data Branch, *Committee Hansard*, 29 July 2024, p. 11. The department also provided statistics for exemptions relating to enhanced income management. They advised that 401 of the 878 exemptions (46 per cent) from enhanced income management from 2023 - June 2024 were from people who identified as Indigenous. While 54 per cent of requests for an exemption from enhanced income management from non-Indigenous applicants were successful, only 39 per cent of applications from Indigenous applicants were successful. See, Department of Social Services, answer to question on notice IQ24-000044, 13 June 2024 (received 4 July 2024).

degree—a degree that we wouldn't apply to other Australians. One of our recent clients was a responsible mother with two children living in a very remote region of the Northern Territory who fell under income management 13 years ago simply because of where she lived and because she was receiving parenting payment. She asked our lawyer how she could get off compulsory income management to have better control of our finances. She wanted her money to be all in one location rather than split and she wanted to be able to control what she could do to look after her children. She asked us for help because English is not her first language and there was no information she could find on how to get off income management. This is a mother who ensures her children have very good school attendance and that their immunisations are up to date and who is financially responsible. She had to prove each of have those things. There were very intrusive questions about her capacity to be a mother in order to apply for an exemption.

Our lawyer estimates that they spent over 20 hours helping this client to understand her rights, to gather all the documents—school records and medical records—and then submitting it to Centrelink. Yet five months later, there is still no decision. This is the system that operates right now and does not give people a permanent way out of this financial control. Even if she was successful in seeking an exemption, the exemption currently available under the legislation is only for 12 months and then it resets and she is back on compulsory income management all over again. She would have to get all those records again every 12 months.<sup>117</sup>

4.83 He posited that the challenges associated with requesting an exemption mean that very few people do.<sup>118</sup> He also expressed concern that, in requesting an exemption, the decision-makers 'are often in call centres thousands of kilometres away and have no idea about the cultural context or even the geographic context of where you're operating'.<sup>119</sup> In this regard, the department stated that Services Australia has dedicated priority income management phone lines with officers who are trained to assist Indigenous and remote participants with income management, as well as other specialist staff to support Indigenous customers through outreach services, including discussing exemptions from income management and supporting them with required evidence.<sup>120</sup> Mr Foyster further argued that the principles that underlie the application of the

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<sup>117</sup> Mr Shane Foyster, Housing and Social Security Consultant Lawyer with the Northern Australia Aboriginal Justice Agency, *Committee Hansard*, 5 July 2024, p. 14.

<sup>118</sup> Mr Shane Foyster, Housing and Social Security Consultant Lawyer with the Northern Australia Aboriginal Justice Agency, *Committee Hansard*, 5 July 2024, p. 18. See also, Ms Judy Harison, Co-Convenor, National Regional, Rural, Remote and Very Remote Community Legal Network, *Committee Hansard*, 5 July 2024, p. 23.

<sup>119</sup> Mr Shane Foyster, Housing and Social Security Consultant Lawyer with the Northern Australia Aboriginal Justice Agency, *Committee Hansard*, 5 July 2024, p. 16.

<sup>120</sup> Department of Social Services, answer to question on notice IQ24-000140, 29 July 2024 (received 22 August 2024).

exemption framework seem to assume a lack of decision-making capacity on the part of welfare recipients:

An analogy is how we treat someone who has an acquired brain injury or dementia, in terms of financial guardianship. Our laws are very clear that we assume someone has capacity unless there's a medical report to say that they don't. We protect their right to make their own financial choices. But with compulsory income management, it's been reversed. It applies to a whole class of people and then they can apply for an exemption that lasts for up to 12 months.

The criteria that we had to go through with our client included her showing that she was not vulnerable to financial exploitation. We had to look at the policies that the Services Australia decision-makers would apply in answering that question. It's about five pages of factors and they're very intrusive questions. They're questions such as: How are you budgeting? Do you have anyone in your family who is trying to exploit you? How do you look after your children? How do you use your money on a daily basis? Why did you have to ask for this urgent payment on this date? This is all in the criteria that the decision-makers should be asking. We had to go through that with our client and we had to do that in the context of a very remote community where our client lives with family. It was quite difficult.

From that—again, this is in the department's own guidelines about what evidence is required—we had to get records of immunisation and school attendance and then assess whether that would meet the criteria. There's no actual specific benchmark. We just had to look at those statistics. We had to get evidence from her, from our client, about whether her core family priority needs were being met and whether she was being socially responsible...[I]f there were a decision, it would be for only a maximum of 12 months, and she would have to do the whole thing all over again. I don't think this person could possibly have done this herself.<sup>121</sup>

- 4.84 This suggests that the availability of a temporary exemption from compulsory income management has limited safeguard value in practice.
- 4.85 The department stated that persons subject to a Vulnerable Welfare Payment Recipient (Youth) measure may be 'excluded' from participating in income management. A temporary exclusion for 12 months may be granted if: the person has received less than 25 per cent of their maximum basic rate of payment for at least four out of the last six fortnights;<sup>122</sup> or income management would place their mental, physical or emotional wellbeing at risk; or they have been subject to Vulnerable Welfare Payment Recipient (Youth) measure for

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<sup>121</sup> Mr Shane Foyster, Housing and Social Security Consultant Lawyer with the Northern Australia Aboriginal Justice Agency, *Committee Hansard*, 5 July 2024, pp. 17–18.

<sup>122</sup> The department advised that an individual may request an exemption on this basis and that Services Australia may automatically identify that a person may be subject to an exemption on this basis, following a review of a weekly system generated report for enhanced income management. See, Department of Social Services, answer to question on notice IQ24-000118, 29 July 2024 (received 13 August 2024).

more than 12 months and a social worker has assessed that they have other adequate supports and capability to manage their finances.<sup>123</sup> At 31 May 2024, there were 1 050 people subject to compulsory income management under this measure.<sup>124</sup> The department advised that, at 14 June 2024, just 53 exclusions had been granted (representing approximately 5 per cent of eligible participants).<sup>125</sup> Consequently, the availability of this flexibility would appear to have limited safeguard value in practice.

- 4.86 The department also advised that participants who are income managed under the Cape York Welfare Reform, Vulnerable Welfare Payment Recipient (social worker notice) or Child Protection measure are not eligible for an exemption but may ask the decision maker to review their circumstances.<sup>126</sup> As to the availability of review where a person has been placed on income management with no individualised assessment of their circumstances, the department advised that, where a formal review of a decision that Services Australia has made has been sought, an Authorised Review Officer will: speak to the participant about the decision, where possible; look at ‘the facts, the law, and the policy involved’; and change the decision if it is wrong.<sup>127</sup> However, because of the automatic nature of the process by which most people are subject to compulsory income management, it would appear that no department or agency has made a decision (within the meaning of the *Administrative Appeals Act 1975*), meaning that there is no decision to place a person on compulsory income management that would be subject to review.<sup>128</sup> As such, the availability of review of decisions would appear to have limited safeguard value.
- 4.87 The availability of exemptions, exclusions and review has the capacity to assist with the proportionality of the measure. While most people who seek an exemption are successful, only a small proportion of people seek an exemption. Further, exemptions have had significantly less safeguard value for Aboriginal or Torres Strait Islander participants in practice. Further, the Act provides for the discretion to exclude or exempt a person from compulsory income management—it does not require that a person *must* be excluded or exempted if certain circumstances are met. Where a measure limits a human right,

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<sup>123</sup> Department of Social Services, *Submission 14*, p. 8.

<sup>124</sup> Department of Social Services, answer to question on notice IQ24-000041, 13 June 2024 (received 4 July 2024).

<sup>125</sup> Department of Social Services, answer to question on notice IQ24-000045, 13 June 2024 (received 4 July 2024).

<sup>126</sup> Department of Social Services, *Submission 14*, p. 8.

<sup>127</sup> Department of Social Services, answer to question on notice IQ24-000148, 29 July 2024 (received 22 August 2024).

<sup>128</sup> See further, Administrative Review Council, [‘What decisions should be subject to merit review?’](#) (1999).

discretionary or administrative safeguards alone may not be sufficient for the purpose of a permissible limitation under international human rights law.<sup>129</sup> This is because an administrative or discretionary safeguard is less stringent than the protection of statutory processes as there is no requirement to follow it. Noting that the onus is on the individual to seek an exemption, exclusion or review, and the evidence raising questions as to the accessibility of the process in practice, this raises serious questions as to the safeguard value of these aspects of compulsory income management.

*Less rights restrictive alternatives*

4.88 A number of witnesses argued that less rights restrictive alternatives would (or had previously been) as effective to achieve the stated objectives of compulsory income management.

4.89 Some witnesses argued that the Family Responsibilities Commission model in Queensland, which still provides for the compulsory application of income management, but pursuant to a series of individualised assessments, is an appropriate alternative.<sup>130</sup>

4.90 Dr J Rob Bray noted previous policies which were designed to achieve the same outcomes as income management, but which were less rights restrictive:

A key example is the ALPA Foodcard. That card was developed by ALPA, the Arnhem Land Progress Aboriginal association, which operates a large number of the stores in the Northern Territory. They consulted with communities, and what they came up with was a card which people could choose how much money they wanted to put on and which could be used for healthy food purchases, and it said which members of the family could actually use the card, so you could send your children down to the store to get things. That card was basically operating quite well. Income management came along and decimated the use of the card, because everything was just dumped onto the BasicsCard, and people lacked that freedom. That is one example of a community led response which was quite effective, and it was basically destroyed.<sup>131</sup>

4.91 Similarly, Dr Padraic Gibson, a Senior Researcher from the Jumbunna Institute for Indigenous Education and Research at the University of Technology Sydney, stated that Centrelink Centrepay had been favoured by some communities as a financial service.<sup>132</sup> He stated that Centrepay in Alice Springs had allowed people to voluntarily apportion their income to various services around the

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<sup>129</sup> See, for example, Human Rights Committee, *General Comment 27, Freedom of movement (Art.12)* (1999).

<sup>130</sup> See, for example, Family Responsibilities Commission, *Submission 20*.

<sup>131</sup> Dr J. Rob Bray, *Committee Hansard*, 5 July 2024, p. 33.

<sup>132</sup> Dr Padraic Gibson, Senior Researcher, Jumbunna Institute for Education and Research, University of Technology Sydney, *Committee Hansard*, 5 July 2024, p. 35.

town, and stated that people could visit a local bank to make decisions about the Centrepay deductions they wanted to put in place. He argued that people liked this because it gave access to a financial service.

