



NATIONAL
WELFARE RIGHTS
NETWORK

Submission to Senate Community Affairs
Legislation Committee

Social Security Legislation Amendment
(Debit Card Trial) Bill 2015

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1. About the National Welfare Rights Network

The National Welfare Rights Network (NWRN) is the peak community organisation in the area of social security law, policy and administration. We represent community legal centres and organisations whose role is to provide people with information, advice and representation about Australia's social security system.

NWRN member organisations operate in all states and territories of Australia. They are organisations which have community legal services and workers dedicated to social security issues. Their services are free and they are independent of Centrelink and government departments.

The NWRN also has as Associate Members the Central Australian Aboriginal Legal Aid Service (CAALAS) and the North Australian Aboriginal Justice Agency (NAAJA).

The NWRN develops policy about social security, family assistance and employment assistance based on the casework experience of its members. The Network provides submissions to government, advocates in the media and lobbies for improvements to Australia's social security system and for the rights of people who use the system.

2. Summary of key concerns with the Bill

The National Welfare Rights Network welcomes this opportunity to provide evidence to the Senate Community Affairs Legislation Committee. Below we provide a summary of our key concerns, which are elaborated in greater detail later in the submission.

We have a number of significant questions and serious concerns about a number of aspects of this Bill.

The Debit Card Trial is unlike any social security payment arrangements in other developed nations.¹ The cashless debit card is untried and untested, and for many, unfair. A small twelve month trial could decide the future delivery mechanism of not just Income Management, but for the entire income support system in this country. This is why extensive, broad consultation is critical.

NWRN's long-standing position in relation to conditional welfare is to oppose Compulsory Income Management. We support a genuinely voluntary, 'opt-in' scheme for people and communities who believe that it would be beneficial. Independent evaluation, using baseline data and both qualitative and quantitative assessments are critical for any major policy reform – but when an expensive evaluation is undertaken, it must not just be ignored.

The key point of difference with this trial seems to be the delivery mechanism and the amount to be quarantined. Fundamentally our concerns and questions about this Bill are that there are just too many unknowns about how it will work in practice or is dependent on legislative instrument. Too much is simply unclear, starting with which bank or financial institution will deliver the cashless debit card?

The restrictions on cash are too severe and will cause hardship. Eighty per cent of a person's social security payments will be sequestered into a 'restricted' bank account which people will be forced to open. Child Protection Income Management which to date was the highest quarantined form of

income management is lower at 70%. This level was so that an individual and their family's priority needs could be met. We cannot see the case for a higher amount being quarantined. We see that it will cause added difficulties for people to manage and use a different bank to withdraw the remaining 20%.

With this trial a person on Newstart Allowance will have just \$51.90 a week available in cash. Young people under 18 living at home on Youth Allowance will have just \$23.35 a week in their 'unrestricted' bank account. Those on Carer Payment or Disability Support Pensioners will have \$86 a week regardless of whether they gamble or drink alcohol.

Denying access to almost all cash is far more than just a temporary inconvenience as has been asserted by the Government when trying to justify these changes.

There have been promises of much needed support services to the trial communities, but there are as yet no guarantees of what services are to be provided and who will be providing the funding for this during the trial and what will happen after the trial concludes. The Bill (again) indirectly targets mainly Indigenous people and their communities. Yet, the Parliamentary Secretary to the Prime Minister, Alan Tudge had indicated in interviews and in initial consultations on the Forrest Review last year that these trials would include highly disadvantaged Indigenous and non-Indigenous communities.²

'Trigger payments' are far too broad covering all working age payments including those previously not targeted with New Income Management in the North Territory.

Age and Veteran pensioners are exempt from the trial but are going to be encouraged to opt in voluntarily to avoid being 'humbugged' to hand over their cash. It may be the only choice for some Age and Veteran pensioners in the trial communities to avoid being harassed.

The Minister can decree by legislative instrument that certain 'classes of person's who will be subject to cash restrictions. At this point we do not know which classes or groups who could be in scope to be included in this measure in the future.

Unlike other forms of income management we cannot see any way in which a person on a trigger payment is able to seek an exemption from the Trial. In conversation with the Department of Social Services we were told that there was already a legislated general exemption available to income management where a person could be harmed. Whilst there are specific exemptions for some categories of income management we cannot see the suggested provisions which would apply for exemptions from inclusion in the proposed Debit Card Trial.

Cash restrictions will follow trial participants if they move from a trial site – though the services, and other controls or supports may not.

The Bill creates the option for a 'community body', where a person can petition for a reduction in their 'restricted' 80%. These may not be available in all sites, if at all. The Minister may authorise guidelines/and choose to disband a local community board. This is an inferior mode of community involvement to the Families Responsibilities Commission which has been a cornerstone for the Cape York Trials. This outsources Centrelink's decision making responsibility and any decisions will not be reviewable. Centrelink should have this role, to ensure that there is consistency, transparency and fairness in the review of decisions.

