

Dissenting Report by the Australian Greens

1.1 The Australian Greens oppose the measures contained in Social Services Legislation Amendment (Cashless Debit Card Trial Expansion) Bill 2018 (Bill).

1.2 This Bill will extend the Cashless Debit Card to the Bundaberg and Hervey Bay area, defined as the Division of Hinkler on 31 May 2018, until 30 June 2020, and it will raise the participant cap across the trial sites from 10 000 to 15 000.

1.3 It will also introduce an exemption to the *Competition and Consumer Act 2010* for merchants who decline transactions that use the funds in a welfare restricted bank account to purchase restricted products, specifically alcohol, gambling and cash-like products. Cash-like products are defined in the Bill.

1.4 The Australian Greens note that this is the third legislation inquiry into the Cashless Debit Card and that our dissenting reports to both of the previous bills' inquiries remain relevant to the issues before us.

1.5 We continue to hold concerns about the harmful nature of compulsory income management and its ineffectiveness as a policy, the widely criticised ORIMA evaluation of the first two trial sites in Ceduna and the East Kimberley, the indirect discrimination of the card against First Nations peoples, the lack of consultation with individuals who will be affected by the card's rollout and the barriers the card creates for those forced onto it.

1.6 Our fresh concerns relating to the Cashless Debit Card and this Bill are outlined below.

1.7 The Australian Greens wish to express their disappointment that there was only a single short hearing for this inquiry held in Canberra and that there was no hearing held in the Bundaberg and Hervey Bay area.

Australian National Audit Office report

1.8 Since the last inquiry into the Cashless Debit Card, the Australian National Audit Office (ANAO) has released its report *The Implementation and Performance of the Cashless Debit Card Trial*.

1.9 In its submission to the inquiry, the Accountable Income Management Network says:

...the ANAO's report on the CDC has explicitly condemned both ORIMA's evaluation process and final report. The ANAO undertook an audit of the CDC trials to identify whether the Department of Social Services was appropriately informed and positioned to justify further roll-out of the CDC. The ANAO's report concluded that the Department of Social Services' "approach to monitoring and evaluation was inadequate. As a consequence, 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." The report also noted that the Department of Social Services failed to "actively monitor risks identified in risk plans and there were deficiencies in elements of the procurement process." Referring specifically

to the ORIMA evaluation of the trial, "there was a lack of robustness in data collection and the department's evaluation did not make use of all available administrative data to measure the impact of the trial including any change in social harm." Crucially, the Auditor-General found that "the trial was not designed to test the scalability of the CDC and there was no plan in place to undertake further evaluation." This indictment of the trials specifies that there is no clear basis for expansion of the CDC, and casts doubt on the validity of the current trials.¹

Scope for Bundaberg/Hervey Bay area trial site

1.10 The Bill will see those under 36 years who are receiving Newstart Allowance, Youth Allowance (excluding new apprentices or those undertaking full-time study out of area) or Parenting Payment and whose usual place of residence is, becomes or was within the Bundaberg and Hervey Bay area subjected to the Cashless Debit Card.

1.11 The Accountable Income Management Network says in its submission:

While the justification given by the Department of Social Services is that this age bracket encompasses those at most risk of harm related to alcohol and other drugs and gambling, this will result in the further marginalisation of a particular demographic within the group of income support recipients in the Bundaberg and Hervey Bay Region.²

1.12 The Parliamentary Joint Committee on Human Rights says in its most recent report:

As the cashless debit card trial applies to anyone below the age of 35 residing in the trial location who receives the specified social security payments, there are serious doubts as to whether the measures are the least rights restrictive way of achieving the objective. In relation to the bill, this concern is heightened insofar as the trial applies not only to persons whose usual place of residence 'is or becomes' within the Bundaberg and Hervey Bay area, but also applies to a person whose usual place of residence *was* within the area.³

1.13 In relation to the trial applying to those whose usual place of residence was within the area, the Australian Human Rights Commission says in its submission:

The Commission considers that this over-inclusive application of the cashless debit card trial is unnecessary and notes that the statement of compatibility with human rights does not provide a compelling justification for the proposed amendment.⁴

1 Accountable Income Management Network, *Submission 76*, pp. 9-10.

2 Accountable Income Management Network, *Submission 76*, p. 4.

3 Parliamentary Joint Committee on Human Rights, *Report 6 of 2018*, p. 37.

4 Australian Human Rights Commission, *Submission 43*, p. 2.

Consideration of Participant Wellbeing

1.14 The Australian Greens have concerns regarding subsection 124PGA(5) of the Bill, which says:

The Secretary is not required to inquire into whether a person being a trial participant under this section would pose a serious risk to the person's mental, physical or emotional wellbeing.