- 4.92 In this regard, the department advised that income management would be made voluntary,<sup>133</sup> an amendment which would address the human rights concerns identified above.

### **Conclusion**

- 4.93 Compulsory income management raises many human rights concerns. There is a considerable risk that compulsory income management constitutes an impermissible limitation on the rights to social security, privacy, and equality and non-discrimination, noting that it is not clear that it is effective to achieve (that is, rationally connected to) its stated objectives, and it does not appear to constitute a proportionate limit on those rights. There appears to be a risk that compulsory participation may not, in relation to some cohorts of participants, constitute a permissible limit on the right to an adequate standard of living, the right to health, and the rights of the child.
- 4.94 Were the income management regime to be made voluntary, and participants removed from any form of welfare restrictions, the human rights concerns outlined above would be addressed.

### **Committee view**

- 4.95 The committee notes that it has examined all legislation associated with compulsory income management since the committee commenced operation in 2012 and has consistently expressed concern that compulsory income management does not constitute a proportionate limit on several human rights.
- 4.96 The committee notes that several responses to questions on notice taken by the Department of Social Services in July 2024 were provided well after the requested date, and that some remained outstanding when the committee considered the inquiry report in late August 2024. The committee notes that the provision of timely responses to requests for information is a core component of the committee's capacity to undertake inquiries effectively, and that without timely responses, the committee is limited in its deliberations due to information not provided by the department.
- 4.97 The committee considers that the evidence considered in this inquiry indicates clearly that there is a considerable risk that compulsory income management constitutes an impermissible limitation on the rights to social security, privacy, and equality and non-discrimination. The committee considers that there also appears to be a risk that compulsory participation may not, in relation to some

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<sup>133</sup> Mrs Letitia Hope, Deputy Secretary, Families and Communities, Department of Social Services, *Committee Hansard*, 5 July 2024, p. 44.



cohorts of participants, constitute a permissible limit on the right to an adequate standard of living, the right to health, and the rights of the child.

- 4.98 The committee notes that evidence provided about exemptions and reviews showed a distinct difference in First Nations people applying for exemptions from compulsory income management compared to the rest of the population. The committee also notes that the department was unable to answer why different groups had vastly different rates of applying for and being granted exemptions.
- 4.99 The committee welcomes the department's advice that it is consulting with affected communities with a view to making income management voluntary—an amendment which would address the human rights concerns identified in this report. The committee expects that the response to this report should include information regarding the specific time frames, and implementation of plans to transition impacted persons off compulsory income management. The committee considers that this transition should be completed in no greater than 12 months.

### **Recommendation 1**

- 4.100 The committee recommends that the government amend the *Social Security (Administration) Act 1999* to make income management voluntary, including transitional provisions to facilitate a transition to voluntary income management over a period of time.**

### **Recommendation 2**

- 4.101 The committee recommends that the government immediately amend the *Social Security (Administration) Act 1999* to establish more pathways out of compulsory income management, including to:**

- **establish a process by which a person may apply to permanently exit compulsory income management;**
- **provide that where a person has been subject to compulsory income management for a specified continuous period of time, an individualised assessment of their overall circumstances must occur to determine whether there is a basis for that person being subject to compulsory income management;**
- **provide that any person subject to compulsory income management may apply for an exemption on the basis that income management is not necessary for them;**
- **provide that where an exemption has been requested, an individualised assessment of the person's overall circumstances must take place to determine whether there is a basis for that person being subject to compulsory income management; and**

- extend the maximum period of time for which an exemption may apply, and require an individualised assessment of a person's overall circumstances where a period of exemption has ended to determine whether there is a basis for that person again being subject to compulsory income management.

### Recommendation 3

4.102 The committee recommends that, in addition to recommendation 2, the government give consideration to investment in a full suite of local support programs, opportunities, and community-driven alternatives and the creation of real jobs, with proper award wages and conditions, adequate training and skills, and rebuilding local community decision-making.

### Recommendation 4

4.103 The committee recommends that the government give consideration to the funding of social services and free and low-cost legal services to support the administration of exemptions, and the transition to voluntary income management.

### Recommendation 5

4.104 The committee recommends that, if income management is no longer compulsory, the government should amend the *Social Security (Administration) Act 1999* to repeal section 243AA (the legislative provision requiring this committee to review compulsory income management).

### Recommendation 6

4.105 The committee recommends that data relating to applications and grants of exemptions or refusals from compulsory income management be monitored and publicly reported including detail on First Nations status, disability, age and other factors.

**Recommendation 7**

**4.106 The committee recommends that the government ensure participants are advised, in ways that are accessible and culturally appropriate, of the option to apply to be exempt from compulsory income management and the process to achieve this.**

**Mr Josh Burns MP  
Chair  
Member for Macnamara  
Australian Labor Party**



# Coalition Members' and Senator Rennick's Dissenting Report

"For me it was a Godsend because I was able to pay my debts instead of just wasting money...It helps me save money so it taught me a life lesson being on it. The government, not going to lie, it's probably the best thing that they've brought out."

**Bundaberg/Hervey Bay Participant 21**

Final Report into the Review of the Impact of the Cessation of the Cashless Debit Card, University of Adelaide

## **Inquiry into compulsory income management**

- 1.1 Coalition members and Senator Rennick (Dissenting Members) dissent from the recommendations and final report of the Parliamentary Joint Committee on Human Rights' Inquiry into compulsory income management.
- 1.2 Dissenting members consider that the Commonwealth Government's previous policy of compulsory income management was targeted to meet a legitimate objective, that it had a rational connection to the objective, and that it was proportionate to the objective.
- 1.3 Dissenting members contend that compulsory income management is consistent with Australia's human rights commitments and has positively impacted some of our most vulnerable citizens.
- 1.4 Dissenting members noted the considerable disconnect between the views expressed by many of the academic and civil society submitters to the inquiry and the first-hand evidence obtained from on-the-ground stakeholders and participants through the University of Adelaide's Review of the Impact of the Cessation of the Cashless Debit Card.
- 1.5 The University of Adelaide review represents a comprehensive study conducted over the course of a year. The depth of this research is evident in the extensive fieldwork undertaken, involving interviews with 290 stakeholders and past CDC participants. This thorough approach ensures that the findings are not only reliable, but also reflective of a wide range of perspectives.
- 1.6 In weighing up the evidence presented to the Committee, dissenting members consider this review to be the pivotal piece of evidence, surpassing all other material presented.

## **University of Adelaide Report**

- 1.7 Dissenting members were concerned that the Department of Social Services failed to disclose the existence of the University of Adelaide's Final Report into the Review of the Impact of the Cessation of the Cashless Debit Card to the Committee.

- 1.8 The Committee discovered that the research team has provided an initial draft of the Final report to the Department of Social Services on 15 March 2024. Upon receiving requests for minor revisions, a revised report was submitted on 17 April 2024. The Final report was submitted to the Department on 30 May 2024.<sup>1</sup>
- 1.9 The Committee sought submissions by 5 May 2024. Despite the Department being in possession of a near-final draft of a review that had been in the field for a year, the Department's submission to this inquiry made no reference to the University of Adelaide review.
- 1.10 The Department of Social Services appeared before the Committee's public hearing on the afternoon of 5 July 2024. The report was made public later that evening on the first day of the parliamentary winter break.
- 1.11 Dissenting members consider this omission to be concerning.
- 1.12 Dissenting members thank other Committee members for agreeing to recall the Department of Social Services to answer questions in relation to the review report.

### **Impact of the cessation of compulsory income management**

- 1.13 The University of Adelaide review found that a majority of stakeholders were "disappointed that the program has ended as they considered that it has generated positive impacts and were concerned about the increasing social issues being experienced since the program cessation."<sup>2</sup>
- 1.14 The report found that "perceived impacts of CDC cessation were mostly negative and centred around financial management, alcohol and gambling misuse, child wellbeing and welfare, and safety and violence."<sup>3</sup>
- 1.15 Critically, another key finding of the report was that: "alcohol consumption, public intoxication and alcohol-related violence was suggested to have risen considerably in Ceduna, East Kimberley and the Goldfields since the cessation of the CDC. Increased gambling activity was also reported in Ceduna and the East Kimberley."
- 1.16 Dissenting members noted reports from former participants who outlined how the CDC had improved the circumstances of individuals and how its cessation had eroded human rights.

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<sup>1</sup> University of Adelaide - answers to questions on notice asked by Mr Henry Pike MP via written question - received 5 August 2024.

<sup>2</sup> Moskos, A. P., Isherwood, L., Mahuteau, S., Lester, L., & Wei, Z. (2024). Review of the impact of the cessation of the cashless debit card: Final report. p.2

<sup>3</sup> Moskos, A. P., Isherwood, L., Mahuteau, S., Lester, L., & Wei, Z. (2024). Review of the impact of the cessation of the cashless debit card: Final report. p.5

- 1.17 Ceduna Participant 1 gave an example to the review team: “he only ever got \$220 a fortnight [in cash], well now you’re giving him \$900 so he’s drinking \$900 a fortnight...so you’re killing him. His eyes are yellow. He’s not taking his medication, he’s walking around, he’s just drinking until he passes out.”<sup>4</sup>
- 1.18 Ceduna Participant 3 mentioned the circumstances of a young boy to the review team: “That little boy’s father got a pay yesterday, and he spent it all on drink and little boy come over to my place and asked me for orange. I said, I got no orange baby because I got no money to buy orange. That’s made me sad, you know, little boy crying, he was hungry, didn’t have anything to eat. The father got drunk and spent all his money on drink. Even the mother too...They don’t think about saving money for the baby.”<sup>5</sup>
- 1.19 Ceduna Participant 33 expressed that “it’s pretty hard for us now. When we was on the cashless card we were saving money, had food in the fridge. But now we’re getting cash and it’s going in straight away on pokies and drink. Yeah, come out with nothing.”<sup>6</sup>
- 1.20 East Kimberley Participant 16 noted that “Other people wanted to get off it because they like alcohol and...Now, they got more alcohol and cigarettes than they got food on the table for some people...They just blow it all on grog. The next day they scratching their head for food.”<sup>7</sup>
- 1.21 An East Kimberly participant noted that “You see people have [drinks] every day, they’ve [past CDC participants] got no money for food and the kids start going hungry here.”<sup>8</sup>
- 1.22 The review outlines that “Concerns were raised in Ceduna, East Kimberley and the Goldfields of declining levels of child wellbeing and welfare following CDC program cessation, e.g. some children not being fed or clothed properly, not attending school and being out on the streets unsupervised at night.”<sup>9</sup>

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<sup>4</sup> Moskos, A. P., Isherwood, L., Mahuteau, S., Lester, L., & Wei, Z. (2024). Review of the impact of the cessation of the cashless debit card: Final report. p.59.