² Tudge, A. *SAA Adelaide Interview with David, Mark and Jane*, 23 March 2015.

'Fee-free' banking was a big plus with Income Management and the BasicsCard. NWRN has been advised that *'the Department is working with financial institutions currently in Ceduna about waiving ATM costs for people to check their balance.'* This is welcome, as interchange fees at 'foreign' ATM's often cost \$2.50 each time. Minimum purchase requirements will cause problems for many. The bigger issue is surcharge fees, and essentially the Government is saying it is up to individual merchants as to whether they charge these fees or not. NWRN argues that this is just wrong. This blatantly discriminates against those who are forced onto this card by making everything more expensive if the merchants choose not to waive the fees.

The Department has advised NWRN of a capacity to access urgent cash advances in certain situations, when the card may be declined, or when a person is out of location and the purchase of goods and services is declined. Details on this are scarce. What will a woman with children do when trying to escape Domestic Violence? Lost and damaged cards will be an issue with the trial and replacement cards will need to be made available as quickly as possible.

There are also significant human rights implications arising from this legislation, which were highlighted in a recent damning report by the Joint Parliamentary Human Rights Committee. The demographic data underlines these human rights concerns. The trial is undoubtedly 'indirectly' discriminatory and our Network has serious concerns about this bill, and whether it should proceed as there are far too many unknowns, and far too many risks for the people subject to the trials.

3. The 'restricted' cash amounts, at 20 per cent, is far too low

A person on the Newstart Allowance will have access to just \$51.92 in unrestricted funds, while a Disability Support Pensioner can access \$86, but a young unemployed person has the least amount of income unfettered –just \$23 per week. The only reason for the difference is that pension payments are higher. There is no objective assessment which says that the need for unrestricted cash is greater for a person who is receiving a Disability Support Pension or a Carer Payment, compared to a person on a Newstart or Youth Allowance.

The Debit Card Trial has extremely broad application, as noted previously. One individual who contacted NWRN from Ceduna informed us of their 'surprise' and 'betrayal' when learning that the unrestricted amount was just 20 per cent, and that nearly all payment recipients would be required to take part in the trial.

4. Carers and people with disability

Previously, we highlighted concerns over the very broad number of social security payments that would be included as 'trigger payments' for the purposes of the cashless welfare arrangements. Below, we highlight some possible areas of concern for Carer Payment recipients and for care receivers, which could include Disability Support Pensioners, Age or Service Pensioners, or people not receiving a social security payment.

NWRN notes with concern the inclusion of Carer Payment recipients in the Debit Card Trial, as Carer Payment recipients are generally not referred to as a 'working age' payment. There are about 30 people receiving Carer Payment who are located in the Ceduna town area, according to recent Department of Social Services data, and there may be more in outlying locations. We are not aware that Carers Australia or other representative organisations have been consulted to obtain their

perspectives and feedback on any specific issues related to the inclusion of Carers and care receivers in this trial.

When these new cash restrictions start, the person being cared for (if on a trigger payment) will be unable to continue to hand over money to a carer, friend or family member to buy the medicines or to pick up a few groceries, or bread and milk. They may have no choice but to hand over their bank card and PIN number each time they want to make a small transaction. Note that handing over these details runs counter to a person's requirements under the EFT Banking Code, and a person may not be protected if they suffer financial losses, because they voluntarily disclosed their PIN details to another person.

This opens up new avenues for financial abuse and exploitation. Age and Service Pensioners may now also be even more vulnerable, as they alone in the community (apart from people in paid work) will not be subject to the income restriction trials. Many care recipients are already particularly vulnerable, due to age or ill health and may be at greater risk of financial exploitation.

A different set of issues will arise where care recipients are non-pensioner retirees. This group of people will have substantial resources, but will not have the option to sign up for voluntary cash restrictions as a way of avoiding potential 'humbugging' for money. Another consideration is the high levels of disability among Indigenous people, as well as high levels of informal caring arrangements.

Carers and care receivers will face a new set of risks and challenges if and when the trial proceeds.

One final, but a very important point to note is that the introduction of the trial also brings with it the risk that it will result in a further loss of control of a person's financial affairs. This isn't about financial loss, but the sense of personal dignity, control and personal autonomy. The loss of personal decision-making can be a significant blow, in addition to physical limitations that can come with age or disability that people being cared for may experience. A further risk with this cashless card trial is that it infantilises some people on payments, and may undermine a person's sense of control and dignity.

A further consideration is that it is unclear from the explanatory memorandum or Bill what processes will occur for those who have nominee arrangements in place. NWRN notes that specific arrangements were put in place with income management for those with a nominee.

At *Appendix 1* we provide a number of possible scenarios of how people may be impacted by the proposed Debit Card Trial.

5. *The establishment of a 'community body'*

The Bill opens the door for the establishment of a 'community body', where a person can petition their peers in the local community for a reduction in the amount that is locked in their restricted account, to a lower 50 per cent.

