

18 October 2019

Committee Secretary
Senate Standing Committees on Community Affairs

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

Dear Committee Secretary,

NSSRN submission in relation to the Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2019

1. The National Social Security Rights Network (NSSRN) is the 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 their social security and family assistance payments. The NSSRN draws on this front line experience in developing this submission and policy positions.
2. We have opposed the Cashless Debit Card (CDC) program since its conception in 2015.¹ The CDC quarantines the majority of a person's income support payments, and prevents it from being used to purchase alcohol, gambling products, and gift cards, or to withdraw cash.
3. This Bill seeks to amend the *Social Security (Administration) Act 1999 (Cth)* to extend the current CDC trials and expand the program to include Cape York and the entire Northern Territory. It would also remove the cap on the number of trial participants, and give the Minister broad powers to unilaterally determine the percentage of quarantined income for certain classes of trial participants.
4. **We oppose the continuation and expansion of the compulsory CDC program, and recommend that the Committee oppose this Bill.**
5. In summary our key concerns with the expansion of the CDC program are that it:
 - a. Is based on flawed evaluations;
 - b. Is a poorly targeted and ineffective measure;
 - c. Is an unjustified expansion of Ministerial powers;
 - d. Causes undue hardship to vulnerable people relying on income support; and
 - e. Disproportionately impacts First Nations communities.

Based on flawed evaluations

6. In introducing this Bill, the Minister for Government Services claimed that the CDC program was

¹ See National Social Security Rights Network, Submission No 17 to Senate Standing Committees on Community Affairs, Social Security Legislation Amendment (Debit Card Trial) Bill 2015; National Social Security Rights Network, Submission No 25 to Senate Standing Committees on Community Affairs, Social Services Legislation Amendment (Cashless Debit Card) Bill 2017; National Social Security Rights Network, Submission No 45 to Senate Standing Committees on Community Affairs, Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2018.

‘delivering significant benefits for the communities where it currently operates’.² In making this claim, the Government has repeatedly relied on two reports by ORIMA Research³ that evaluated the first 12 months of the CDC trial in Ceduna and the East Kimberley.⁴

7. However, the evaluation processes and published reports by ORIMA Research do not support the conclusive statements made by the government that the CDC has met key performance targets or had a positive effect on the trial communities.⁵
8. The report’s account of the adverse consequences of the CDC trial have been ignored. The Interim Evaluation Report found that almost half of participants in the first six months of the trial stated the CDC made their lives worse.⁶ The Final Evaluation Report found that a combined 32% of surveyed participants found that the CDC trial made their lives “a bit worse” or “a lot worse”, and 42% stated the card made no difference to their lives.⁷
9. Our view on the inadequacy of the trial evaluation has been further confirmed by a performance audit by the Australian National Audit Office (ANAO).⁸ The ANAO was highly critical of the government evaluation, finding that the approach taken by government in monitoring and evaluating the CDC trials was inadequate. The ANAO stated that *“it is difficult to conclude whether there had been a reduction in social harm and whether the card was a lower cost welfare quarantining approach.”*⁹
10. The ANAO findings support our assertion that the ORIMA Research evaluation reports are not a reliable evidence-based resource to justify the expansion of the CDC.
11. The Minister further cited the baseline report into the Goldfields CDC trial as proof of the program’s success. However, the Goldfields trial began barely over 6 months ago and the independent evaluation remains ongoing. Indeed, the baseline data collection from March 2019 that the Government is relying on surveyed only 64 out of 5218 participants – less than two percent.
12. We do not regard this data as adequate justification for the CDC program and the high degree of government intervention it requires into the private lives of individuals.
13. A recent independent study conducted by ANU’s Centre for Aboriginal Economic Policy Research (CAEPR) on the CDC trial in the East Kimberley region concluded that:

“the trial was chaotic... its logic is deeply flawed, and disconnected from the relational poverty experienced by people receiving state benefits..... the card has become a symbol

² Second Reading Speech, Minister Robert, Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2019 (Cth), 11 September 2019.

³ Explanatory Memorandum, Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2019 (Cth), 19; Explanatory Memorandum, Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2018 (Cth), 4.

