

14 March 2019

Committee Secretary  
Senate Standing Committee on Community Affairs  
PO Box 6021  
Parliament House  
Canberra ACT 2600

By email only [community.affairs.sen@aph.gov.au](mailto:community.affairs.sen@aph.gov.au)

Dear Committee Secretary,

***The National Social Security Rights Network (NSSRN) submission to the inquiry into the Social Security (Administration) Amendment (Income Management and Cashless Welfare) Bill 2019***

1. The NSSRN is a peak community organisation in the area of income support law, policy and administration. Our members are community legal centres across the country that provide free and independent legal assistance to people experiencing issues with social security and family assistance payments. The NSSRN draws on this front-line experience in developing its submissions and policy positions.
2. The NSSRN does not endorse the Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2019 (“the Bill”) and does not support the extension of mandatory income management, including the extension of the first three Cashless Debit Card Trial sites, which were due to expire on 30 June 2019, to 30 June 2020.<sup>1</sup>
3. We refer the Committee to our submission on the Social Services Legislation Amendment (Cashless Debit Card) Bill 2017 and Social Services Legislation Amendment (Cashless Debit Card) Bill 2018 that sought to expand the Cashless Debit Card (CDC) to multiple locations and to an unlimited number of individuals. The submissions articulated our concerns with the CDC and mandatory income management regimes by focusing on the inadequacy of public consultation with the CDC trial regions and the flaws in the trial evaluation reports commissioned by government. These concerns, combined with what we consider is misguided social policy, outweigh any identifiable benefits.
4. Our concerns with the CDC, as outlined in this submission, remain the same as those in our previous submissions that it is impoverishing and putting people in financial stress, causing social harm, lacking consultation with communities, and is expensive to administer.<sup>2</sup> It is also based on a flawed assumption that people need income support because they have poor financial management skills, rather than having a basic lack of resources. Given that the level of Newstart

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<sup>1</sup> Explanatory Memorandum, Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2019 (Cth), 2.

<sup>2</sup> National Social Security Rights Network, Submission No 17 to Senate Standing Committees on Community Affairs, Social Security Legislation Amendment (Debit Card Trial) Bill 2015, 18 September 2015, 15.

Allowance has not increased in real terms since 1994,<sup>3</sup> it is arguable that people who are looking for work find themselves in precarious financial circumstances due to this low level of payment, rather than their inability to effectively manage their money. It sends a concerning message about them being responsible for their difficult situation, when in many cases there are factors beyond their control; including the lack of availability of genuine employment opportunities, the casualisation of the workforce, the inaccessibility of childcare, and other barriers to workforce participation.<sup>4</sup>

5. Our view on the inadequacy of the trial evaluation, on which expansion of the trial sites has been based, is confirmed by a performance audit by the Australian National Audit Office (ANAO)<sup>5</sup> and the recent report on income management in Cape York.<sup>6</sup>

### **Overview of the Bill**

6. Mandatory income management in the form of CDC has been positioned as a program that would help “stabilise the finances and lives of vulnerable families, ensure welfare payments are used as intended, and reduce money available for alcohol and gambling in an effort to reduce social dysfunction where it exists in some communities”.<sup>7</sup> However, the financial stress and social harm it is causing to vulnerable communities is inconsistent with its stated objectives.
7. If legislated, the Bill proposes that income management be extended a further year until 1 July 2020, and that CDC trials be extended in the Ceduna, East Kimberley and Goldfields areas until 30 June 2020 (matching the current end date for the Bundaberg and Hervey Bay CDC trial site).

### **NSSRN’s key recommendation:**

- I. Mandatory income management regimes, including CDC, should be abolished.
- II. While the CDC program continues to operate:
  - a) the Secretary should
    - i. have a duty of care to participants,
    - ii. consider the detrimental impacts the trial may have on the individual participants, and
    - iii. be required to provide reasons in writing why they consider it is in the participant’s best interests to be a compulsory participant.

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<sup>3</sup> Australian Council of Social Services, Submission No 7 to House of Representatives Standing Committee on Social Policy and Legal Affairs, *Inquiry into the Review of the Social Security Commission Bill 2018*, March 2019.

<sup>4</sup> Organisation for Economic Operation and Development, ‘Connecting People with Jobs: Key Issues for Raising Labour Market Participation in Australia’ (Research Paper) (2017).

<sup>5</sup> Australian National Audit Office, *The Implementation and Performance of the Cashless Debit Card Trial* (Performance Audit Report, 1 of 2018-2019), <https://www.anao.gov.au/work/performance-audit/implementation-and-performance-cashless-debit-card-trial>.

<sup>6</sup> John Scott, Angela Higgison, Zoe Staines, Liuissa Zhen, Vanessa Ryan, Mark Lauchs, ‘Strategic review of Cape York Income Management’, (Report: November 2018).