Section 124PE enables the Minister for Social Services to authorise a local community body to work with people who request that a lower amount of a person's payments be restricted.

The very fact that the legislation is addressing this issue at all is a tacit, but welcome acknowledgement of a fundamental problem with the trial – that quarantining 80 percent of a

person's income support payments is extreme and will place people in severe financial hardship and cause significant problems for some people.

If this trial proceeds it should have a mechanism that allows greater access to cash, with appeal rights and discretion to Centrelink as a safeguard for a fair and transparent process. We are concerned with the precedent set by essentially outsourcing Centrelink's decision making role to an as yet established community body.

The Department would set and monitor guidelines, the board would be voluntary, and the Minister must agree to any guidelines developed by the community board and can disband them at any time. All of this would add to the cost of the trial.

A major concern is that adherence to *section 124PK* means that the Secretary must comply with directions given by a community body. *Subsection 4* makes clear that the written direction also overrides any legislative instrument made by the Minister setting percentages for particular classes of persons and particular trial areas.³

There needs to be a discretion for Centrelink to vary a percentage. Increasing the role of the community in decision making may be positive for individuals and for the wider community, but a person in dispute with a community body will have no effective appeal mechanism, which is contrary to principles of good administration and decision making. There may only be limited need for such a recourse, but we urge caution and for proper safeguards to be put in place. We agree that the Centrelink discretion should only be invoked in special circumstances, but discretion must be inserted in the Bill to cater for exceptional circumstances.

The best safeguard is for Centrelink to be the decision maker.

It may be rarely invoked, but is a critical component of the checks and balances that would be required should this measure proceed.

In summary, NWRN's concerns with the community body includes that:

- the process will require significant level of resourcing if it is to be fairly constructed and administered;
- it removes the capacity for a person to seek independent review of a percentage decision under internal review or review by the Administrative Appeals Tribunal;
- while notionally 'voluntary' in the sense that a person elects whether they wish to apply to a community board, a person will have no choice but to apply to the community body if they want greater access to the 'restricted' portion of their funds;
- a person petitioning the body may need to indicate compliance with certain behaviours and be required to answer intrusive and invasive personal questions about their circumstances to members of their own community;
- as panels are allowed to establish their own decision-making guidelines, this could result in people in different communities being subjected to different, possibly unfair, treatment; and
- there is potential for some trial locations to be denied access to this option. If a local community body is not able or willing to host a 'community body', people subject to the trial will be denied the opportunity to have greater access to their 'unrestricted' funds.

³ House of Representatives, *Social Security Legislation Amendment (Debit Card Trial) Bill 2015, A Bill for an Act to amend the law relating to social security and family assistance*, p. 9.

The Minister, through the Department, will need to ensure that decisions of the community body are:

- transparent;
- fair;
- consistent across all locations; and
- reviewable.

Finally, it is not clear how all parties in what are small, local communities, will ensure adherence to the National Privacy Principles. Care will be needed to ensure that local community/family and kinship arrangements do not undermine standards and behaviour that the broader community and Department require of the community body.

6. Failure to provide general exemptions

While there are no general exemptions for people subject to the various Income Management measures that exists across the country, NWRN is concerned that the Bill provides significantly less protection for individuals as is allowed under existing legislation. The NWRN was provided with a briefing on the Bill recently, where officials from the Department of Social Services advised that a 'general exemption' would be available for people where participation in the trial would be harmful or not in the person's best interests.

NWRN's reading of the bill is that no such general exemptions exist. Certainly, there are none in the Bill itself. Additionally, it is difficult to see how exemptions from other parts of the Income Management scheme may apply when proposed *section 124PR* states that the new Part has effect despite anything in any other provision of this Act, or the *Social Security Administration Act*, the *Social Security Act*, the *Family Assistance Act* or the *Family Assistance Administration Act*.⁴

This is a reversal of recent changes to income management, which has sought to target welfare restrictions to groups deemed to be experiencing disadvantage, as in the 'youth triggers', 'child protection', and the 'vulnerable welfare recipient' measure.

The most comparable situation is the current 'youth triggers' measure that provides for limited "exceptions where a young person's psychological well-being or accommodation is at risk. According to the Legislative Instrument, exceptions are available where: the income management regime would place the person's mental, physical or emotional wellbeing at risk, including that the person is not able to meaningfully engage in or comprehend the income management process or is experiencing serious instability in their housing or living situation and income management would affect their ability to direct funds to housing."⁵

It is important that the committee satisfy itself what, if any, exemptions apply in relation to this measure.

In the absence of specific exemptions, a general discretion for Centrelink to exempt a person from this measure is required. This is to ensure that a person can be exempt eg in cases where application

⁴ The Hon Scott Morrison, Minister for Social Services, *Explanatory Memorandum, Social Security Legislation Amendment (Debit Card Trial) Bill 2015*, p. 8.