⁴ ORIMA Research, Cashless Debit Card Trial Evaluation: Wave 1 Interim Evaluation Report, released by the Department of Social Services (February 2017); ORIMA Research, Cashless Debit Card Trial Evaluation: Final Evaluation Report, released by the Department of Social Services (August 2017).

⁵ For detailed analysis, we refer the committee to two reports from the ANU Centre for Aboriginal Economic Policy Research (“CAEPR”) that respond to the Interim Evaluation Report and the Final Evaluation Report. See J Hunt, ‘The Cashless Debit Card Trial Evaluation: A Short Review’ (CAEPR Topical Issues 1, 2017); and J Hunt, ‘The Cashless Debit Card Evaluation: Does It Really Prove Success?’ (CAEPR Topical Issues 2, 2017).

⁶ ORIMA Research, Wave 1 Interim Evaluation Report, above n2, 5.

⁷ ORIMA Research, Final Evaluation Report, above n3, 87.

⁸ 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>

⁹ Ibid, Summary and recommendations, para 8.

*of government control and regulation in the study site.*¹⁰

14. In our view, the adverse consequences of the CDC trial far outweigh any purported benefits. The experiences of those on the CDC in Ceduna, the East Kimberley, and the Goldfields region (WA)¹¹ cannot support an expansion of the CDC to further locations. The CDC should be disbanded and removed from government policy.

Poorly targeted and ineffective measure

15. The government's core rationale for the CDC has consistently been to *'reduce the devastating effects of welfare fuelled alcohol, drug and gambling abuse'*.¹² In his second reading speech, the Minister expanded on this rationale by claiming it would in turn reduce 'the likelihood that welfare recipients will remain on welfare and out of the workforce for extended periods'.¹³
16. In the government's view, restricting social security recipients' access to cash and their ability to purchase alcohol or gambling products, will have an immediate flow on effect at reducing social issues and increase employment outcomes.
17. Inherent in this view are false assumptions about the experience of those on long-term income support, as it postulates personal behavior as a primary driver for unemployment. A person's reliance on social security payments is thus characterised as a consequence of individual choices. This approach to policy making fails to acknowledge systemic causes of poverty, including lack of jobs, low wages, precarious work, low unemployment benefits, lack of access to healthcare, lack of educational opportunities and high cost of living, particularly in remote areas of Australia.
18. Indeed this assumption runs counter to the government's own Final Evaluation Report.¹⁴ The report identified that only a small proportion of social security recipients in the trial locations of Ceduna, Kununurra and Wyndham have issues with alcohol, drugs or gambling. The majority of social security recipients experience financial hardship trying to meet basic needs on their social security payments, and spend lower portions of their incomes on alcohol than all other Australians.¹⁵
19. In the Final Evaluation Report, the majority of surveyed participants answered questions assessing their change in alcohol, drug or gambling behaviours as "not applicable" to their circumstances. This was due to these participants not engaging in those behaviours prior to the commencement of the trial.¹⁶ This means that many CDC trial participants fall outside of the targeted cohort of people who may experience alcohol, drugs or gambling abuse issues.
20. Given the criticisms of ORIMA Research's evaluation reports, we do not accept their conclusions that the CDC led to a reduction in alcohol, drug and gambling practices in the trial communities.

10 E Klein and S Razi, 'The Cashless Debit Card trial in the East Kimberley' (CAEPR Working Paper No. 121/2017) http://caep.r.cass.anu.edu.au/sites/default/files/docs/Working_Paper_121_2017.pdf

11 The CDC trial in the Goldfields region commenced in March 2018.

12 Commonwealth, Parliamentary Debates, House of Representatives, 17 August 2017, 11-12 (Alan Tudge).

13 Second Reading Speech, Minister Robert, Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2019 (Cth), 11 September 2019.

14 ORIMA Research, Cashless Debit Card Trial Evaluation: Final Evaluation Report, released by the Department of Social Services (August 2017).

15 Australian Bureau of Statistics, 2015-16, Household Expenditure Survey, Cat. no. 6530.0, Australian Bureau of Statistics, Canberra, accessed 21 September 2017, <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/6530.0Main+Features12015-16?OpenDocument>>.

16 ORIMA Research, Final Evaluation Report, above n3, 43.

The Interim Report did acknowledge that seasonal changes, community events and other factors may have influenced this finding, further weakening this conclusion.