<sup>7</sup> *Guide to Social Security Law* 8.7.1, accessed 24 January 2019, <<http://guides.dss.gov.au/guide-social-security-law/8/7/1>>.

- b) effective consultation should be undertaken to understand how the program affects participants, such as problems with online access, prior to extending the CDC program, and
- c) Aboriginal communities and organisations should have the agency to decide whether to participate in the trial with informed consent.

### ***CDC is further impoverishing participants***

8. The CDC program is further impoverishing and causing additional hardship to people who are already struggling to afford basic necessities.
9. Members often provide advice to people in this position, who have limited literacy, mental health problems, cognitive impairments and problems with accessing secure housing. People in these circumstances who contact our members often do not know why, how and where to use the CDC. Our members see that this exacerbates an individual's mental health problems and places them under further stress and financial hardship as they are unable to pay for food, clothing and medication.
10. This member experience is consistent with data from the government-commissioned ORIMA evaluation<sup>8</sup> demonstrating how people on the CDC program are going without food and basic necessities:
  - At Wave 1<sup>9</sup> CDC holders reported that they had 'run out of money to buy food', and by Wave 2<sup>10</sup> the figure had increased to 52%.
  - At Wave 1 32% of CDC holders reported that they had 'run out of money to pay for things that ... children needed for school, like books', and by Wave 2 the figure had increased to 45%.
  - At Wave 1 31% of CDC holders reported that they had 'run out of money to pay for essential (non-food) items for ... children', and by Wave 2 the figure had increased to 44%.
  - At Wave 1 50% of CDC holders reported that they had needed to 'borrow money from family or friends' to survive, and by Wave 2 the figure had increased to 55%.
11. These alarming statistics<sup>11</sup> demonstrate that for many participants CDC makes it harder to purchase basic necessities, support their families and access second hand services in the cash economy<sup>12</sup> and is pushing many people deeper into poverty.

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<sup>8</sup> ORIMA Research, Cashless Debit Card Trial Evaluation: Wave 1 Interim Evaluation Report, released by the Department of Social Services (February 2017).

<sup>9</sup> ORIMA Research, Cashless Debit Card Trial Evaluation: Final Evaluation Report, released by the Department of Social Services (August 2017).

<sup>10</sup> Ibid.

<sup>11</sup> Ibid, 17.

<sup>12</sup> CDC limits the cash they have to pay for informal renting arrangements, second-hand goods, cash purchases of locally grown produce, and pocket money for children. Refer to Doctor Elise Klein, 'The Cashless Debit Card causes social and economic harm

12. Our member in Western Australia highlighted their particular concern for CDC holders in emergency situations who require urgent access to cash and will experience severe financial hardship if they are prevented by the CDC from doing so. They provide an example of a family they assisted in a CDC trial site who needed to travel to Perth to seek emergency medical assistance for their child who had leukemia. The mother was only able to cover accommodation and travel costs for her child and herself through financial assistance from the Patient Assistance Travel Scheme. Yet the father, who also wanted to be with his sick daughter, was unable to use his CDC to pay for accommodation and travel costs as merchants were not approved. Even when the mother was in Perth, she was relying on 20% of the unrestricted portion to provide for her child and herself.
13. Given that CDC disproportionately impacts Indigenous Australians,<sup>13</sup> our members assist Indigenous Australians on CDC who need to travel in and out of their communities for various reasons including to seek medical treatment, to visit family, or to attend to cultural business, and will be limited in the range of merchants from whom they can purchase goods with their income-managed funds.
14. These examples illustrate why it is concerning that the Secretary is not required to consider the detrimental effects of the CDC program may have on an individual's wellbeing prior to their enrolment in the trial. If they had considered the family's circumstances, they may have been exempted them from the CDC program. As it stands, the design of the program imposes an unfair burden of proof on income support recipients to demonstrate why they should be exempt.
15. It is NSSRN's view that, if the CDC program must continue, the Secretary should have a duty of care, consider the detrimental impacts the trial may have on the individual, and be required to provide the reasons why they consider it is in the participant's best interests to be a compulsory participant.<sup>14</sup>

#### ***Lack of effective consultation with trial participants***

16. The trials in the existing CDC locations have been criticised for lack of consultation with income support recipients. In the Bundaberg area, reports have stated that only 26% of residents in the council area supported the introduction of the card.<sup>15</sup> Jack Dempsey, the mayor of Bundaberg, has

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– so why trial it again?', The Conversation (online) 30 March 2017 <<https://theconversation.com/the-cashless-debit-card-causes-social-and-economic-harm-so-why-trial-it-again-74985>>.

<sup>13</sup> Explanatory Memorandum, Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2019 (Cth), 9.