⁵ The Hon Jenny Macklin MP, Minister for Families, Community Services and Indigenous Affairs and Minister for Disability Reform, *Explanatory Statement Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2013*.

of this measure would have an adverse impact on a participant because its operation cannot be sufficiently adapted to accommodate the person's individual circumstances or needs.

The danger of imposing severe cash restrictions on entire classes of people is that there is no assessment or consideration of whether restricting 80 per cent of a person's income support will benefit that particular person, or assist them to overcome their vulnerability, or whether income management may in fact be detrimental to their wellbeing.

7. *Banking issues and the Debit Card Trial*

As we have noted, there are many additional unknown questions and issues about the proposed banking and financial arrangements that the Committee needs answered, such as:

- how will service interruptions to the EFTPOS/ATM system be managed so that participants maintain access to funds for essential items such as food and water?
- how will a participant make arrangements to pay an individual on a one-off or ongoing basis, eg for informal rent arrangements/fuel sharing arrangements/or for a second hand item of furniture?

People subject to the trial will hardly be in a position to 'shop around', to avoid fees and other inconveniences caused by the trial, so it is really a situation of bad luck, as they bear the extra cost for the trial.

There are a whole set of new, practical issues with these new arrangements that have not been properly canvassed. We will identify a few of these issues below. We suggest that the concerns warrant serious consideration by the Committee, and that the sensible course of action is to put the trial on hold until these issues have been adequately addressed.

Minimum purchase amounts are a significant problem with the card. Minimum purchase requirements are common, with many having minimum purchase limits of at least \$10 and some even more. To get around it, and when with a group, you might have to explain that you can't pay cash because you are on the Cashless Card Trial. It can also force people to spend more than they need or want to.

Fees, merchant surcharges, replacement cards and multiple accounts. 'Fee free' banking was seen by many people as a significant benefit with the system of Income Management that was introduced in September 2007. NWRN has been advised that *'the Department is working with financial institutions currently in Ceduna about waiving ATM costs for people to check their balance.'* This is critical, as the Committee would know that account balance inquiries at 'foreign' ATM's cost \$2.50 each time. These banking interchange fees are a significant cost for individuals, however, there is no solution to this problem when people are out of area. If people don't have other options to check balances when out of area, these costs can mount up.

Another much more significant concern and cost for many is that of merchant surcharges – which a person would not currently pay for when making cash transactions. The Department of Social Services has advised NWRN that it will work with merchants and try to convince them to absorb surcharges, but that *'ultimately, this is a decision for individual merchants...and that surcharges should be reasonable and proportionate, in line with standard banking practices.'*⁶

⁶ Johnson, M. Department of Social Services, *Debit Card Information Request*, Email correspondence to Gerard Thomas, National Welfare Rights Network, 10 September 2015.

It is unfair to expect Debit Card Trial participants to bear merchant fees. If merchants apply surcharges, the Government must meet these costs, and rebate any costs back to users as quickly as possible.

We have already noted that people may be required to operate two bank accounts. The Department has confirmed that a person will most likely be unable to open an 'unrestricted' account with the same financial institution – so they will have to have the inconvenience, and cost, of operating two separate bank accounts. This brings a whole new set of banking issues for users, such as, for example, some people may not continue to be eligible for "fee free" banking if their pension or allowance is not credited to a bank. Another common scenario is that certain fees and charges can be waived if there are minimum balances and deposits each month. NWRN suggests that the Department engage with consumer organisations with experience and knowledge of the banking sector, such as the Financial Rights Service, Financial Counselling Australia and Consumer Law Centre of Victoria.

Replacement of lost, damaged and stolen bank cards. DSS has advised that replacement cards will be reissued free of charge. This is welcome, as arrangements for card replacement was a significant issue for BasicsCard holders in the Northern Territory, with reports that card replacements in remote locations could take up to 2 weeks.

The evaluation report into Income Management in the Northern Territory noted that:

- 25 per cent of card holders had no replacement cards;
- a quarter had 10 or more replacement cards; and
- 1.2 per cent had more than 50 BasicsCard replacements.⁷

It appears that there will be one card provider for the trial, and we are unsure whether the financial institution will have a physical presence in Ceduna (or other trial locations). There will potentially be a number of practical issues if the provider does not have a local presence.

Other banking relationship questions for this trial include:

- what right does the Commonwealth assert to intervene in the consumer/bank contractual relationship? This turns the concept of 'consumer sovereignty' on its head for the trial participant group and is fundamentally different to the BasicsCard trial where the Commonwealth was the provider;
- is the contract even with the consumer? We understand that opening of the new account will be automatic. What does that mean? How can a consumer open an account in their name, without authorising it and going through the normal steps (eg – the 100 points of identification for new customers)? Is the Commonwealth really the account holder, as a sort of 'trustee' for the benefit recipient?
- how does the Commonwealth claim it can empower the bank to reduce the consumer's rights under privacy, consumer and competition laws, without amending those laws? and,
- in relation to the holding of the quarantined funds and the 'cash' component, the two sums cannot be held at the same institution. What happens if a participant already has a savings account with the selected bank? Does it mean they will be required to close that account? What right does the Commonwealth assert it has to force that to occur?

