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22 June 2010

Mr Rob Heferen
Welfare Payments Reform Branch
PO Box 7576
Canberra Business Centre
ACT 2610

By email: imconsultations@fahcsia.gov.au

Dear Mr Heferen

re: Income Management policy outlines

We refer to the recent consultations undertaken by your Department in relation to the exposure drafts of the income management policy outlines which will inform the legislative instruments to the *Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009* ('the Bill').

In providing the following analysis on the exposure drafts, we wish to stress that from the outset the National Welfare Rights Network (NWRN) Inc has argued against compulsory income management and remain strong opponents of this policy for the reasons detailed in our submission to the Senate Inquiry into the Bill of February 2010. We remain deeply concerned that the Government is pursuing financial control measures in the absence of clear evidence that either it will deliver positive benefits or that massive administrative costs of income management will be offset by significant improvements in the social and economic health of those targeted by this proposed regime. Rather than delivering on the Government's stated objectives in an appropriate and cost effective manner, we believe that the disempowering and demeaning effects of these draconian measures will cause long term damage to those subjected to them.

NWRN's position on aspects of the Exposure Drafts

We set out below a summary of some of our key concerns in relation to a number of critical aspects of the income management policy outlines. These comments are in addition to the analysis and comments which ACOSS put forward in its submission to the consultation process which NWRN endorses.

The NWRN is a network of services throughout Australia that provide free and independent information, advice and representation to individuals about Social Security law and its administration through Centrelink.
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Policy Outline 1: Vulnerable Welfare Payment Recipient Measure

Decision making principles

- The decision making principles do not provide a clear framework for informing the exercise of the discretion. For example, it is not clear whether a person will be income managed simply by virtue of meeting one, some or all of the criteria. We understand that it is not intended that a person will be income managed simply by virtue of meeting one indicator of vulnerability, however as the decision making principles are currently framed it is open to this interpretation. We suggest that consideration is given to a mixture of exact criteria which must be met before the exercise of the discretion can be considered (mandated criteria) and more general criteria that the decision maker ought to take into account in the decision making process.

- Building on the current framework as proposed, we suggest that the mandated criteria would include that a person is experiencing an indicator of vulnerability, a financial test and that the indicator of vulnerability is of a type that could be assisted by income management. The general criteria could be framed to provide a more holistic assessment of the overall circumstances. For example, having regard to the totality of all the person's circumstances income management is appropriate. We believe that this focus is critical to ensure that due consideration is given to investigating the complexity of a person's needs and whether in light of their circumstances it is more appropriate to take alternative action, for example, a referral to a specialist service or program. We note that this has been the experience of the Queensland Family Responsibilities Commission (FRC) where in approximately 85% of cases income management has not been determined to be the most appropriate action to take.

- Decision making principle 2 as currently framed is too broad and has the potential to apply far more widely than we understand is intended. We think that the decision making principle should refer to a **consistent pattern** of not meeting priority needs and include an additional requirement that **their welfare (and/or that of their dependents) is at significant risk** now or in the foreseeable future as a result of experiencing an indicator of vulnerability. This would guard against the risk of a person being subjected to income management by virtue of a one off crisis or event which may have arisen through a change in circumstances (for example, losing a job) and restrict the category as the policy intends to target individuals at risk.

- Decision making principle 3 should be strengthened to impose a positive onus on the delegate to find not only that a person would be assisted by income management but also that alternative methods of achieving the intended outcomes have been exhausted, for example weekly payments, Centrepay, financial counselling etc. This should require the decision maker to provide a detailed assessment in each case indicating how income management would be of benefit to a particular person and this information should be explored with the income support recipient. In other words, income management should only be considered as a last resort having taken into account the individual's view as to whether the option is likely to address the underlying issues.

- The decision making principles should also state that any indicator of vulnerability which triggers compulsory income management must exist at the point of time of the decision being made. A decision should not be predicated on past events now overcome, nor on predictions of future events. Further, where a person seeks a reconsideration of a decision in "Policy Outline 1", if the person is no longer experiencing "an indicator of vulnerability", then the person should be allowed to continue on income management on a voluntary basis but be advised that it is no longer compulsory. Thus the NWRN rejects the final paragraph in Policy Outline 1 which states:

  "In reconsidering a person's circumstances, and where the person is no longer experiencing an indicator of vulnerability, the Centrelink Social Worker must consider whether income management has contributed to the improvement of the individual's circumstances. The Centrelink Social Worker should then have regard to whether a decision to vary or revoke the determination to apply income management may result in recurrence of the vulnerability."

- The policy outlines should make clear reference to the Government's "National Homelessness Strategy" and the "Family Violence Prevention Strategy" to ensure that the policy interface is coherent and the role of the Social Worker is clearly delineated.