<sup>5</sup> Moskos, A. P., Isherwood, L., Mahuteau, S., Lester, L., & Wei, Z. (2024). Review of the impact of the cessation of the cashless debit card: Final report. p.56.

<sup>6</sup> Moskos, A. P., Isherwood, L., Mahuteau, S., Lester, L., & Wei, Z. (2024). Review of the impact of the cessation of the cashless debit card: Final report. p.45.

<sup>7</sup> Moskos, A. P., Isherwood, L., Mahuteau, S., Lester, L., & Wei, Z. (2024). Review of the impact of the cessation of the cashless debit card: Final report. p.45.

<sup>8</sup> Moskos, A. P., Isherwood, L., Mahuteau, S., Lester, L., & Wei, Z. (2024). Review of the impact of the cessation of the cashless debit card: Final report. p.53.

<sup>9</sup> Moskos, A. P., Isherwood, L., Mahuteau, S., Lester, L., & Wei, Z. (2024). Review of the impact of the cessation of the cashless debit card: Final report. p.39.

- 1.23 One Ceduna stakeholder noted that “Across the board, we're seeing an increase in antisocial behaviour, an increase in violence and...the actions of people quite different and dangerous in comparison to what they were. And it is somewhat making people feel unsafe...It's clear that crime has increased...break-ins and things like that...The card ended - it was literally a light switch.”<sup>10</sup>
- 1.24 Dissenting members accept the view of stakeholders outlined in the Review that the CDC transition process was rushed to meet a political deadline. Dissenting members hold deep concern with how the transition from compulsory income management was mishandled.
- 1.25 The University of Adelaide report found that “stakeholders uniformly expressed dissatisfaction with the level of community consultation that had occurred between the federal government and local organisations regarding the ending of the CDC program in the four regions.”
- 1.26 A Ceduna stakeholder noted to the review that the “Government decided to pull the pin on it without any consultation with the [Aboriginal] leaders’ group, or any care in the world about the impact, and so we’ve been dealing with the fallout from that decision.”<sup>11</sup>
- 1.27 East Kimberly Stakeholder 12 noted that “there was no consultation it was just done. Because if someone had bothered to step their foot out of Canberra, they’d [the federal government] come and seen what they were doing to people. What’s now changed again.”<sup>12</sup>
- 1.28 Another Ceduna stakeholder noted that “There was a really good transition plan that was co-designed with the Department...It's just a real shame they [the federal government] didn't follow up... We were quite surprised when the legislation was then tabled in Parliament, ceasing the Card as of December 31, which no-one gave advice that that was a good idea. In fact, everyone gave advice that was a bad idea. That was not enough time to do it appropriately.”<sup>13</sup>
- 1.29 Dissenting members are particularly concerned with how this rushed transition process may have opened the door for former participants to be coerced into not subscribing to voluntary income management.

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<sup>10</sup> Moskos, A. P., Isherwood, L., Mahuteau, S., Lester, L., & Wei, Z. (2024). Review of the impact of the cessation of the cashless debit card: Final report. p.67.

<sup>11</sup> Moskos, A. P., Isherwood, L., Mahuteau, S., Lester, L., & Wei, Z. (2024). Review of the impact of the cessation of the cashless debit card: Final report. p.25.

<sup>12</sup> Moskos, A. P., Isherwood, L., Mahuteau, S., Lester, L., & Wei, Z. (2024). Review of the impact of the cessation of the cashless debit card: Final report. p.25.

<sup>13</sup> Moskos, A. P., Isherwood, L., Mahuteau, S., Lester, L., & Wei, Z. (2024). Review of the impact of the cessation of the cashless debit card: Final report. p.29.



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- 1.30 One Ceduna stakeholder noted that “There's a lot of families out there who get pressure from their partner. They might want to go on it, but they can't.”<sup>14</sup>
- 1.31 Another noted: “That's probably male dominance again, which is hard. And I've been told that if you spoke to the women, they would be pro-Card, but the men would be an anti...”<sup>15</sup>
- 1.32 Concerningly, the Review found that many past CDC participants were unaware that there was an option for people to continue voluntarily on income management.

### **Compatibility with human rights**

- 1.33 Dissenting members note the overwhelming evidence that the cessation of compulsory income management has led to alcohol and gambling misuse, a decline in child wellbeing and welfare, and an increase in violence in affected communities. The review found that after the CDC was cut, “no positive impacts at a community-level were found in any of the four regions.”<sup>16</sup>
- 1.34 Dissenting members reject the notion that voluntary income management is an effective alternate policy. The individuals that the policy seeks to support would, self-evidently, be largely unwilling to voluntarily subject themselves to this limitation.
- 1.35 The University of Adelaide highlighted that the transition away from the CDC was rushed, leaving many participants unaware that voluntary income management was an option. If individuals are unaware of voluntary income management, it cannot be considered a viable alternative policy.
- 1.36 Providing vulnerable Australians with the means to destroy their lives severely erodes their human rights to an adequate standard of living, a private life, and the rights of the child.
- 1.37 Dissenting members note that the International Covenant on Economic, Social and Cultural Rights acknowledges that parties may limit economic, social and cultural rights only insofar as this may be compatible with the nature of those rights, and ‘solely for the purpose of promoting the general welfare in a democratic society.’ In implementing a policy of compulsory income management previously, the Commonwealth Government was consistent with this principle.

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<sup>14</sup> Moskos, A. P., Isherwood, L., Mahuteau, S., Lester, L., & Wei, Z. (2024). Review of the impact of the cessation of the cashless debit card: Final report. p.35.

<sup>15</sup> Moskos, A. P., Isherwood, L., Mahuteau, S., Lester, L., & Wei, Z. (2024). Review of the impact of the cessation of the cashless debit card: Final report. p.35.

<sup>16</sup> Moskos, A. P., Isherwood, L., Mahuteau, S., Lester, L., & Wei, Z. (2024). Review of the impact of the cessation of the cashless debit card: Final report. p.95.

- 1.38 Dissenting members consider that the Commonwealth Government's previous policy of compulsory income management was targeted to meet a legitimate objective, that it had a rational connection to the objective, and that it was proportionate to the objective being sought.
- 1.39 Dissenting members contend that compulsory income management is entirely compatible with Australia's human rights obligations and that it has had a beneficial impact on some of our most vulnerable Australians.

#### **Notable Differences in Evidence between Compulsory Income Management locations and the CDC Trial Sites**

- 1.40 Dissenting members highlight that most of the evidence presented during this inquiry related to Income Management (IM) in the Northern Territory and other compulsory IM locations, which have historically operated using the older BasicsCard platform. Under this system, only 50% of income support payments were subject to restriction and the use of the card for card holders was limited to merchants that had signed onto the scheme. This contrasts with the Cashless Debit Card (CDC) trial sites in East Kimberley, Goldfields, Ceduna, and Bundaberg-Hervey Bay, which utilised a more modern and ubiquitous VISA card platform, where up to 80% of income support payments were restricted.
- 1.41 Dissenting members acknowledge these critical differences and, based on the substantial evidence presented by the University of Adelaide report, conclude that the CDC should not have been removed from the trial sites and recommend its prompt reinstatement.

**Mr Henry Pike MP**  
**Deputy Chair**  
**Member for Bowman**  
**Liberal National Party**

**Senator Matt O'Sullivan**  
**Senator for Western Australia**  
**Liberal Party**

**Senator Gerard Rennick**  
**Senator for Queensland**  
**Independent**

## Additional Comments from the Australian Greens

- 1.1 The Australian Greens welcome this review into compulsory income management, following amendments made to the *Social Security (Administration) Act 1999*.
- 1.2 Given the extensive erosion of human rights under compulsory income management, it is critical that scrutiny continues until the total abolition of the regimes.
- 1.3 The evidence before this Committee and the many inquiries that have come before is clear. Compulsory income management has been a failed and punitive approach that disproportionately impacts First Nations communities.
- 1.4 As stated by the Australian Greens at the time of passage of the *Social Security (Administration) Amendment (Income Management Reform) Act 2023*, the Australian Labor Party's extension of compulsory income management partly through the enhanced Income Management scheme was a reversal of commitments made by the Australian Labor Party. Opposition social services spokesperson the Hon. Linda Burney MP said previously:

Our fundamental principle on the basics card and the cashless debit card, it should be on a voluntary basis ... If people want to be on those sorts of income management, then that's their decision. It's not up to Labor or anyone else to tell them what to do. At the moment it's compulsion and that's not Labor's position.<sup>1</sup>
- 1.5 In government, the Hon. Linda Burney MP said 'Labor's fundamental position is that we do not believe in mandatory income management'.<sup>2</sup>
- 1.6 As this inquiry has made clear, compulsory income management has continued under this Labor Government. Economic Justice Australia submitted that:

'... That recent legislative changes and Ministerial determinations in respect of the Enhanced Income Management program have served to reinforce compulsory income management as a component of the social security policy framework, rebranded, without proper scrutiny by Parliament of the range of fundamental human rights concerns raised over many years regarding compulsory quarantining of social security entitlements.'<sup>3</sup>
- 1.7 Accountable Income Management Network submit:

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<sup>1</sup> Luke Henriques-Gomes, 'Cashless welfare: Labor vows to end compulsory use of basics card', the Guardian, 19 April 2022.

<sup>2</sup> The Hon Amanda Rishworth MP, the Hon Linda Burney MP, the Hon Justine Elliot MP, 'Cashless debit card repeal, support services, The Voice', *press conference transcript*, 28 September 2022, Parliament House.

<sup>3</sup> Economic Justice Australia, *Submission 9*, p. 1.

‘There appears to be significant inconsistencies between the government’s commitment to the successful “abolition” of the compulsory nature of the Cashless Debit Card whilst retaining other forms of compulsory income management regimes.’<sup>4</sup>

- 1.8 With clear consensus, the Australian Labor Party must immediately reverse embedding compulsory income management into our social security system and legislative frameworks.
- 1.9 The Australian Labor Party must not continue to kick the can down the road, and commit to abolishing compulsory income management as a matter of urgency. The majority report makes it clear that this should not take longer than 12 months and this is the maximum time it should take for this reform to be effectively delivered.
- 1.10 Without a firm timeline on abolishing compulsory income management this continues to represent another broken promise from the Australian Labor Party. We hope that this report will be the impetus to meet the promise with action.