⁷ Bray, J. R., Gray, M., Hand, K., & Katz, I. (2014). *Evaluating New Income Management in the Northern Territory: Final Evaluation Report*, Social Policy Research Centre, UNSW, p. 126.

- how will all of this work for those who earn a wage who according to the DSS *Ceduna Information Sheet* will be able to use the *Cashless Debit Card* for their wages?⁸

In summary, the banking arrangements for the trials raise a further set of significant questions, and people subject to these new arrangements are bound to find the changes both confusing and complex.

It is clear that assuring smooth rollout will be highly resource intensive, and very expensive for the Department. It could also involve, for instance, setting up EFTPOS terminals in school canteens and sporting and cultural facilities, and establishing information and skills sessions for people about electronic and self-service banking.

In addition to questions about the cost, welfare and community groups are concerned that the Department just may not be able to complete all of the background work prior to the commencement of the trials.

8. Promised community programs and support services in trial locations

A positive aspect of the Cashless Debit Card trials is that the Federal Government has committed to providing a range of social and community services to assist in addressing unmet need and service deficits locally. The available assistance should include services such as: drug and alcohol rehabilitation, financial counselling, mental health supports, youth services, employment and domestic violence supports.

The Department of Social Services has advised that *“there was also strong support for the trial from service providers. The consultation did outline the possibility of additional supports to complement the trial which are outlined in the MoU. The areas are:*

- *Financial counselling and transitional support*
- *Economic development including training and employment*
- *Early childhood*
- *Community safety.*

“The Government is considering options to provide packages of support for trial communities. We are working closely with relevant state governments about alcohol and drug services, as well as monitoring and management of crime that may be associated with the trial. During consultations, some concerns were raised about potential shifts in crime or increased crime rates. Similar concerns were raised during income management consultations however no increased rates of crime have been reported. The Commonwealth Government will continue to work with SA Police to ensure they are prepared and able to respond to any possible changes in the pattern of crime around the time of implementation or throughout the trial.”⁹

At this stage it is still unclear what actual new services will be provided, who will run them, how much they will cost, how they will be funded and who will fund them and, just as important, if these key community services and programs of support will continue in these disadvantaged communities after the trial and concluded.

⁸ Department of Social Services, *Cashless Debit Card Trial – Ceduna* <https://www.dss.gov.au/families-and-children/programmes-services/welfare-conditionality/cashless-debit-card-trial-ceduna>

⁹ Department of Social Services, *Debit Card Trial information request, via Email*, 9 September 2015.

9. *Supporting individuals, children and families in disadvantaged communities*

The need for community-based, multi-dimensional, wrap-around support services to tackle the complex social problems in deeply disadvantaged communities across Australia is clear. The reasons for community disadvantage is a result of a complex interplay between the characteristics of those living in a community, such as unemployment, low income, poor health and the effects of the social and environmental issues, such as social isolation, and a lack of economic opportunities, etc.

Many families across the country, Indigenous and non-Indigenous, face challenges, from a range of social problems, including gambling, drug use and mental health and, domestic violence. Abuse and neglect of children, and problems associated with family violence require a coordinated response from Governments, business and the community. More programs and services are required to support families and communities blighted by addiction and abuse, to assist people and communities to re-build their families and their lives.

The Debit Card Trial is being promoted as a potential solution to many of the ills that are affecting some of our most disadvantaged families and communities.

Much of the discussion about the trial in Parliament has been motivated by a deep sense of concern about the social problems of drug and alcohol use and domestic violence, and of course, gambling. As many have noted, these issues are not exclusive to Indigenous communities alone, but this has been the focal point of politicians, community leaders and the media.

A key sentiment that we hear time and time again in relation to community problems is the refrain - 'we have to do something'. Major questions remain about this trial, and many are pointing to a seismic shift in the way we deliver social security payments, not only in this country, but internationally.

We know that there is no evidence from the evaluations of Income Management in the Northern Territory that controlling access to cash has reduced alcohol abuse.

To date, over \$6 million has been spent on the five formal evaluations of Income Management since 2010.¹⁰ The most recent and most comprehensive expert report presents a sobering analysis of the outcomes of a program involving income controls. It is worth examining these results in some detail.

- *School achievement shows that while there are some gains in the early years of school these are not reflected in the data for later years. The pattern of changes for Indigenous children in the Northern Territory are generally similar to those found for Indigenous children nationally.*
- *School attendance has improved at the provincial level, but has either remained stable or fallen in remote and non-remote locations, suggesting no generalised trend.*
- *Across a wide range of child health indicators there is no evidence of any consistent positive change.*
- *There has been a substantial decrease in per capita alcohol consumption from the mid-2000s. However, this decrease started well before the NTER and is almost certainly driven by factors other than income management.*

¹⁰ Senate Community Affairs Committee, Answers to Questions on Notice, *Social Services Portfolio, 2015-16 Budget Estimates Hearings, Question O. SQ15-000665*, 4 June 2015.