<sup>14</sup> Northern Australian Aboriginal Justice Agency, Submission No 29 to Senate Standing Committees on Community Affairs, Social Security Legislation Amendment (Debit Card Trial) Bill 2015, 11.

<sup>15</sup> B Smee, 'Bundaberg mayor turns against high cost of cashless welfare trial', The Guardian (online), 21 May 2018, <<https://www.theguardian.com/australia-news/2018/may/21/bundaberg-mayor-turns-against-high-cost-of-cashless-welfare-trial>>

cited the high cost of the administering the card as a key reason for not supporting the CDC. In his view, the funds could be more effectively used to assist people into employment.<sup>16</sup>

17. A recent independent audit by ANAO<sup>17</sup> found that local partners<sup>18</sup> had recommended Department of Social Services to participate in “more face-to-face information from knowledgeable staff and support, as many had not attended the public meetings or asked questions and there was some confusion and misinformation amongst participants.”<sup>19</sup>
18. The most recent report on income management in Cape York<sup>20</sup> also indicates that “any future extension...should include careful consideration of how coalitions of support for reform can be established and nurtured over time.”<sup>21</sup>
19. The need for effective consultation is highlighted by the complexity of the disadvantage experienced by the clients assisted by our member centres. For example, a young man who was homeless and had no way to receive letters from the Department of Human Services, as he did not have a permanent residential address, was nevertheless placed on the CDC program. He also had limited literacy, e-literacy, budgeting skills, and had cognitive impairments. He sought assistance from our member in Western Australia to understand why his Centrelink payment was reduced to \$51.92 per week (20% of his Newstart Allowance payment) which meant he was unable to pay for his medication and food. Our member found out that Department of Human Services sent letters, which he did not receive, informing him that his CDC was ready to be collected from a service office.
20. Based on the above evidence, including recommendations made by ANAO, the recent report on income management in Cape York, and our member experience, effective consultation to understand how the program affects participants should be undertaken prior to extending the CDC program to prevent further harm.

### ***Problems with reliance on CDC online***

21. A clear example of a CDC design flaw is not taking into account the unreliability of digital services before designing the CDC program to be operated online only. When a connection error results, a person is unable to access food, or basic necessities until reconnection occurs. In these

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<sup>16</sup> Ibid.

<sup>17</sup> The objective of the audit was to assess the Department of Social Services’ implementation and evaluation of the CDCT. Refer to The Auditor-General, *The Implementation and Performance of the Cashless Debit Card Trial*, released by Department of Social Services (July 2018), 47.

<sup>18</sup> Local partners are “local organisations contracted by the card provider Indue to provide banking related support services to participants.” Refer to The Auditor-General, *The Implementation and Performance of the Cashless Debit Card Trial*, released by Department of Social Services (July 2018), 53.

<sup>19</sup> Ibid.

<sup>20</sup> Scott, Higgison, Staines, Zhen, Ryan, Lauchs, above n 44.

<sup>21</sup> Ibid.

circumstances, it has been reported that Indigenous Australians felt shame and were publicly humiliated.<sup>22</sup>

22. Our member in Western Australia assists people with limited e-literacy who struggle to keep up to date about approved merchants, as the main way a CDC participant can find out about the changing list of approved merchants is online.
23. It is also common that clients cannot afford mobile data to view the approved list of merchants. This causes unnecessary hardship and inconvenience for trial participants.

### ***Insufficient evidence to warrant extension of CDC***

24. In NSSRN's view there is insufficient evidence of positive outcomes of reaching the program's stated objectives to support the decision to extend the CDC program to two additional sites<sup>23</sup> from early 2019 and across existing sites until 30 June 2020.
25. Since 2016, in areas where CDC and mandatory income management programs started to operate there has been no adequate baseline evidence to measure the impact of the trial or include any change in social harm.<sup>24</sup> The ANAO has reported the lack of adequate baseline data on CDC and income management stated objectives or key performance indicators makes real assessment of change difficult.<sup>25</sup>
26. The most recent strategic review report undertaken by Queensland University of Technology on income management in Cape York notes there is limited valid evidence supporting the effectiveness of CDC trial and its expansion. Some of the limitations of the report include:
  - "some level of sampling bias in qualitative data relied upon for this study"<sup>26</sup>
  - "the geography of various administrative datasets is not always well matched to the geography of Indigenous communities"<sup>27</sup>
  - "the core limitation of the quantitative analysis of the aggregate data is the inability to isolate the impact of CYIM"<sup>28</sup>

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<sup>22</sup>ORIMA Research, Cashless Debit Card Trial Evaluation: Wave 1 Interim Evaluation Report, released by the Department of Social Services (February 2017).