**Senator David Shoebridge**  
**Senator for New South Wales**  
**Australian Greens**

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<sup>4</sup> Accountable Income Management Network, *Submission 6*, p. 6.

# Senator Thorpe Additional Comments

## Summary of View

1.1 First Peoples across this continent have never ceded our Sovereignty, and I pay my honour and respect to those who fight to protect Country and culture in the face of the human rights abuses perpetrated against First Peoples by settler-colonial governments across this continent and around the world.

1.2 I welcome the overwhelming evidence presented to the committee confirming, once again as many previous inquiries have,<sup>1</sup> that compulsory income management is ultimately discriminatory and incompatible with human rights, and I reiterate the long standing calls of First Peoples to permanently abolish the apartheid policy of compulsory income management which exacerbates economic dependency and poverty, and has resulted in people losing their lives.

Compulsory income management is a vehicle for disempowerment, and perpetuates stigmatisation of Aboriginal people, 'rather than building capacity and independence, for many the program has acted to make people more dependent on welfare'<sup>2</sup>

Compulsory income management is not and has never been compatible with human rights, that the government has never been able to show how these measures are helpful to people subjected to them and that First Nations people have been subject to a disproportionate abuse of their human rights through compulsory income management in Australia.<sup>3</sup>

1.3 I generally welcome the committee's recommendations and views, however, I do not consider they adequately reflect the decades of human rights abuses perpetrated by the state, the intergenerational health and mental health impacts, nor do they recognise the need for truth, healing and justice, including remedies for the damages caused. This is supported by the committee's previous work, calling for a National Human Rights Act.

The ability to seek a remedy for a violation is crucial in protecting fundamental rights and ensuring their promotion.<sup>4</sup>

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<sup>1</sup> Parliamentary Joint Committee on Human Rights, Social Security (Administration) Amendment ; (Repeal of Cashless Debit Card and Other Measures) Bill 2022, Report 3 of 2022 (7 September 2022); Parliamentary Joint Committee on Human Rights, Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Bill 2022, Report 5 of 2022 (20 October 2022); UN Committee on the Elimination of All Forms of Racial Discrimination, Concluding observations on the eighteenth to twentieth periodic reports of Australia (26 December 2017) CERD/C/AUS/CO/18-20, [23].

<sup>2</sup> Aboriginal Peak Organisations NT, *Submission 18*, p. 2.

<sup>3</sup> Associate Professor Elise Klein, Private capacity, Committee Hansard, 5 July 2024, p.37.

<sup>4</sup> Ciara Murphy, 'Damages in the Australian human rights context' (2022) 27(2) Australian Journal of Human Rights, 311, 312

1.4 I wish I could welcome the department's statement to the committee that 'compulsory income management will be phased out in favour of a voluntary model' for those who choose this. However, I note multiple previous instances, where governments have misled peak international human rights bodies on this very topic, making this very claim. For example, despite the fact that mandatory income management remains law today, on October 2023, the Albanese Labor government submitted its sixth periodic report to the UN Committee on Economic, Social and Cultural Rights (CESCR), stating:

The Australian Government has abolished mandatory income management, scrapping the Cashless Debit Card program and making the income management program voluntary for individuals or communities who wish to keep a form of income management.<sup>5</sup>

1.5 It must also be noted the Australian Labor Party went to the 2022 Federal election with a promise to end the Cashless Debit Card. Instead, they just changed the name and brought in enhanced income management, extending the cashless welfare technology, along with expanding who it applies to, in June 2023.

The Labor party understands very clearly that this policy is both ineffective and racist, making that case cogently prior to the election.<sup>6</sup>

1.6 In addition, in their submission, Professor Gray and Dr Bray stated that the department had misused their research, and made deliberate attempts to mislead the Parliament, in what was described as 'a consistent pattern of highly selective use, and misrepresentation of the evaluation findings by the department and successive governments'. The department of course denies this,<sup>7</sup> however, this assertion rings hollow considering the data misused was from research conducted by Professor Gray and Dr Bray themselves.

The Department of Social Services has significantly misrepresented the evidence base on the impact of these programs. This includes in the material it has presented to the Parliament, and as documented by the Auditor General in briefing material.<sup>8</sup>

1.7 Successive governments have been well aware of the discriminatory nature of income management; it does not seem necessary to have an extended transitional period to voluntary income management but this could happen with almost immediate effect to move everyone on to entirely voluntary

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<sup>5</sup> Australia, *Sixth periodic report submitted by Australia under articles 16 and 17 of the Covenant, due in 2022* (received October 2023) E/C.12/AUS/6, [235]–[237].

<sup>6</sup> Jumbunna Institute of Indigenous Education and Research, *Submission 26*, p.1.

<sup>7</sup> Mr Patrick Boneham, Department of Social Services, Committee Hansard, 5 July 2024, p. 53.

<sup>8</sup> United Nations Human Rights Committee, General Comment No. 16: Article 17 (1988) [4].

programs, which would make the Committee's Recommendation 2, which deals with complicated procedures around exemptions, redundant.

Community leaders across the NT, the overwhelming majority of whom were in a state of distress and despair about the destructive impact that racist Intervention policies were having on community life and living conditions.<sup>9</sup>

- 1.8 Moreover, I am deeply concerned that any alternative model pursued will not truly be voluntary, or reflect and facilitate the self-determination and right to free, prior and informed consent of First Peoples, as required under the United Nations Rights of Indigenous Peoples, which Australia is bound by. Indeed, this country has a long violent history of directly undermining the rights to self-determination of First Peoples, both here and abroad. Compulsory, conditional, or any form of non-voluntary income management is disempowering by its very nature. It strips First Peoples of their autonomy to make decisions about their own money, echoing the paternalistic attitudes of colonial administrators, of which there is little evidence of change. It must also be noted that models like the Cape York, and Family Responsibilities Commission models, which still ultimately have the capacity to quarantine people's income without their consent, are not voluntary, not self-determined, or in line with the UNDRIP.

The fact that you have Indigenous involvement in a program of controlling Indigenous communities doesn't take away from the fact that what is going on, fundamentally, is that there is an idea that Indigenous people can't manage their money, as opposed to the rest of the community, who can. That needs to go.<sup>10</sup>

During one of the first rollouts in the East Kimberley and Ceduna, one of the objectives was community panels. They were an absolute disaster. They were pulled back straight away because they were such a disaster in the discord, the disempowerment and the abuse of peoples' private data. It was a disaster, and the department pulled back.<sup>11</sup>

- 1.9 Benefits of these programs have been cited as granting people access to social services and programs. These are, however, investments which the whole community should be able to have access to, without being linked to punitive or mandatory obligations or participation in a program that quarantines income. A competent and human rights respecting government should be able to come up with ways to provide community services to people without creating yet more administrative burden for people on social security to carry. A focus on improved budgeting is of limited utility when people have barely enough money to survive. Accessing social security payments that are attached to

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<sup>9</sup> Jumbunna Institute of Indigenous Education and Research, *Submission 26*, p. 2.

<sup>10</sup> Dr Padraic John Gibson, Senior Researcher, Jumbunna Institute for Education and Research, University of Technology Sydney, Committee Hansard, 5 July 2024, p. 35.

<sup>11</sup> Associate Professor Elise Klein, Private capacity, Committee Hansard, 5 July 2024, p. 41.

mandatory 'services' that are neither sought nor consented to by social security recipients generates distress and hardship.

The purported intent of income management is to help people receiving income support payments budget for the basics. A focus on improved budgeting is of limited utility when people have barely enough money to survive.<sup>12</sup>

- 1.10 This is relevant considering the majority of the concerns raised in the evidence heard by the committee are overwhelmingly considering the issue of poverty, characterised by decades of policies from successive governments across jurisdictions in breach of human rights obligations to provide everyone with an adequate standard of living, including adequate nutrition, clean drinking water, clothing and housing, and to the continuous improvement of living conditions.<sup>13</sup> Policies that address the roots of these issues, that invest in building the capacity of communities in healthy, sustainable ways and that are in line with Australia's human rights obligations must be pursued.
- 1.11 For these reasons, I believe it is critical that the committee continue to review the impacts of government legislation in the area of income management, including once it becomes voluntary. This should include seeking continued input from the Minister, around specific time frames, consultation methods, implementation of plans to transition impacted people off compulsory income management, and the details of any proposed voluntary scheme.

### **The Colonial Roots of Income Management**

- 1.12 Managing First Peoples' income has been a colonial technology of oppression since invasion, impacting more and more First Peoples as illegal colonial settlements expanded across the continent.<sup>14</sup> Our people have been subjected to a long history of labour exploitation, slavery, oppressive, racist, coercive policies and practices, all justified by the lie of white supremacy.

Regardless of the rhetoric that's been used by both major parties since, the substantive experience of Aboriginal people in the Northern Territory has been as a re-imposition of the welfare days, the 'ration days'—that's what

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<sup>12</sup> North Australian Aboriginal Justice Agency, *Submission 19*, p. 3.

<sup>13</sup> Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR); See also articles 5(e)(iii) and 7 of the Convention on the Elimination of All Forms of Racial Discrimination (CERD), article 14(2)(h) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), articles 24(2)(c) and 27 of the Convention on the Rights of the Child (CRC) and Article 28 of the Convention on the Rights of Persons with Disabilities (CRPD).

<sup>14</sup> Yoorok for Justice Report into Victoria's Child Protection and Criminal Justice Systems for Justice Acknowledgement of country. Available at <https://yoorookforjustice.org.au/wp-content/uploads/2023/08/Yoorook-for-justice-report.pdf>.



people called it when I interviewed them at the time. Elders were saying: 'We've lived with this before. We're living with it again.'<sup>15</sup>

Compulsory Income Management represents the reimposition of a form of colonial control over Aboriginal lives that characterised the racist 'protection' regime that operated for much of the 20th Century.<sup>16</sup>

- 1.13 We can trace the deep roots in the paternalistic, racist systems of control from colonisation through legislation, where First Peoples' incomes were controlled by Aboriginal Protection Boards for much of the 19th and 20th century. These so-called 'Protection Acts' were used to forcefully separate our families, create division, disempower our people, try to destroy our culture, take our land, and assimilate the oldest continuous culture in the world into the settler-colonial society. Our people were subject to near-total control of movement, over who they could marry, or what jobs they could do. Our wages were stolen, our savings were taken and our land and property was seized. The modern iteration of compulsory income management was rolled out by the Howard Government during the 2007 Northern Territory Intervention, which was a deliberate attack on the land rights and self-determination of First Peoples, under the guise of 'protection', with little scrutiny from Parliament.