- *The number of alcohol-related presentations to emergency departments and admissions to public hospitals by Indigenous people in the Northern Territory has increased dramatically since the mid-2000s.*
- *Imprisonment rates of the Indigenous population have increased in the Northern Territory since 2002 at a faster rate than amongst the Indigenous population Australia-wide.¹¹*

The evaluation ends with a disappointing message for those hoping that controlling people's incomes is the solution: *"When the data are taken as a whole, not only does it suggest that there has been very little progress in addressing many of the substantial disadvantages faced by many people in the Northern Territory, but it also suggests that there is no evidence of changes in aggregate outcomes that can plausibly be linked to income management."¹²*

Many groups, including the NWRN recognise the urgent need to open up employment and other opportunities for Aboriginal and Torres Strait Islander peoples in particular. Many of the employment and education measures in the report by Andrew Forrest, *Creating Parity*, would go some way to help move people out of poverty.¹³ Specifically, we support the report's call for increased investment in early childhood education, comprehensive case management for vulnerable families, increased engagement between schools and parents and demand-led employment approaches. These initiatives are best implemented in way that strengthens the capacity of community-controlled organisations.

The Debit Card Trial is modelled on the BasicsCard, which it may ultimately replace. This high cost policy had some limited success with people who have entered into Income Management arrangements voluntarily. Evidence indicates that the scheme was unsuccessful in achieving the stated aims of preventing people from spending money on alcohol, on gambling or drugs. Improvements in encouraging school attendance appears to have stalled.

Many are concerned that the Debit Card Trial will constrain choices and make life more difficult. The inescapable message that the card sends is that these income support recipients cannot be trusted with cash. Where people have chronic drug alcohol addictions or where children are at risk, they need intensive case management and intervention based on the best available professional advice, based on evidence about the best way to assist people to participate.

10. Indirect discrimination and other Human Rights concerns

Parliamentary Secretary to the Prime Minister, Alan Tudge, has indicated that trials could include both Indigenous and non-Indigenous communities.¹⁴ However, the Department of Social Services is currently trying to identify a mainly non-Indigenous site willing to participate in the trials.

Of relevance here is the recent findings of the latest report by the Joint Human Rights Committee report tabled on 8 September 2015, which noted the trial sites of Ceduna and East Kimberley were likely trial sites, and concluded: *"It therefore appears likely that the measures may disproportionately impact on Indigenous persons, and as such may be indirectly discriminatory unless this disproportionate effect is demonstrated to be justifiable. "This has not been explored in the*

¹¹ Bray, J. R., Gray, M., Hand, K., & Katz, I. (2014). *Evaluating New Income Management in the Northern Territory: Final Evaluation Report*, Social Policy Research Centre, UNSW, p. 236.

¹² Ibid, p. 236.

¹³ See NWRN Submission to the Forrest Review. <http://www.welfarerights.org.au/news/2014/10/10/creating-parity-or-creating-uncertainty-response-from-national-welfare-rights>

¹⁴ A Tudge, '[SAA Adelaide Interview with David, Mark and Jane](#)', Transcript, 23 March 2015.

*statement of compatibility.*¹⁵

Speaking in Parliament on the report, Senator Canavan noted that *“some of the statements of compatibility accompanying the bills considered in this report have fallen short of the committee’s expectations. In particular, a number of these provide simple assertions with no supporting evidence.”*¹⁶

Further, he acknowledges that the trial *“involve limitations on a number of human rights, such as the right to a private life and the right to equality and non-discrimination.”*¹⁷

The Human Rights Committee report notes that quarantining a person’s social security payments and limiting where that quarantined payment can be spent is very similar to the current income management regime.

The report explores the history of Income Management, noting that there is no evidence of the program achieving the intended outcomes of the system of income control. Its blunt assessment is that *“(r)ather than promoting independence and building skills and capabilities, it appears to have “encouraged increasing dependence upon the welfare system”, and “there is no evidence to indicate its effectiveness at the community level or that it facilitates long-term behaviour change”.*¹⁸

The Human Rights committee also seeks the Minister’s advice on questions regarding the right to social security and the right to equality and non-discrimination – this is an important matter, particularly as the government’s statement about the Bill’s compatibility with human rights states that the cashless welfare arrangements trial will not be applied on the basis of race or cultural factors.

The matter of indirect discrimination is a key issue for this Committee to consider. In the NT, eight years after the first intervention, over 90 per cent of people still subjected to income management are Indigenous people – who make up just 30 per cent of the population.

The locations of sites in consideration of the card – Ceduna, Hall’s Creek, and Kununurra – all have high representations of Indigenous populations. Despite statements that this debt card trial wouldn’t be an Indigenous/non-Indigenous issue – that is exactly how it looks in practice.