1.15 The Accountable Income Management Network says in its submission:

The lack of requirement for the Secretary to consider the detrimental effects of the CDC on a participant's wellbeing prior to their enrolment in the trial is of great concern, as it forces the burden of proof of hardship on to income support recipients.⁵

1.16 Further on, it continues:

As noted by the ANAO, key services in trial sites that relate directly to participant wellbeing [including the wellbeing exemptions] were not adequately monitored and evaluated to determine their effectiveness and to drive improvement in trial operation by the Department of Social Services[.]⁶

1.17 The Parliamentary Joint Committee on Human Rights says in its most recent report:

...the secretary is not required to make inquiries on this matter but is only required to take action once being made aware of the relevant facts. It is not clear how the secretary would be made aware of whether a person's participation in the trial is impacting a person's mental, physical and emotional wellbeing.⁷

Community bodies/panels

1.18 The Australian Greens are concerned about the inclusion of the community body/panel model for the proposed new trial site. This concern is exacerbated by the recent ANAO report.

1.19 The Accountable Income Management Network says in its submission:

This directly contradicts the Department of Social Services' statement [to the ANAO] that the Community Panels were not...suitable for carry-over to further trial sites.⁸

1.20 Further on, it continues:

...the ANAO report reveals that the community panels were not effectively or sufficiently evaluated as a component of the trials in current trial sites, noting that "the indicator developed to assess the operational performance

5 Accountable Income Management Network, *Submission 76*, p. 4.

6 Accountable Income Management Network, *Submission 76*, p. 18.

7 Parliamentary Joint Committee on Human Rights, *Report 6 of 2018*, p. 37.

8 Accountable Income Management Network, *Submission 76*, p. 4.

of the Community Panels did not take into account feedback from trial applicants."

Finally, the ANAO notes that the Department of Social Services did not appropriately report on Community Panels in their report to the Minister in October of 2017: "Social Services did not refer to the evaluation of the trial, which noted other factors that impacted on the effectiveness of Community Panels, including the '...delay in establishing and commencing the Community Panels from the start of the trial' and that '...the panel process was not adequately known and communicated' to the trial participants and communities. The evaluation report indicated that community leaders and stakeholders indicated they believed the Community Panel was '...a good and necessary safeguard process in the trial to ensure that personal/family circumstances and needs were taken into consideration'."⁹

1.21 Say No To Cashless Welfare Card/No Cashless Debit Card Hinkler Region says in its submission:

This is concern[ing] as to who would be empowered to run such programs without being professionals, who would be involved, what experience would they have? Who would be able to gain power to take control of other peoples' lives? PRIVACY!¹⁰

1.22 The National Social Security Rights Network (NSSRN) says in its submission:

We have previously highlighted concerns with the CDC community panels. In the small trial communities, there is a strong likelihood that an applicant will know members of the Community Panels. This raises issues of bias, conflicts of interest, and discrimination. We have also raised specific concerns about the application process and the evaluation criteria. The application process requires applicants to consent to the release or cross-matching of data from a range of government agencies. This process inevitably involves the disclosure of substantial personal information to people personally known to them. Furthermore, there is no independent review of a percentage decision, either through internal review or review by the Administrative Appeals Tribunal.¹¹

1.23 The Australian Greens are also concerned that the Bill amends how the authorisation of community bodies will occur for the new site. Instead of authorisation being by legislative instrument, it will be by way of notifiable instrument, which removes the ability for parliamentary scrutiny.

9 Accountable Income Management Network, *Submission 76*, p. 16.

10 Say No To Cashless Welfare Card/No Cashless Debit Card Hinkler Region, *Submission 75*, p. 5.

11 National Social Security Rights Network, *Submission 45*, p. 7.

Additional amendments in the Bill

Point of sale exemption and cash-like products ban

1.24 The Australian Greens have concerns regarding subsection 124PQ(2A) of the Bill, which seeks to exempt the declining of a transaction from the *Competition and Consumer Act 2010* if it involves money from a welfare restricted bank account and the purchasing of alcohol, gambling or a cash-like product that could be used to purchase alcohol or gambling. This will affect all trial sites.

1.25 Subsection 124PQA will insert the definition of cash-like products. It says:

Without limiting sections 124PM and 124PQ, cash-like product includes any of the following:

- (a) a gift card, store card, voucher or similar article (whether in a physical or electronic form);
- (b) a money order, postal order or similar order (whether in a physical or electronic form);
- (c) digital currency.

1.26 The NSSRN says in its submission:

This amendment will unnecessarily expand the ambit of control exercised over the restricted portion of a CDC. Under this measure, a person will be restricted from buy[ing] a gift or store card from a merchant that does not even sell any of the targeted prohibited items. This provision will further act to disempower CDC holders and limit their economic and social participation in their communities.¹²

1.27 The Australian Council of Social Service says in its submission:

We also note that people will be denied purchasing gift cards, money orders and postal orders. This could lead to some people being unable to pay things like a bond (which often requires a money order) or send money by post.¹³

1.28 The Accountable Income Management Network says in its submission:

This means that merchants will be authorised to discriminate against trial participants at the point of sale based on their being subject to the trial. We note that the recommendation for further technologisation of the CDC through point-of-sale blocking of restricted products was included and developed in the Minderoo Foundation's report on the CDC from late 2017...