Intervention legislation, introduced in June 2007, suspended the operations of the Racial Discrimination Act (RDA) facilitate measures explicitly designed to restrict the rights of Aboriginal people living on Aboriginal land. Income Management was a flagship Intervention measure and the discriminatory and punitive nature of Income Management was central to this complaint.<sup>17</sup>

Compulsory income management also breaches the right to equality and nondiscrimination... and has been explicitly developed and trialled on First Nations communities and communities with a disproportionately high number of First Nations people. It is also useful to remember that compulsory income management came to this country through the suspension of the Racial Discrimination Act via the Northern Territory's intervention and was continued through the healthy welfare card proposed by Andrew Forrest's Aboriginal employment and training review in 2014.<sup>18</sup>

The sweeping measures, greatly affecting Aboriginal people's life experiences across land rights, income management, housing, criminal defence processes and more, were then passed through the Federal Parliament in a mere ten days.<sup>19</sup>

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<sup>15</sup> Dr Padraic Gibson, Senior Researcher, Jumbunna Institute for Education and Research, University of Technology Sydney, Committee Hansard, 5 July 2024, p.29.

<sup>16</sup> Jumbunna Institute of Indigenous Education and Research, *Submission 26*, p.1.

<sup>17</sup> Jumbunna Institute of Indigenous Education and Research, *Submission 26*, p.2.

<sup>18</sup> Associate Professor Elise Klein, Private capacity, Committee Hansard, 5 July 2024, p.37.

<sup>19</sup> Eddie Cubillo Director, Indigenous Law and Justice Hub, Submission to Inquiry into Australia's Human Rights Framework.

The Government has not made a case in linking the removal of land from Aboriginal ownership and getting rid of the permit system with protecting children from those who abuse them. What is becoming increasingly clear is that the Howard Government has used the emotive issue of child abuse to justify this intervention in the only Australian jurisdiction in which it can implement its radical indigenous policy agenda.<sup>20</sup>

The impact of compulsory income management for Aboriginal people in the NT, which has resulted from ongoing processes of colonisation and more recently through the Northern Territory Emergency Response.<sup>21</sup>

Income Management reintroduced a paternalistic form of governance aimed at controlling Aboriginal life that many Elders had lived through when they were young. Until a process of reform that began in the late 1960s, Aboriginal people lived under explicitly racist laws which restricted and controlled their income. Both when employed and when receiving payments from the government, Aboriginal people would often be paid in rations, receive drastically less cash payment than their non-Indigenous counterparts and be forced to negotiate with authorities over what they were allowed to purchase.<sup>22</sup>

### **Economic Apartheid: Discrimination, Racism and Paternalism**

The Statements of Compatibility for Human Rights governing the current CIM regime, including the cashless debit card schemes, state that this 'will not impact on or interfere with a person's right to pursue freely their economic, social, or cultural development'. From our experience, however, this is demonstrably untrue. Rather, it restrains and controls their ability to freely pursue meaningful economic, social and cultural engagement. Furthermore, the stigma of living under CIM regimes coupled with socioeconomic hardship only serves to further undermine the participants' agency. Ultimately, the current CIM regime is entirely incompatible with the principles of the United Nations Declaration on the Rights of Indigenous Peoples – particularly regarding the right to equality and non-discrimination, and self-determination.<sup>23</sup>

- 1.14 To this day, the political narrative frames First Peoples in a deficit discourse, portraying us as people who cannot manage our money, who abuse alcohol or drugs, and who do not wish to work. The evidence heard from the inquiry was that many captured did not even struggle in this realm, as we know people are mostly captured based on location. The continuation of income management in various forms, suggests the continuation of the same fundamentally racist assumptions that justified the original protection regime in the 20th century—

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<sup>20</sup> Dodson, P. 14 July 2007, 'An entire culture is at stake', *The Age*. Available at <http://www.theage.com.au/news/opinion/an-entire-culture-is-at-stake/2007/07/13/1183833765256.html>.

<sup>21</sup> North Australian Aboriginal Justice Agency, *Submission 19*, p.5.

<sup>22</sup> Jumbunna Institute of Indigenous Education and Research, *Submission 26*, p.4.

<sup>23</sup> North Australian Aboriginal Justice Agency, *Submission 19*, p.3.

that First Peoples are inferior to non-Indigenous peoples and cannot be trusted to enjoy the same rights and privileges as the general community.

It is deeply shameful that in Australia, 2024, there is formal policy on the books premised on the inferiority of Aboriginal people, that seeks to deny fundamental rights enjoyed by the broader community “for their own good”.<sup>24</sup>

One thing that's important to understand in this, the way the system operates now in the Northern Territory, is people are assumed to not have a decision-making capacity and they have to prove otherwise.<sup>25</sup>

In 2012, 91 percent of people on Income Management in the NT were Aboriginal and three quarters of all exemptions had been granted to non-Indigenous people.<sup>26</sup>

Different rules for White people. They think Aboriginal people are the only people who watch porn and drink alcohol. You live in the suburbs, you don't have a Basics Card, but if you live in a Blackfulla camp, you have a Basics Card, a card where you can't even draw money out. Is that racist? Discrimination? Impacting on our human rights. **Borrooloola women.**<sup>27</sup>

Rather than fostering independence and capacity-building, income management policies have inadvertently increased dependence on welfare for Aboriginal and Torres Strait Islander people.<sup>28</sup>

- 1.15 Although framed as a measure to protect ‘vulnerable communities’, the fact that the Racial Discrimination Act had to be suspended to allow the original policy to proceed, which impacted almost exclusively First Nations communities, should raise significant concerns about the weaponisation of political, social, and economic means towards the very people they purport to protect.<sup>29</sup> While the policy has been expanded to other disadvantaged groups, its origins and most significant impacts remain tied to First Nations communities.

Statistics show that approximately 90% of people on income management in the Northern Territory (NT) are Indigenous and 80% of all people across Australia on income management are Indigenous.<sup>30</sup>

<sup>24</sup> Elder Barbara Shaw, Jumbunna Institute of Indigenous Education and Research, *Submission 26*, p.7.

<sup>25</sup> Shane Foyster, North Australian Aboriginal Justice Agency Ltd, Committee Hansard, 5 July 2024, p. 17.

<sup>26</sup> Jumbunna Institute of Indigenous Education and Research, *Submission 26*, p.4.

<sup>27</sup> AHRC, Wiyi Yani U Thangani (Women's Voices) (2020) p. 545.

<sup>28</sup> National Aboriginal Community Controlled Health Organisations, *Submission 12*, p. 4.

<sup>29</sup> Tabitha Lean, National Network of Incarcerated and Formerly Incarcerated Women and Girls, and Anti-Poverty Network.

<sup>30</sup> Dr Padraic John Gibson, 2017, 10 impacts of the NT Intervention. Retrieved from <https://www.sbs.com.au/nitv/article/10-impacts-of-the-ntintervention/vzia753tx>.

We have to remember that in the Northern Territory one-third of the Aboriginal and Torres Strait Islander population aged 15 years and over have been subject to income management.<sup>31</sup>

This was a colonial form of governance, based explicitly on the racist idea that Indigenous people were less capable of managing money than non-Indigenous people. Income Management was seen as a revival of this colonial practice.<sup>32</sup>

- 1.16 Whole generations of people have grown up under this new economic apartheid, starting with Howard's "Basics Card", then Rudd's "Indue card", and the now relabelled "Smart Card" by the Albanese government - all still owned by the same company, Indue Ltd, who profits enormously from the administration of these cards, and has a long, questionable relationship with Services Australia which goes beyond the scope of this report. As with so many colonial neoliberal mechanisms, it costs far more money sustaining the systems of oppression than it would to dismantle them.

The department advised that the estimate of the total costs to administer the enhanced Income Management program for the period between 4 September 2023 and 3 March 2024 is \$30.2 million.<sup>33</sup>

I would like to remind the committee that the cost of managing one income managed account was \$19,000 and more in order to quarantine roughly \$300 of welfare payments on a fortnightly basis. We approached the Department of Social Services for access to the income management accounts to understand how much money was drawn from the income managed accounts, but we were refused such a request, and, indeed, the Department of Social Services did not respond to our inquiry.<sup>34</sup>

It extends the legacy of colonisation and intergenerational disadvantage. It disproportionately targets Aboriginal and Torres Strait Islander communities and often exacerbates poverty.<sup>35</sup>

What people are really objecting to is a power relationship. So what's going on is people are being controlled and demeaned. You can change the colour of the card, you can change the percentage that's on the card and you can change which accounts you can operate, but the power relationship is one of control and one where people lose control and feel demeaned and humiliated.<sup>36</sup>

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<sup>31</sup> Dr Jonathan Rob Bray, Private capacity, Committee Hansard, 5 July 2024, p.32.

<sup>32</sup> Jumbunna Institute of Indigenous Education and Research, *Submission 26*, p.4.

<sup>33</sup> Department of Social Services, Income Management and enhanced Income Management Participant Data. See, Department of Social Services, answer to question on notice IQ24-000146, 29 July 2024 (received 22 August 2024).

<sup>34</sup> Professor Stephanie Schurer, *Submission 4*, p. 29.

<sup>35</sup> National Aboriginal Community Controlled Health Organisations, *Submission 12*, p. 4.

<sup>36</sup> Dr Padraic John Gibson, Senior Researcher, Jumbunna Institute for Education and Research, University of Technology Sydney, Committee Hansard, 5 July 2024, p. 35.