<sup>23</sup> Bundaberg-Hervey Bay region (QLD).

<sup>24</sup> "Social Services did not build evaluation into the CDCT design, nor did they collaborate and coordinate data collection to ensure an adequate baseline to measure the impact of the trial, including any change in social harm." Refer to Australian National Audit Office, ANAO Audit Report No. 19 2012–13, Administration of New Income Management in the Northern Territory, 2013.

<sup>25</sup> Ibid.

<sup>26</sup> John Scott, Angela Higgison, Zoe Staines, Liyssa Zhen, Vanessa Ryan, Mark Lauchs, 'Strategic review of Cape York Income Management', (Report: November 2018); "However, there is likely still some level of sampling bias in the qualitative data relied upon for this study, which should be considered when interpreting the qualitative findings", 5.

<sup>27</sup> Ibid, 7.

<sup>28</sup> Ibid.

27. According to social researcher, Eva Cox, the Government's evaluation data is analytically and methodologically flawed<sup>29</sup> and there is insufficient evidentiary basis to support continuation let alone expansion of compulsory welfare quarantining.
28. The ORIMA evaluation also had discrepancies in the reporting on drug and alcohol consumption and failed to report local data on ambulance and alcohol-related call outs, domestic violence and police call-outs, which have increased since the trials began.<sup>30</sup>

### ***Incompatibility with Australia's human rights obligations***

29. The NSSRN rejects any assertion that the CDC program furthers a human rights agenda. We view the program to undermine the rights of individuals to social security<sup>31</sup>, privacy<sup>32</sup>, equality and non-discrimination (particularly racial non-discrimination)<sup>33</sup>, and self-determination<sup>34</sup>. The infringements of these rights are not justifiable.
30. In our supplementary submission to the original Bill introducing the CDC trial, we noted that there was an absence of direct consultation with the individuals affected by the trial.<sup>35</sup> Consultation had occurred predominantly with organisations in the area. This is contrary to a human rights model approach where individuals are empowered to participate in decisions affecting their human rights.
31. This submission has also demonstrated that the CDC impinges on the right to an adequate standard of living.<sup>36</sup> The additional burdens placed on individuals and families are not justifiable, particularly in view of the numbers of participants who feel that their lives have worsened since the trial commenced, and those who run out of money to purchase food or pass onto their children.
32. We are particularly concerned that the CDC disproportionately impacts on Indigenous communities. While the expansion of the CDC to the Hinkler electorate will result in reducing the overall percentage of Indigenous participants in the CDC trial, Aboriginal and Torres Strait Islander people

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<sup>29</sup> Eva Cox, 'Much of the data used to justify the welfare card is flawed', The Guardian (online), 7 September 2017 <<https://www.theguardian.com/commentisfree/2017/sep/07/much-of-the-data-used-to-justify-the-welfare-card-is-flawed>>.

<sup>30</sup> Christopher Knaus, 'Family violence rates rise in Kimberley towns with cashless welfare', The Guardian (online), 12 January 2018 <<https://www.theguardian.com/australia-news/2018/jan/12/family-violence-rates-rise-in-kimberley-towns-with-cashless-welfare>>.

<sup>31</sup> International Covenant on Civil and Political Rights, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) art 9.

<sup>32</sup> Ibid art 17.

<sup>33</sup> International Convention on the Elimination of All Forms of Racial Discrimination, opened for signature 21 December 1965, 660 UNTS 195 (entered into force 4 January 1969) art 2 and 5.

<sup>34</sup> International Covenant on Civil and Political Rights, art 1.

<sup>35</sup> National Social Security Rights Network, Supplementary Submission No 17 to Senate Standing Committees on Community Affairs, Social Security Legislation Amendment (Debit Card Trial) Bill 2015, 18 September 2015, 2-3.

<sup>36</sup> International Covenant on Civil and Political Rights, art 11.1.

will continue to be disproportionately impacted by the policy, making up an estimated 33% of overall participants.<sup>37</sup>

33. We do not regard the indirect discrimination caused by the CDC program to be justifiable. Furthermore, the infringement on the right to culture has not been adequately considered. There has been limited consultation on the effect of the CDC on kinship, sharing and reciprocity arrangements culturally valued in many Indigenous communities.
34. To mitigate the harm to participants while the CDC program continues to operate, particularly those who are from Indigenous communities, Aboriginal communities and organisations should have the agency to decide whether to participate in the trial. To ensure that such consent is informed, it is imperative that the consequences of participation be thoroughly explained and involve explanations of the foreseeable negative consequences of the trial, as well as anticipated benefits.

#### **Contact for this submission**

The NSSRN would welcome the opportunity to provide further feedback to the Committee on our submission.

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<sup>37</sup> Explanatory Memorandum, Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2019 (Cth), 9.