Indicators of vulnerability

- By way of general comment, we believe that the use of financial hardship criteria is extremely problematic. As a consequence of the maximum single rate of Newstart Allowance being set at just $231 per week, working age Social Security recipients experience significant levels of financial stress simply because of low payment rates rather than as a consequence of poor money management. We note that under the Family Responsibilities Commission (FRC) scheme the trigger based factors which the Government regarded as the best indicators of vulnerability does not include a financial hardship criteria.

- In any event the financial hardship criteria test as currently drafted is far too broad and has the potential to capture anyone in receipt of Social Security payments. We think that this test needs to be better targeted to restrict its operation to a consistent pattern of not meeting priority needs to the extent that it places their welfare (and or that of their dependents) at significant risk.

- We propose that the vulnerability indicator of domestic and family violence be removed. We understand that the policy intent is to protect those individuals who otherwise would be subject to economic abuse. This policy intent is satisfied by virtue of the financial exploitation vulnerability indicator. There is also a public interest imperative in removing this indicator. As highlighted in our submission to the Senate Inquiry extending the potential to include the coverage of this group more broadly within the income management category places them at greater risk – as people in these circumstances will be more reluctant to disclose their circumstances to Centrelink which could result in them missing out on appropriate services and supports or being subject to penalties– for fear of being income managed. We are also very concerned that there is real potential for it to have a perverse effect – that people may choose to stay in abusive relationships rather than claim a Crisis Payment, which is usually determined by a Centrelink Social Worker for fear of losing control of their finances. This means that Centrelink runs a high risk in undermining their own programs/initiatives which were long fought for to assist those escaping domestic violence.

- The self care criterion is too broad. As noted by ACOSS in its submission it has the potential to capture many recipients of Disability Support Pension, a group which the Government has indicated is not being targeted under these measures. Accordingly, this criterion should be removed.

- We do not consider that it is appropriate that a person who is homeless or at risk of homelessness should in itself be an indicator of vulnerability. This indicator is extremely problematic for a number of reasons: it fails to recognise that the causes for homelessness are multiple and complex – including the chronic shortage of affordable housing options and public housing and the increased need for financial independence during periods of homelessness where expenses are more difficult to predict, forecast and plan for. At the very least, this indicator of vulnerability should be contextualised to provide a clear rationale for its inclusion to ensure that individuals are not captured simply by virtue of them being homeless or at risk of homelessness. If the strategy here is to prevent homelessness it is unlikely to make a significant impression as very few evictions result from poor money management.

Homelessness is more likely to be associated with:

- Individuals being forced into unaffordable tenancies due to housing shortages;
- the effect of current inadequate tenancy protections which allow without cause evictions or provide very short notice in relation to terminations on specified grounds other than for breaches eg sale of premises which is insufficient to find alternative accommodation before they are evicted; or
- precarious accommodation arrangements which offer few if any statutory rights and protections against arbitrary evictions.

A further concern is that the inclusion of such a criterion will act as a disincentive for individuals to disclose their circumstances to Centrelink. This is of significant concern given that this is an important factor in the application of the compliance provisions, the setting of realistic activity test requirements or the granting of participation and activity test exemptions. People at risk of homelessness or in a severe personal crisis are already reporting that they will not seek the extra support that Centrelink offers (such as the option of the weekly payment of income support) because they fear seeking help will increase the chances that they will be targeted for the new income management rules.

The two cornerstones of the Government's social policy agenda – halving homelessness and promoting social inclusion – are compromised and undermined by these new income management policies which will have serious and far reaching consequences.

Processes and practices

- We cannot identify any circumstances which would justify the continuation of income management on the basis of a file assessment. The use of a file assessment should only be used as a last resort and in circumstances where the information available enables the income management determination to be revoked.

- We have previously expressed our concerns that the reconsideration provisions contained in the Bill may distract from a person's understanding of their right to exercise review rights under Part 4 of the *Social Security (Administration) Act 1999*. To minimise this risk, the legislative instrument should explicitly impose an obligation on the delegate to advise individuals of their review rights under Part 4 of the *Social Security (Administration) Act 1999* both as an alternative option to reconsideration, as an addition to reconsideration and/or in circumstances where a request for reconsideration can not be actioned because it is made within 90 days of their last request for reconsideration. This is also necessary given the fact that many vulnerable Social Security recipients will have requested Social Worker assistance in the past and the complex nature of the discussions which may have taken place before a Social Workers makes a decision to place someone on compulsory income management the NWRN believes that it is highly likely that the recipient may be confused about whether the decision is voluntary or imposed.

Policy 2 and 3 – Parental exemptions

- We are very concerned that far from the exemption process being streamlined as was the Department's evidence to the Senate Inquiry that in the absence of significant changes it will be an extremely intrusive, complex and labour intensive process the effect of which will actually be to deter individuals from applying for an exemption.