## Harm Caused

Despite seventeen years of trials, every consultation conducted on income management over the past two decades—including both government evaluations and peer-reviewed independent research—has shown that ‘compulsory income management has been an expensive failure’<sup>37</sup>

- 1.17 Throughout years of inquiries, including this one, the government has never been able to show that compulsory income management ‘works’, whilst a large body of peer-reviewed research and independent program evaluations have proved significant negative outcomes, and evidence of significant harm. Compulsory income management has literally devastated communities, and ruined the health, happiness, and livelihoods of many First Peoples, the impacts of which span generations.<sup>38</sup> My office has had many people reach out to tell their stories about the ways compulsory income management has wreaked havoc in their lives, trapping people in powerlessness, poverty, stigma, and shame, causing serious harm and even deaths. There is still no monitoring and evaluation around what is happening for the 19,000 people in the Northern Territory who have largely been subjected to Compulsory Income Management since the intervention. This program has been in place with no ‘oversight’ since 2014, when Australian National University released a government-requested evaluation saying Compulsory Income Management in the Northern Territory was causing harm and not meeting its objectives. The committee laid out in their report some of the key areas of harm caused as including detrimental impacts on women and children, including fleeing domestic violence, exacerbating family tensions and meeting children’s needs, added pressures to share limited cash funds, increasing the cost of purchasing items by restricting people from the cash economy, adding further complexity to peoples’ financial arrangements and budgeting, causing stigma and mental health concerns, privacy breaches, and causing feelings of disempowerment.<sup>39</sup>

We have a situation in the Northern Territory where the same cohort of First Nations people have been subject to this measure in different iterations since the intervention in 2007. This means that some people have lived their whole adult lives having their human rights restricted through compulsory income management. This cannot continue.<sup>40</sup>

The incompatibility of human rights with compulsory income management is far reaching, and considerable peer reviewed research shows the significant harms to people who are being subjected to it.<sup>41</sup>

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<sup>37</sup> Anglicare, *Submission 3*, p. 6.

<sup>38</sup> National Aboriginal Community Controlled Health Organisations, *Submission 12*, p. 4.

<sup>39</sup> Committee Report, paragraph 3.52.

<sup>40</sup> Associate Professor Elise Klein, Private capacity, Committee Hansard, 5 July 2024, p.37.

<sup>41</sup> Associate Professor Elise Klein, Private capacity, Committee Hansard, 5 July 2024, p.37.

A lot of people reported adverse mental health outcomes after being stigmatised so heavily and so unjustly by the government.<sup>42</sup>

APO NT cannot stress enough that compulsory income management is a failed regime and should not continue.<sup>43</sup>

One of the most heartbreaking things that I saw in multiple fieldwork sites was people with disabilities not being able to access what they needed with their cashless debit card or their BasicsCard....she experienced health outcomes so adverse that her health was irreparably damaged by the stress because she had trouble paying her rent and all sorts of problems with getting what she needed as a person with disability. The end result for that woman was irreparable damage to her body, where she was literally further disabled as a result of being put on this card.<sup>44</sup>

Since 2017 researchers have shown statistical proof of the negative impacts on children, It has been found to have an adverse impact on birth outcomes,<sup>45</sup> affecting their birth weight and school attendance, caused by compulsory income management in the Northern Territory.<sup>46</sup>

Children who were exposed to the policy in utero, by age 5 they had spent almost five times as many days in hospital as the children who were not exposed to the policy in utero. This adds up to five additional days spent in a hospital by the age of five, mainly due to infections that these children contracted. We also found that when the policy hit each community, community life was interrupted. We had daily school attendance data, so we could observe school attendance in the days after the policy was introduced. In the first five months of the policy introduction, school attendance dropped by five per cent.<sup>47</sup>

Compulsory income management is disempowering, adds to stigmatisation, and fails to address unemployment and the underlining, structural issues that force Aboriginal people into poverty and financial hardship, often experienced intergenerationally. There is no evidence that it changes behaviour (as some supporters claim) nor equips people with much needed financial literacy and economic autonomy, and levers from which to escape cycles of meagre welfare.<sup>48</sup>

1.18 The harm extends to First Peoples being restricted in continuing their cultural practices. My office has heard of the case of David<sup>49</sup>, a Traditional Owner and cultural leader, who uses his income to support community ceremonies and

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<sup>42</sup> Dr Shelley Bielefeld, Private capacity, Committee Hansard, 5 July 2024, p. 38.

<sup>43</sup> Aboriginal Peak Organisations NT, *Submission 18*, p. 4.

<sup>44</sup> Dr Shelley Bielefeld, Private capacity, Committee Hansard, 5 July 2024, p. 38.

<sup>45</sup> Australian Human Rights Commission (2017), *Submission 30*.

<sup>46</sup> Associate Professor Elise Klein, Private capacity, Committee Hansard, 5 July 2024, p.37.

<sup>47</sup> Professor Stephanie Schurer, *Submission 4*, p. 28.

<sup>48</sup> North Australian Aboriginal Justice Agency, *Submission 19*, p.4.

<sup>49</sup> Name changed for anonymity.

cultural activities, which are vital to the survival of his peoples' heritage. When his income was placed under management, he could no longer contribute as freely to these events. The restrictions made it difficult to purchase supplies for ceremonies or to assist others in the community who were in need. This disruption not only affected David's role within the community but also threatened the continuity of cultural practices that have been passed down through generations. David felt a deep sense of loss, shame and frustration as his ability to uphold his cultural responsibilities was undermined. Considering the depth and breadth of harm caused by these harmful policies, those subject to the harmful policy of compulsory income management must be granted compensation.

### **Lack of Consultation and No Consent**

1.19 Compulsory Income Management was imposed on many First Nations communities without their self-determined free, prior, and informed consent, which is protected within international human rights law in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), to which Australia is a signatory. The UNDRIP embodies many human rights principles already protected under international customary and treaty law, and is the most comprehensive international instrument on the rights of Indigenous Peoples, setting the *minimum standard* of human rights for First Peoples and State Parties' interactions with First Peoples. Throughout this inquiry, the committee heard from various submitters about the disregard for fundamental human rights by governments and industry, a lack of genuine consultation and a disregard for the need to obtain free, prior and informed consent. This is an all too common theme in the standard operating procedures of successive governments.

Too many government agencies are implementing versions of shared decision-making that involve consulting with Aboriginal and Torres Strait Islander people on a predetermined solution, rather than collaborating on the problem and co-designing a solution.<sup>50</sup>

I'm sure the department will talk this afternoon about all the consultations it's doing. I think a question for them is: what else is on the table for communities to choose?<sup>51</sup>

Major reports that examined community consultation processes initiated by the Commonwealth government on NT Intervention legislation, central finding of this research was that compulsory Income Management was a

<sup>50</sup> Productivity Commission 2023, Review of the National Agreement on Closing the Gap, Draft Report, Canberra, July.

<sup>51</sup> Associate Professor Elise Klein, Private Capacity, Committee Hansard, 5 July 2024, p. 46.

racist imposition on the lives of Aboriginal people, who overwhelmingly resented being targeted and having their rights restricted.<sup>52</sup>

1.20 Meaningful consultation requires more than just tokenistic meetings; it involves engaging with communities in a way that respects their knowledge, perspectives, and aspirations. Unfortunately, the process leading up to the introduction of income management was rushed and superficial, with little regard for the views and concerns of First Peoples. This lack of proper consultation has led to the imposition of policies that do not reflect the needs or desires of the communities they are supposed to help. Moreover, it has fuelled resentment and resistance, as many feel their voices have been ignored in decisions that profoundly affect their lives.<sup>53</sup> This paternalistic approach is not only unethical but also counterproductive, as it undermines trust and fails to address the root causes of social and economic issues within our communities.<sup>54</sup> The concerns with consultation were addressed by the committee,<sup>55</sup> including that remote communities were not consulted when the scheme was first introduced,<sup>56</sup> and that the current approach to consultation has been harmful and divisive, and may not even have taken place with those on income management themselves.

By and large community based consultations have not effectively engaged with those for whom the policy has directly impacted and instead has created greater community friction by seeking and obtaining the views of others in the community about those on income support payments.<sup>57</sup>

The consultation processes did nothing to shift this reform trajectory, despite strong protestations from many Aboriginal people about the discriminatory and destructive impact of Income Management. Government commissioned reports on the effectiveness or otherwise of Income Management in this period also failed to demonstrate any evidence

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<sup>52</sup> Craig Longman, Nicole Watson, Alastair Nicholson, Alison Vivian, Terry Priest, Jason De Santolo, Padraic Gibson, Larissa Behrendt & Eva Cox, *Listening But Not Hearing: A Response to the NTER Stronger Futures Consultations June to August 2011*, Jumbunna Indigenous House of Learning, University of Technology Sydney, March 2012; Alastair Nicholson, Larissa Behrendt, Alison Vivian, Nicole Watson and Michelle Harris, *Will They Be Heard? A response to the NTER Consultations June to August 2009*, Jumbunna Indigenous House of Learning Research Unit, University of Technology Sydney, November 2009.

<sup>53</sup> Tabitha Lean, National Network of Incarcerated and Formerly Incarcerated Women and Girls, and Anti-Poverty Network.

<sup>54</sup> Tabitha Lean, National Network of Incarcerated and Formerly Incarcerated Women and Girls, and Anti-Poverty Network.

<sup>55</sup> See, for example: Mrs Jessica Stevens, Accountable Income Management Network, Committee Hansard, 5 July 2024, p. 23; and Jumbunna Institute of Indigenous Education and Research, *Submission 26*, p. 3.

<sup>56</sup> Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, *Submission 2*, p. 3.

<sup>57</sup> Accountable Income Management Network, *Submission 6*, p. 4.



the scheme was improving people's lives and were full of testimony from Aboriginal people who felt humiliated by the scheme.<sup>58</sup>

### Consultation is Not Consent

1.21 Importantly, despite what governments and industry prefer to think, mere consultation is not consent, and does not fulfil the obligations outlined under the UNDRIP.

I underline that consultation is not free, prior and informed consent.<sup>59</sup>

Nuance must be considered, self-determination be prioritised above all and resistance of any one-size fits all decision making. Compulsory policies do not support this.<sup>60</sup>

1.22 Free, prior and informed consent is one of the core principles of the UNDRIP and a key prerequisite for colonial government interactions with First Peoples and ensuring their right to self-determination is upheld. Article 32 of the UNDRIP states:

- Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
- States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
- States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

1.23 The elements of a common understanding of free, prior and informed consent have been articulated in the United Nations Permanent Forum on Indigenous Issues' Report of the International Workshop on Methodologies regarding Free, Prior and Informed Consent and Indigenous Peoples:

- **Free** implies that there is no coercion, intimidation or manipulation.
- **Prior** implies that consent is to be sought sufficiently in advance of any authorization or commencement of activities and respect is shown to time requirements of First Nations consultation/consensus processes.
- **Informed** implies that information is provided that covers a range of aspects, including the nature, size, pace, reversibility and scope of any

<sup>58</sup> Jumbunna Institute of Indigenous Education and Research, *Submission 26*, p. 3–4.