21. Multiple independent expert evaluations of income management programs have found that there is no 'evidence of income management having improved the outcomes that it was intending to have an impact on',¹⁷ and that it 'did not appear to have a substantial or sustained impact on the level of alcohol, tobacco or gambling consumption'.¹⁸
22. In fact, there is no reliable evidence that cashless debit cards or other forms of income management are effective in achieving their purpose of reduced incidences of addiction,¹⁹ and the Government itself has acknowledged that voluntary income quarantining delivers better results than compulsory quarantining.²⁰
23. We oppose the continuation of the CDC, however, we recognise that living with the CDC has become the new normal for a number of people in trial sites. While the CDC remains in operation, participation in the program should only be on a voluntary basis. Nobody should be forced onto the program simply by virtue of receiving income support.

Unjustified expansion of Ministerial powers

24. The Bill would grant the Minister broad powers to unilaterally determine by notifiable instrument the percentage of income to be quarantined for certain classes of trial participants in the Northern Territory.²¹
25. No legislative guidance or limitations are provided as to how this power is to be exercised, meaning the Minister will be able to quarantine 100% of a class of trial participants' income without any proper justification.
26. The explanatory memorandum notes that the Secretary's power to vary the percentage of quarantined income will prevail over such Ministerial determinations,²² however it is unclear how this power would effectively ensure the appropriate exercise of Ministerial power – noting the Minister's powers apply to classes of participants, while the Secretary's applies only to individuals.
27. Further, that the Ministerial determinations are made by notifiable instrument means they are not subject to the tabling, disallowance, and sunseting requirements that apply to legislative instruments under the *Legislation Act 2003* (Cth).
28. In our view the complete absence of parliamentary scrutiny or legislative limitations on this exercise of Ministerial power cannot be justified. If percentages of income support payments are to be quarantined, they should be done so on the basis of vigorous research and evaluation – not solely at the discretion of a Minister.

¹⁷ Bray, J. Rob, Matthew Gray, Kelly Hand and Ilan Katz. 2014. Evaluating New Income Management in the Northern Territory: Final Evaluation Report (SPRC Report 25/2014). Sydney: Social Policy Research Centre, UNSW Australia, xxii.

¹⁸ Deloitte Access Economics. 2015. Consolidated Place Based Income Management Evaluation Report 2012-2015. Report to the Department of Social Services. Canberra: Deloitte Access Economics, 65.

¹⁹ Australian National Audit Office (2018) The Implementation and Performance of the Cashless Debit Card Trial' 17 July 2018.

²⁰ The Australian Government (2018) 'Concluding observations on the fifth periodic report of Australia: Information received from Australia on follow-up to the concluding observations', Committee on Economic, Social and Cultural Rights, 21 December 2018.

²¹ Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019, item 39.

²² Explanatory Memorandum, Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2019 (Cth), 19; Explanatory Memorandum, Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2018 (Cth), 13-14.

Undue Financial Hardship

29. The CDC places additional undue financial hardship on individuals and families already struggling to meet their basic needs. Many participants disclosed running out of money to buy food, or to pay for items for their children. 52% of participants ran out of money to buy food at least once in the previous 3 months, and approximately one quarter reported running out of money to buy food “about once every 2 weeks or more” – which is equivalent to the payment frequency of their support payments.²³
30. Extensive research has demonstrated that Newstart Allowance and related payments are well below the poverty line and not sufficient to meet the basic costs of living.²⁴ Yet the CDC removes the ability for people to seek out cheaper goods and services, and prevents individuals from reducing their spending.²⁵ CDC holders have reported being unable to purchase second hand goods, buy items from farmer’s markets or collectively in bulk.²⁶ As food and other goods are typically more expensive in remote locations, this has a devastating effect on the capacity for individuals in the remote CDC locations to meet basic needs.²⁷
31. There are also directly increased costs for those using CDCs. These costs include the imposition of card surcharges or minimum purchase requirements. Some trial participants in the Goldfields trial area reported issues with paying bills on time directly through the card, leading to the risk of late payment penalties and further reducing their ability to meet basic living expenses.²⁸
32. This increase in hardship for individuals flows through to negatively impact the health and wellbeing of communities as a whole. For example, research into income management programs in the Northern Territory demonstrated how it even adversely impacted on the birth weight of children²⁹ and school attendance rates.³⁰
33. Additional financial hardship may also be experienced by some CDC holders who require urgent access to cash. For example, a person experiencing domestic violence may face obstacles in attempting to flee. We further remain concerned that the card may enable financial abuse. Both evaluation reports found that since the introduction of the CDC the levels of humbugging, or making persistent demands for money, had considered to have increased from the perspective of participants and family members.³¹

23 Ibid 72.

24 Peter Saunders & Megan Bedford, 'New Minimum Income for Healthy Living Budget Standards for Low-Paid and Unemployed Australians' (Report, Social Policy Research Centre, August 2017).