This is especially as there appears to have been virtually no consultation with the non-Indigenous populations in the trial communities where the cashless debit card is to be trialled.

The Human Rights committee is seeking advice of the Minister for Social Services to determine:

- whether the proposed changes are aimed at achieving a legitimate objective, and
- whether there is a rational connection between the limitation and that objective.¹⁹

The Joint Parliamentary Human Rights Committee is currently undertaking a further review of the *Stronger Futures and related legislation* and is expected to report later in 2015. A copy of NWRN’s submission can be found on the Committee’s website.²⁰

¹⁵ Parliamentary Joint Committee on Human Rights Human, *Rights Scrutiny Report, Twenty-seventh report of the 44th Parliament*, 8 September 2015. p. 27.

¹⁶ *Ibid*, p. 27.

¹⁷ Senate Hansard, Transcript, 9 September 2015, p. 74.

¹⁸ Parliamentary Joint Committee on Human Rights Human, *Op Cit*, p. 23.

¹⁹ *Ibid*, p. 30.

²⁰http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/Committee_Inquiries/strongerfutures2/Submissions

11. NWRN concerns with income management generally

It is useful to recap our Network's views on Income Management, which is closely related to the Cashless Debit Card Trials in many aspects.

The NWRN's position is that Compulsory Income Management is fundamentally flawed. There is limited evidence of significant improvements in the social and economic health of those targeted by the regime.

The main problems with income management are listed below.

- Is expensive to deliver and administer;
- It will not achieve its intended outcome;
- It involves disempowering and demeaning effects that will likely cause long term damage to those subjected to it;
- It undermines an individual's capacity to learn to manage their finances;
- It can be embarrassing for users and leaves people in situations of public humiliation;
- It remains indirectly racially discriminatory and creates situations of inequality and unfairness in its practical application; and
- It diverts funds away from legitimate purposes such as addressing inadequate levels of income support, or programs and services which, with community consultation, could be used to better help overcome chronic health conditions, accessibility to housing, and underfunded education provision.

Supporters of the Debit Card Trial have stated that it will be less expensive to administer than the Basics Card arrangements that operates under various models of Income Management. Some savings will occur because, for instance, individuals will not have to be regularly contacting the Department of Human Services to alter their 'priority needs'. However, there are still significant costs associated with this trial, including funds for additional services, the costs of liaising regularly with merchants and expanding banking access points, such as installing EFTPOS machines in schools, and, of course, the formal evaluation.

The other key point to note with respect to the Debit Card Trial is that the costs of administering the system risks being shifted onto participants who will be subject to the trials, in terms of merchant surcharges and bank fees.

12. Conclusion and recommendations

The Debit Card Trial fails when assessed against the above Income Management checklist. The Committee, the Australian public, and, most importantly, people living in the local communities need a lot more information about the Debit Card trial to assess whether it will be more of a help than a hindrance.

Unlike the introduction of the Basics Card, the Government, and the Department, to its credit and good sense, is at least trying to engage locally, and it has seemingly had some success with some

community leaders and local community organisations actively supporting the trial. The Department, and many of those supporting the trials have commented on numerous occasions on the considerable community support for the trial, and have attested to its widespread popularity. If it is so popular, and suggested, then the Committee, and the Government needs to answer this question: *why does it need to be compulsory? Also have sufficient consultations been undertaken with those who will be subject to the trial?*

One final question related to whether the new card, unlike its predecessor, will be successful in making sure that those required to use it can avoid stigma and humiliation associated with its use. Unfortunately, this question, like so many others related to this trial does not have a clear, easy answer.

The cashless card will not allow the purchase of alcoholic beverages or gambling, as these will be banned and the debit card will not operate at 'excluded businesses' It is unclear what these excluded businesses will be, as all this important detail will be left to a future legislative instrument (*new subsection 124PQ(2)*). In these communities it is not clear how a person could purchase a meal at a club, pub or a restaurant, without having to be in some way identified as being part of the Debit Card Trial. The case of 'Trigger' below, highlights this problem.

In conclusion, there are far too many unanswered questions to give us confidence that this trial should proceed, as planned. We await further details about the operation of the Cashless Welfare Card Trial.

NWRN Recommendations on the Debit Card Trial

1. That the Committee recommend that the Bill should be rejected in its entirety, and a genuinely voluntary system of community-based, individual opt-in system of income management be implemented where there is community support.