<sup>59</sup> Associate Professor Elise Klein, Private Capacity, Committee Hansard, 5 July 2024, p. 37.

<sup>60</sup> Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, *Submission 2*, p.2.

proposed project or activity; the purpose of the project as well as its duration; locality and areas affected; a preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks; personnel likely to be involved in the execution of the project; and procedures the project may entail. This process may include the option of withholding consent. Consultation and participation are crucial components of a consent process.

- 1.24 The absence of genuine consent in the rollout of income management reflects a continuation of these colonial attitudes, where decisions are made about our lives without our involvement or agreement.

NPYWC's theory of change and service provision is deeply rooted in strengths based policies and localised processes. In essence – allowing Anangu to determine what is best for Anangu. This is the catalyst for transforming communities with the intention of every person fulfilling their right to full emotional, social, physical and spiritual wellbeing.<sup>61</sup>

#### **Alternative Policy Responses: What else is on the table?**

You've got APO NT, the Aboriginal Peak Organisations representatives, calling for the end of compulsory income management. They have an extensive idea around economic development and community development for communities that has been well researched and designed with a deep community engagement, and compulsory income management is not on there. Why is the department spending millions of dollars doing consultation when compulsory income management is the only thing on the table, yet communities have got an expansive array of ideas and alternatives that have been there forever.<sup>62</sup>

- 1.25 The overwhelming evidence heard by the committee shone a light on impacted communities who are struggling with the intersectional impacts of colonialism including forced poverty, lack of services and opportunities. This was brought by up many, including Aunty Barbara Shaw, a community leader from the Alice Springs, and the current chair of the NT Aboriginal Investment Corporation:

“The main struggle our people face is the extreme cost of living crisis and the price of food, which is even worse in remote communities, where prices can be triple compared to the big supermarkets in our town centres. There are so many health issues - diabetes, heart problems, kidney failure. People need healthy food, but they complain they are walking out of the shops with just one bag of shopping after spending their whole payment. Income Management does not help our people with this problem at all, we need better incomes and opportunities to access good food to stay healthy.<sup>63</sup>

The purported intent of income management is to help people receiving income support payments budget for the basics. A focus on improved

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<sup>61</sup> Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council, *Submission 2*, p.1.

<sup>62</sup> Associate Professor Elise Klein, Private Capacity, Committee Hansard, 5 July 2024, p. 46.

<sup>63</sup> Jumbunna Institute of Indigenous Education and Research, *Submission 26*, p.6.

budgeting is of limited utility when people have barely enough money to survive.<sup>64</sup>

While Indigenous poverty rates are decreasing (albeit to a small degree) across most parts of the country, in remote NT and West Kimberly, they are escalating – significantly. This level of poverty is unparalleled elsewhere in Australia and evidence of serious policy failure – and income management is a wholly inadequate policy to address it.<sup>65</sup>

Public authorities are responsible for ensuring the effective administration or supervision of a social security system.<sup>66</sup>

- 1.26 This situation highlights decades of policies from successive governments across jurisdictions who have breached their human rights obligations under the UNDRIP as well as other key human rights instruments which require them to provide an adequate standard of living, including adequate food, nutrition, clean drinking water, clothing and housing, and the continuous improvement of living conditions.<sup>67</sup> The evidence from the inquiry made it clear that communities impacted by CIM are living in poverty and have limited access to permanent employment, and that income management would not change this reality. Many submitters agreed, while addressing poverty and food security were positive goals that should be prioritised by governments, compulsory income management was not an appropriate mechanism, and that there were other more effective mechanisms to address this.

In this regard, the UN Committee on Economic, Social and Cultural Rights has identified a 'minimum core' to the right to social security, requiring that States Parties ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education, and ensure the right of access to social security systems or

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<sup>64</sup> North Australian Aboriginal Justice Agency, *Submission 19*, p.3.

<sup>65</sup> North Australian Aboriginal Justice Agency, *Submission 19*, p.4; Dr Francis Markham, submission to the Inquiry into the extent and nature of poverty in Australia (October 2023), Submission no. 251, p.6–7, (<https://www.aph.gov.au/DocumentStore.ashx?id=9cff3504-f70f-42a7-b379-a5fda9f7b2dc&subId=750035>).

<sup>66</sup> UN Committee on Economic, Social and Cultural Rights, General Comment No. 19: The Right to Social Security (2008) [11].

<sup>67</sup> Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR); See also articles 5(e)(iii) and 7 of the Convention on the Elimination of All Forms of Racial Discrimination (CERD), article 14(2)(h) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), articles 24(2)(c) and 27 of the Convention on the Rights of the Child (CRC) and Article 28 of the Convention on the Rights of Persons with Disabilities (CRPD).

schemes on a non-discriminatory basis, especially for disadvantaged or marginalised individuals or groups.<sup>68</sup>

Income Management had made things harder for people who were already living in dire poverty, struggling to get by on meagre Centrelink payments.<sup>69</sup>

Why aren't we talking about locally based community organisations having funding to employ people in community development programs?<sup>70</sup>

International human rights law requires that social security benefits must be adequate in amount and duration.<sup>71</sup>

APO NT recommends that the Australian Government to increase social welfare payments to alleviate deepening poverty in remote communities including welfare payments to be permanently and adequately increased to keep people out of poverty.<sup>72</sup>

- 1.27 Harsh punitive measures are pushing not only First Peoples but also other community members further into marginalisation. In addition, access to life-saving services, programs, and opportunities must not be linked with, or be dependent upon participation in punitive programs. If the goal is to create safer and healthier communities, the significant funds currently allocated to Income Management could be better spent on adequately funding social services, improving access to education and training, and ensuring sufficient payment rates for those who depend on income support.
- 1.28 A comprehensive approach to supporting First Nations communities involves grounding development programs in self-determination and cultural respect, with a focus on building local capacity and leadership for sustainable, long-term growth. Investing in education and vocational training that incorporates First Peoples' knowledge and languages, such as Indigenous Ranger Programs, is essential to creating opportunities that reinforce cultural connections. Economic development should be supported through funding, mentorship, and resources for First Nations-owned businesses, aligning with cultural values to promote self-sufficiency. Health and well-being initiatives must address the holistic needs of First Peoples, while increased investment in culturally appropriate housing and infrastructure is critical to improving living conditions and preserving cultural practices. Additionally, revitalising and preserving First Peoples' languages and heritage is vital for fostering cultural pride, particularly

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<sup>68</sup> UN Committee on Economic, Social and Cultural Rights, General Comment No. 19: The Right to Social Security (2008) [59].

<sup>69</sup> Jumbunna Institute of Indigenous Education and Research, *Submission 26*, p.3.

<sup>70</sup> Dr Padraic John Gibson, Senior Researcher, Jumbunna Institute for Education and Research, University of Technology Sydney, Committee Hansard, 5 July 2024, p.35.

<sup>71</sup> UN Committee on Economic, Social and Cultural Rights, General Comment No. 19: The Right to Social Security (2008) [2].

<sup>72</sup> North Australian Aboriginal Justice Agency, *Submission 19*, p.3.

among young people. Finally, providing resources for First Peoples-led advocacy organisations and legal services is crucial to protecting the rights of our people and addressing systemic discrimination and inequality.

- 1.29 While reforming is challenging, especially when populist rhetoric and political agendas overshadow a fair evaluation of a program's costs and benefits, all that is required is the political will.

Faced by social or economic problems there can be pressure on governments and departments to be seen as doing something. In such circumstances even ineffectual programs, or programs which have some adverse impacts, are seen as preferable to doing nothing, or admitting that the problem is much more fundamental than just its surface manifestation. This again can be exacerbated where such programs also serve as 'dog whistles' to certain elements of the electorate, for example, that punitive action is being taken, and where the population which is subject to the program is relatively powerless. All of these factors appear to be in place with respect to income management.<sup>73</sup>

### **Recommendation 1**

- 1.30 **The complete abolition of all forms of compulsory income management, including:**

- **The abolition of all forms of compulsory quarantining of welfare payments and the repeal of Part 3B of the Social Security (Administration) Act 1999 (Cth) this includes amending the Act to revoke the Ministerial discretionary power to extend the Enhanced Income Management regime to new regions or jurisdictions via instrument.**
- **Working with states and territories to amend any relevant legislation in other jurisdictions to abolish all legislation, programs and policies that use non-voluntary income management practices.**
- **The Social Security Act be amended, so as to insert 'objects'. The 'objects' should make direct reference to Australia's international human rights obligations - including ESCR, ICCPR, UNDRIP and under the UN Convention on the Rights of the Child**

### **Recommendation 2**

- 1.31 **The complete removal of all punitive, mandatory mutual obligations requirements for access to social services more broadly, and to discontinue the practice of embedding compulsory income management, or other mandatory obligations, as a feature of the social security framework or access to services and opportunities.**

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<sup>73</sup> Response to Questions on Notice from Senator Thorpe: Professor Matthew Gray & Dr J. Rob Bray 17 July 2024.

**Recommendation 3**

**1.32 Ongoing, sustained investment in a comprehensive range of local support programs, opportunities, and life-saving services accessible to all. This should include community-driven alternatives to income support, the creation of genuine, self-determined, culturally appropriate, community-controlled jobs with fair wages and conditions, adequate training and skill development, and the revitalization of local community decision-making.**

**Recommendation 4**

**1.33 Permanently and adequately increase the rate of all social security income support payments to a safe, healthy and sustainable level, including increasing the remote Area Allowance (RAA) and the maximum threshold for Commonwealth Rent Assistance, and increasing all payments in line with wage movements, including indexation.**

**Recommendation 5**

**1.34 Targeted efforts by the Department of Social Services to ensure that First Peoples in remote communities are receiving the payments for which they are eligible.**

**Recommendation 6**

**1.35 Consistent with this committee's inquiry into the Human Rights Framework in Australia, that the Australian Parliament should enact a federal Human Rights Act.**

**Recommendation 7**

**1.36 Compensation should be provided to those impacted by compulsory income management, ensuring that those who were subject to these measures receive appropriate reparations.**

**Recommendation 8**

**1.37 If a voluntary model of income management is to be pursued, which is fraught, and unnecessary, then it must be entirely based on the principles of full, free, prior and informed consent through an opt-in system, whereby those who choose not to participate even on a voluntary basis, are not denied access to any services or opportunities available, or otherwise disadvantaged.**

**Recommendation 9**

**1.38 That while compulsory income management remains in place, any future proposed amendments to compulsory income management legislation, and any future Ministerial determinations affecting compulsory income**

management, need to be transitional only, pending the phasing out of compulsory income management, including a sunset clause.