- We understood from the Government's statements on the issue that the requests for exemptions would be primarily assessed on the parent's satisfying specified activities and other requirements in relation to their children. Consistent with this policy objective, we believe that *the responsible care of children component should* take place prior to the *financial vulnerability component.*

- We believe that a much more streamlined process should be developed to assess the financial vulnerability component of the exemption. This should be targeted to the identification of a number of key indicators which may suggest financial vulnerability rather than to a micro examination and analysis of every aspect of their financial circumstances, the process of which far surpasses anything required for a bank loan application and one which many people not on Social Security payments would fail.

- We believe that if the current process for financial vulnerability is adopted it will lead to a checklist process being adopted, an approach that Government has already recognised as being entirely inappropriate for this assessment.

This already occurs in other areas of Centrelink decision making processes, for example, member of a couple assessments where delegates consistently approach the task of categorising a relationship by reference to a tick off list rather than exploring the actual motivations for or reasons for particular arrangements. This continues to be the case at a practical level notwithstanding the weight of judicial authority requiring the Secretary to have regard to all the circumstances of the relationship. It is relevant to note that member of a couple assessments by Centrelink that are open to this checklist approach are overturned on appeal at a much higher rate than any other type of decision.

- Apart from our view that the framework process itself is fundamentally flawed, the rationale for the inclusion of certain factors is far from clear. Nor is it clear whether they are intended to be an indicator of financial vulnerability or not. For example, whether the customer has enquired about Centrepay but found that the third party organisation is not registered or whether the customer has engaged in the workforce at any time in the previous 12 months. We are also concerned about the inclusion of a person's understanding of the income management scheme, the complexity of which most people would have difficulty grasping irrespective of their capacity to manage their money. Also, we do not believe that it is appropriate to include BasicsCard transactions as a factor especially in the context of the high rate of declined transactions due to technological issues and the restrictions on individuals being able to access their BasicsCard balances prior to commencing their shop.

- We reject the notion that the Social Security system should be manipulated to effect broader social or behavioural change or as a blunt response to entrenched economic or social disadvantage. These guidelines set a much higher care duty for parents on income support than the rest of the community. The list of activities includes things such as play groups, kinder-gym, formal childcare, preschool etc all of which are generally a matter of parental discretion and choice. Also, the list includes many items and activities that many parents, not in receipt of income support, would not provide for their young children. An additional problem with the test is that many of these activities would require additional cost and expense, which is in short supply in many families on low incomes. Additionally it is unlikely that such services will be routinely available in communities within the Northern Territory and particularly in remote areas. NWRN is concerned that these assessments are to be administered by Centrelink staff and not necessarily by a trained and qualified Centrelink Social Worker. Even where Social Workers do the assessments it must be acknowledged that they are generalist practitioners who also may not have the appropriate skills sets to make the assessments regarding financial counselling or hold suitable qualifications in child development because this is not Centrelink's core business.

- Specifically in relation to Group 2 Engagement of policy outline 2 we propose that the structured requirement in the third activity be removed on the basis that the activity should be broad enough to cover informal activities and family based activities. We also believe that the evidentiary requirements in relation to this group are problematic and should be revised as a number of providers eg. voluntary playgroup associations do not currently keep attendance records. In any event, many parents would have major objections to the increased surveillance and unwarranted contact with providers which would flow as a consequence of the current requirement for documentary evidence. Just as people do not like employers being contacted by Centrelink many parents are likely to feel threatened and intimidated by this Centrelink intrusion. Parents may be embarrassed and feel they are being accused of being a bad parent – and unfortunately the checking by Centrelink will feed into the stigma that is unfortunately attached to the receipt of income support. The parent's statement that their child is participating in these activities should be sufficient in the absence of any specific evidence which may indicate that the children's welfare or development is at risk. In such circumstances documentary evidence should be obtained and assessed by a person with appropriate qualifications and training in child development.

Policy 4- Class Exemption – Special Benefit

- NWRN has no comments on this draft policy outline.

Policy 5 – Qualification for matched savings scheme (income management) payment and Approved money management course

- The requirement that savings must be held in a bank account is too restrictive. It should also include any financial institution, eg building societies, credit unions etc. Practical issues such as the costs of obtaining bank statements from financial institutions and the imposition of fees and charges may undermine this initiative unless they are properly addressed.

- Whilst we appreciate that this is a legislative matter, the requirement that only one claim can be made on the matched savings scheme up to $500 is too restrictive and will result in individuals settling for less than their maximum statutory entitlement as the time frame required to reach $500 is likely to be lengthy due to the low payment rates. The legislation should be amended to enable at least two claims to be made on the scheme to the total of $500.

Should you have any questions please do not hesitate to contact me on (08) 9328 1751.

Yours faithfully,

Kate Beaumont
President NWRN