In the event that the Committee does not recommend that the bill be rejected in its entirety:

2. That the Committee recommend that the Government amend the bill to introduce a mechanism to enable the Department of Human Services to administer requests by individuals seeking that a lower proportion of their social security payments be restricted.
3. That the committee recommend that the bill be amended to include exemptions where, for example, participation in the trial would not be in a person's best interests (or their dependents)
4. That the Committee recommend that the Bill be amended to include a general discretion for the Department of Human Services to exempt persons from the Debit Card Trial where the application of this measure would have an adverse impact on a participant because its operation cannot be sufficiently adapted to accommodate the person's individual circumstances or needs.
5. That the committee recommend that the bill be amended to include review by DHS of community board decisions (and external review of the DHS decision to the Administrative Appeals Tribunal).
6. That the Committee recommend that the Government must ensure that no bank fees and charges, including surcharges, be applied for participants in the Debit Card Trial.
7. That the Committee recommend that the Government consider options that would allow for income support recipients in trial locations who are reliant on very low social security payments (such as Newstart and Youth Allowance) to access a proportion greater than 20 per cent of their social security payment in cash.
8. That the Committee recommend including the following in the primary legislation of the Bill instead of in legislative instrument (as proposed on the current Bill):
 - the locations of the trial (*Section 124PG*),
 - the 'trigger payments' who will be subject to the trial (*section 124PD*), and
 - the classes of people who may be subject to the trial (*subsection 124PG(1)*).
9. That the Committee recommend that the Department of Social Services provide satisfactory answers to the various questions raised by the National Welfare Rights Network's submission to the Senate Community Affairs Committee inquiry on the Debit Card Trial.
10. That the Committee call on the Department s of Human and Social Services to undertake further consideration of the impacts and consequences of including Carer Payment recipients as a 'trigger payment' (*section 124PD*).

11. That the Minister for Social Services respond to the significant questions raised by the recent *Joint Parliamentary Human Rights Report No 27* of 8 September 2015 into the Debit Card Trial, and ensure that the concerns raised are satisfactorily addressed.

Appendix 1. Scenarios of life under the Debit Card Trial

Based on our experience, some possible impacts of the Trial are highlighted in the scenarios below.

Travelling and getting a replacement card. Joseph goes home and travels from Ceduna to Maningrida. His grandfather has stage 5 renal disease and he wants to help organise his ongoing care and support needs. Joseph loses his wallet (and his Cashless Welfare Card) when he arrives in Maningrida on Friday afternoon. He doesn't have a phone. He has no money. He has no ID. He has no money to pay for food or travel. Joe is worried, as friends told him that it has taken up to two weeks to get a replacement BasicsCard in remote locations in the NT.

One more cup of coffee for the road. Marcia does not get out much. Marcia has been struggling with depression for a while, has diabetes and poor mobility and is socially isolated, and experienced a recent suicide in the family, which hit her hard. It's hard making the bills and rent on Newstart Allowance. As a treat in the fortnight her social security payments are made she goes to the local café in town, where she reads the weekend paper on the tables, and buys a strong cup of coffee. She looks forward to these fortnightly outings, and hopes to meet up with friends. The coffee shop has a minimum EFTPOS purchase of \$10, which she can't afford, so she stops visiting the coffee house.

The gift. The Dysons are a close knit family, and Tulu is the first daughter in their family to have a grandchild, and their family want this to be a very special event. Family members have got their hearts set on all putting a small amount of money in for a cot. Because some members are on the Cashless Debit Card, they cannot contribute to the present. Some of the family are embarrassed about being on the welfare card, and having to explain why they can't put in for the present. They think about asking Centrelink for some help, but they are ashamed, and it seems all too difficult. They don't end up buying Tulu the cot for her baby.

Food for thought. For about three years a group of mothers and grandmothers from the local Ceduna area have been meeting once a week in a local Community Centre to talk about local problems, changes at school, community safety, and about their hopes for a new town program to help isolated elderly community residents. The meeting is also a great outlet for them to discuss ideas to keep their families on track, focussed on their schooling, and settling in with new teachers at the school. At the meetings they also work out how to arrange for the local kids to attend sporting events. Everyone puts in \$15 a month, as a contribution for meals and costs for tea and coffee, biscuits, snacks for afternoon tea that is available at the meeting. Almost all in the group are receiving income support, or are on Age Pension. Once the Cashless Debit Card comes in, they can't get enough funds to continue to buy food and meals, and Age Pensioners resent having to pay more for the food, which was a key reason which attracted people to the meetings. The weekly meetings cease.

A Big Day Out on the Healthy Welfare Card. Trigger, at 62 year, is fiercely independent, but lonely after this wife Gwen of over 30 years passed 3 years ago. On the DSP, Trigger, goes to the Ceduna Bowling Club twice each week to catch up with other Age Pensioner friends and for a cheap, nutritious meal. Cooking at home is a problem, with his back and severe arthritis in his hands and knees. He does not drink alcohol, and he has seen what damage it can do in local families.

As Trigger only has 20% of 'unrestricted' funds, he can't afford to pay for the meal from this portion of his fortnightly pension. To continue to have a meal with his friends, Trigger will need to get Centrelink to arrange for the access to be 'switched off', or for the establishment to override the card block so he can purchase a meal. The establishment will need to know that Trigger is on the 'welfare card', something he is not happy about. He has heard that clubs and pubs would probably need to keep registers of people on the 'welfare card' in their local community. He ends up giving up the important meals and the only social outings that he had available to him.