25 The Interim Evaluation Report showed that across the Ceduna and East Kimberly trial sites, 78% of CDC holders had not change “where and how they shopped”, however 18% reported constraints on their ability to purchase allowable items, causing an additional burden. ORIMA Research, Wave 1 Interim Evaluation Report, above n2, 3.

26 ORIMA Research, Wave 1 Interim Evaluation Report, above n2, C11. See also: Lucy Cetta, 'Cashless card user not happy with system', West Coast Sentinel (online), 12 May 2017, <www.westcoastsentinel.com.au/story/4659187/debit-card-has-negative-impact/>.

27 Erin Parke, 'Remote food costs soar as wages and freight spiral', ABC News (online), 1 July 2013, <<http://www.abc.net.au/news/2013-07-01/remote-food-costs-soar-as-wages-and-freight-spiral/4791126>>.

28 A Murdoch and J Delalande, 'Cashless card fury heard', The West Australian (Online), 25 June 2018, <<https://thewest.com.au/news/kalgoorlie-miner/cashless-card-fury-heard-ng-b88875124z>>

29 Recent research has shown that that “restricting welfare payments reduced birthweight by over 100 grams and increased the probability of low birthweight by around 30 percent.” Mary-Alice Doyle, Stefanie Schurer, Sven Silburn, 'Do Welfare Restrictions Improve Child Health? Estimating the Causal Impact of Income Management in the Northern Territory', (Report No 2017-23, ARC Centre of Excellence for Children and Families over the Life Course), December 2017.

30 1 Isabella Higgins and Bridget Brennan, 'School attendance, birthweight fell during Northern Territory intervention rollout, study finds', ABC News (Online), 8 December 2017 <<http://www.abc.net.au/news/2017-12-08/school-attendance-birthweight-fell-during-ntintervention-study/9238544>>

31 ORIMA Research, Final Evaluation Report, above n3, 113; & ORIMA Research, Wave 1 Interim Evaluation Report, above n2, 6.

34. Research from the ANU's Centre for Aboriginal Economic Policy Research found that the large majority of interviewed CDC trial participants in East Kimberley found that the card made managing money harder by restricting their options.³²
35. This additional financial burden being placed on vulnerable people relying on income support is not justifiable. Individuals are best placed to make decisions about their own budgets, particularly when resources are limited.

Disproportionately impact First Nations communities

36. Income management schemes in Australia disproportionately target First Nations communities, with an overwhelming 79% of people on income management identifying as Aboriginal or Torres Strait Islander.³³ We are concerned that First Nations communities are being used as testing grounds for controversial measures and new technologies.
37. First Nations people are already overrepresented in the current CDC trials, making up over 33% of overall participants,³⁴ and this number is expected to greatly increase given the proposed expansion of the program into areas with high First Nations populations – Cape York and the Northern Territory.
38. 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.
39. We view this disproportionate impact as undermining international human rights obligations to eliminate racial discrimination,³⁵ and ensure the right to self-determination.³⁶
40. We regard the indirect discrimination caused by the CDC program to be unjustifiable, and support the issues raised by First Nations organisations to this inquiry.

Conclusion

41. There is no evidence to support the expansion of the CDC trial and, given the evidence of hardship it causes to both individuals and communities impacted by it, it is our view that the compulsory CDC program should be abolished.

Contact for this submission

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

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³² E Klein and S Razi, above n10, p7.

³³ Department of Social Services, Income Management and Cashless Debit Card Summary (25 August 2017)

³⁴ National Social Security Rights Network, Submission No 45 to Senate Standing Committees on Community Affairs, Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2018.

³⁵ 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.

³⁶ International Covenant on Civil and Political Rights, art 1.