**Recommendation 10**

**1.39 All approaches with respect to policy in this area must be in line with the principle of free, prior, and informed consent contained in Article 19 of the United Nations Declaration on the Rights of Indigenous Peoples.**

**Senator Lidia Thorpe  
Senator for Victoria  
Independent**





# Appendix 1

## Submissions and Additional Information

### Submissions

- 1 Professor Beth Goldblatt
- 2 Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council
- 3 Anglicare Australia
  - Attachment 1
- 4 Professor Stefanie Schurer, University of Sydney
  - Attachment 1
  - Attachment 2
- 5 Social Work Policy and Advocacy Action Group at RMIT University
- 6 Accountable Income Management Network (AIMN)
- 7 The Centre for Excellence in Child & Family Welfare
- 8 Associate Professor Elise Klein OAM and Dr Francis Markham
- 9 Economic Justice Australia
- 10 Centre for Policy Futures
- 11 Dr Shelley Bielefeld
  - Attachment 1
  - Attachment 2
- 12 National Aboriginal Community Controlled Health Organisation (NACCHO)
- 13 Charles Darwin University and Monash University
- 14 Department of Social Services
- 15 Northern Territory Council of Social Service (NTCOSS)
- 16 Dr Anna Cody, Sex Discrimination Commissioner
- 17 Australian National Audit Office
- 18 Aboriginal Peak Organisation Northern Territory (APO NT)
- 19 North Australian Aboriginal Justice Agency
- 20 Family Responsibilities Commission
- 21 Single Mother Families Australia
- 22 Australian Council of Social Service
- 23 Robert Heron
- 24 National Regional, Rural Remote and Very Remote Community Legal Network
- 25 Dr Liesel Spencer
- 26 The Jumbunna Institute for Indigenous Education and Research
- 27 Confidential
- 28 Council of Single Mothers and their Children
- 29 Women's Legal Service NSW
- 30 Dr Rob Bray PSM and Professor Matthew Gray

31 Mr Jamie Burton KC

**Answer to Question on Notice**

- 1 Department of Social Services - statistics of demographics subject to compulsory income management - asked by Mr Josh Burns MP via written question - received 4 July 2024.
- 2 Department of Social Services - average and longest length of time people are subject to compulsory income management - asked by Mr Josh Burns MP via written question - received 4 July 2024.
- 3 Department of Social Services - department method to assessing effectiveness of compulsory income management - asked by Mr Josh Burns MP via written question - received 4 July 2024.
- 4 Department of Social Services - exemptions from compulsory income management since 2007 - asked by Mr Josh Burns MP via written question - received 4 July 2024.
- 5 Department of Social Services - statistics of people excluded from compulsory income management since 2007 - asked by Mr Josh Burns MP via written question - received 4 July 2024.
- 6 Department of Social Services - differences between Part 3B and 3AA in terms of exemption or exclusion from compulsory income management - asked by Mr Josh Burns MP via written question - received 4 July 2024.
- 7 Department of Social Services - percentage and amount of individuals under compulsory income management due to individualised assessment - asked by Mr Josh Burns MP via written question - received 4 July 2024.
- 8 Associate Professor Elise Klein OAM - answers to questions on notice asked by Senator Lidia Thorpe via written question - received 16 July 2024
- 9 Dr Rob Bray PSM and Professor Matthew Gray - policy evaluation findings - asked by Senator Lidia Thorpe via written question - received 17 July 2024.
- 10 Dr Rob Bray PSM and Professor Matthew Gray - Family Responsibilities Commission model - asked by Senator Lidia Thorpe via written question - received 17 July 2024.
- 11 Dr Rob Bray PSM and Professor Matthew Gray – Ministerial discretionary power - asked by Senator Lidia Thorpe via written question - received 17 July 2024.
- 12 North Australian Aboriginal Justice Agency - questions asked by Senator Lidia Thorpe via written question - received 18 July 2024.
- 13 Dr Francis Markham - answers to questions on notice asked by Senator Lidia Thorpe via written question - received 18 July 2024
- 14 Economic Justice Australia – income management scheme impact – asked by Senator Lidia Thorpe via written question – received 18 July 2024
- 15 Economic Justice Australia – Family Responsibilities Commission model – asked by Senator Lidia Thorpe via written question – received 18 July 2024.

- 16 Economic Justice Australia – policy move – asked by Senator Lidia Thorpe via written question – received 18 July 2024.
- 17 Australian Human Rights Commission – answers to questions on notice asked by Senator Lidia Thorpe via written question – received 18 July 2024.
- 18 Dr Shelley Bielefeld – answers to questions on notice asked by Senator Lidia Thorpe via written question – received 19 July 2024.
- 19 National Regional, Rural, Remote and Very Remote (4Rs) Community Legal Network - asked by Senator Lidia Thorpe via written question - received 19 July 2024.
- 20 Accountable Income Management Network – questions asked by Senator Lidia Thorpe via written question – received 18 July 2024.
- 21 Family Responsibilities Commission – answer to questions taken on notice, public hearing Canberra, 5 July 2024 – received 19 July 2024
- 22 Family Responsibilities Commission – questions asked by Senator Lidia Thorpe via written question – received 19 July 2024
- 23 Aboriginal Peak Organisations Northern Territory – answer to questions on notice asked by Senator Lidia Thorpe via written question – received 23 July 2024
- 24 University of Adelaide - answers to questions on notice asked by Mr Henry Pike MP via written question - received 5 August 2024.
- 25 Department of Social Services - income management exemptions - asked by Senator Lisa Darmanin - received 13 August 2024.
- 26 Department of Social Services - income management assessment - asked by Mr Graham Perrett MP - received 13 August 2024.
- 27 Department of Social Services - objectives of enhanced income management - asked by Mr Graham Perrett MP - received 13 August 2024.
- 28 Department of Social Services - enhanced income management - asked by Mr Graham Perrett MP - received 13 August 2024.
- 29 Department of Social Services - evaluation plan for enhanced income management program - asked by Mr Graham Perrett MP - received 13 August 2024.
- 30 Department of Social Services - compatibility of income management with Australia's international human rights law obligations - asked by Mr Graham Perrett MP - received 13 August 2024.
- 31 Department of Social Services - human rights concerns with compulsory income management - asked by Mr Graham Perrett MP - received 13 August 2024.
- 32 Department of Social Services - seeking an exemption from income management - asked by Mr Graham Perrett MP - received 13 August 2024.
- 33 Department of Social Services - stakeholder organisations - asked by Senator David Shoebridge - received 22 August 2024
- 34 Department of Social Services - additional supports- asked by Senator David Shoebridge - received 22 August 2024

- 35 Department of Social Services - average length of time - asked by Mr Josh Burns MP - received 22 August 2024
- 36 Department of Social Services - cost of keeping people voluntarily on compulsory income management - asked by Senator Matt O'Sullivan - received 22 August 2024
- 37 Department of Social Services - decision review - asked by Mr Josh Burns MP - received 22 August 2024
- 38 Department of Social Services - Domino - asked by Senator Matt O'Sullivan - received 22 August 2024
- 39 Department of Social Services - ending program a positive - asked by Ms Kylea Tink MP - received 22 August 2024
- 40 Department of Social Services - ETM Perspective consultations - asked by Senator Matt O'Sullivan - received 22 August 2024
- 41 Department of Social Services - income management exemptions- asked by Senator David Shoebridge - received 22 August 2024
- 42 Department of Social Services - individual transaction review - asked by Mr Graham Perrett MP - received 22 August 2024
- 43 Department of Social Services - stakeholder breakdown - asked by Senator David Shoebridge - received 22 August 2024
- 44 Department of Social Services - answers to questions on notice asked by Senator Lidia Thorpe via written question - received 22 August 2024
- 45 Department of Social Services - Cashless Debit Card contact line - asked by Mr Graham Perrett MP - received 29 August 2024

### **Media Releases**

- 1 Media release income management.

### **Tabled Documents**

- 1 Document tabled by the National Regional, Rural Remote and Very Remote Community Legal Network, public hearing, Canberra, 5 July 2024
- 2 Opening statement tabled by the Department of Social Services, public hearing, Canberra, 29 July 2024
- 3 University of Adelaide, Review of the Impact of the Cessation of the Cashless Debit Card: Final Report, May 2024, tabled by Mr Henry Pike MP, public hearing, Canberra, 29 July 2024

## Appendix 2

### List of Witnesses

*Friday, 5 July 2024*  
Committee Room 2S3  
Canberra

*Family Responsibilities Commission, Queensland*

- Ms Tammy Williams, Commissioner and CEO
- Ms Camille Banks, Manager, Compliance and Legal Policy

*Australian Human Rights Commission*

- Dr Anna Cody, Sex Discrimination Commissioner

*North Australian Aboriginal Justice Agency*

- Mr Shane Foyster, Housing and Social Security Consultant Lawyer
- Mr Jared Sharp, Principal Legal Officer

*Accountable Income Management Network*

- Mr Simon Schrapel AM, Convenor of the AIMN
- Mrs Jessica Stevens, Committee Member

*National Regional, Rural Remote and Very Remote Community Legal Network*

- Ms Judy Harrison, Co-Convenor

*Economic Justice Australia*

- Ms Taylah Bell, Project Officer – Remote Women’s Access

*Professor Stefanie Schurer, Private capacity*

*Professor Matthew Gray, Private capacity*

*Dr J. Rob Bray PSM, Private capacity*

*The Jumbunna Institute for Indigenous Education and Research*

- Dr Padraic Gibson, Senior Researcher

*Dr Shelley Bielefeld, Private capacity*

*Associate Professor Elise Klein, Private capacity*

*Dr Francis Markham, Private capacity*

*Department of Social Services*

- Mrs Letitia Hope, Deputy Secretary, Families and Communities

- Ms Justine Fievez, Branch Manager, Income Management Engagement and Support Services
- Mr Patrick Boneham, Branch Manager, Income Management Policy and Data

*Monday, 29 July 2024*

Committee Room 2S3

Canberra

*Department of Social Services*

- Mrs Letitia Hope, Deputy Secretary, Families and Communities
- Mr Patrick Burford, Group Manager, Communities
- Mr Patrick Boneham, Branch Manager, Income Management Policy and Data