While the Bill does not make declining such transitions mandatory, it does open the possibility for merchants to undertake such actions without violating the *Competition and Consumer Act 2010*.¹⁴

12 National Social Security Rights Network, *Submission 45*, p. 8.

13 Australian Council of Social Service, *Submission 60*, p. 5.

14 Accountable Income Management Network, *Submission 76*, pp. 18-19.

1.29 Say No To Cashless Welfare Card/No Cashless Debit Card Hinkler Region says in its submission:

We assert:

- a) That the inclusion of digital currencies on prohibited lists bears no relation to the stated cash control objectives of the CDCT.
- b) That exclusion from the digital currency marketplace is a breach of economic, social and cultural rights and is radically discriminating against Social Security recipients as a cohort.
- c) That digital currencies are part of the digital /online world schema and therefore represent an essential generational and cultural artefact in their own right.
- d) That this amendment will impact significantly upon the under 36 year old cohort and others, that may require digital currency access for self advancement and self maintenance ie: the unemployed and under-employed and persons with mental illness.
- e) This amendment is changing the entire nature of the Cashless debit Card legislation from being one of cash restriction for purpose, to one of wholesale economic segregation.
- f) This amendment seeks to remove the right of individuals to transact external to the banking sector in a manner of their own choosing.¹⁵

Secretary's discretionary powers

1.30 The Australian Greens have concerns regarding subsection 124PJ(4A) and (4B) of the Bill. Subsection 124PJ(4A) and 124PJ(4B) have the effect of transferring the power for varying percentages of restricted and unrestricted portions for particular individuals from the Minister via legislative instrument to the Secretary via written determination.

1.31 The Accountable Income Management Network says in its submission:

Importantly, this means that these decisions, while subject to Parliamentary disallowance in the Ceduna, East Kimberley and Goldfields regions, will *not* be subject to the same mechanism in the Hinkler electorate.¹⁶

Contingent amendments

1.32 The Australian Greens have concerns regarding the contingent amendment in the Bill (item 20) that will come into effect if the applicable amendments in Social Services Legislation Amendment (Housing Affordability) Bill 2017 have commenced at the time these amendments commence.

1.33 As the Parliamentary Joint Committee on Human Rights says in its most recent report:

15 Say No To Cashless Welfare Card/No Cashless Debit Card Hinkler Region, *Submission 75*, p. 4.

16 Accountable Income Management Network, *Submission 76*, p. 18.

The effect of this amendment would be to...retain the proposed deletion of current section 124PM(b) which allows persons to use the unrestricted portion of the payment, as paid to the person, at the person's discretion.¹⁷

1.34 The Australian Human Rights Commission says in its submission:

...by removing the safeguard for persons to use the 'unrestricted' portion 'at their discretion' and by further restricting the uses to which the 'restricted' portion can be directed, both Bills are therefore detrimental to the economic freedom of trial participants.¹⁸

1.35 The Australian Greens do not support the Social Services Legislation Amendment (Housing Affordability) Bill 2017.

Concerns of those who will be subjected to the card in the Bundaberg and Hervey Bay area

1.36 A number of submissions were received from individuals who will be subjected to the card if this Bill passes. A number of these individuals also provided evidence at the hearing for this inquiry. The Australian Greens are concerned that their views have not been heard through consultations. Accordingly, we have highlighted some of their concerns below.

1.37 Say No To Cashless Welfare Card/No Cashless Debit Card Hinkler Region, among other things, was concerned about the lack of public consultation from the local member and the costs associated with the card, both monetary and for those to be subjected to the trial.¹⁹ They say in their submission:

The stigma attached to the card through the constant demonising of the people on social security, the media "welfare bashing" has already changed our local community language and the way people on social security are being treated[.]²⁰

1.38 They continue:

This card will further divide our community, excluding so many people in so many ways, from community events, school events, charity events, cash economy, secondhand economy, but also the banking economy...

Just like the people on the card in other regions, our residents do not deserve to be treated as a sub class citizen with their human rights removed, their freedom removed, their ability to travel, decided for them...²¹

17 Parliamentary Joint Committee on Human Rights, *Report 6 of 2018*, p. 39.

18 Australian Human Rights Commission, *Submission 43*, p. 2.

19 Say No To Cashless Welfare Card/No Cashless Debit Card Hinkler Region, *Submission 75*, p. 1.

20 Say No To Cashless Welfare Card/No Cashless Debit Card Hinkler Region, *Submission 75*, p. 2.

21 Say No To Cashless Welfare Card/No Cashless Debit Card Hinkler Region, *Submission 75*, p. 3.

1.39 Instead, they wanted to see the money that would be spent on the trial go into funding services such as homeless and domestic violence shelters and to funding education pathways and creating jobs for the local young people.²²

1.40 Submission 1 says:

We live in Childers QLD and it would make our household worse off than it is now as many of our household bills are handled by direct debiting especially our mortgages, which the card does not allow, with alternative payment options taking up to nine months to arrange.²³

1.41 It continues:

Housing with the card wi[ll] be virtually unattainable as most of the real estate agencies use direct debiting options and again not an option on the cashless card. Households that rely on cash income streams like garage sales, markets, Ebay, Etsy and so forth, will lose that income and be worse off and kiss goodbye to school tuckshops as most of these (at least in the Childers area) are cash facilities only.²⁴

1.42 Submission 12 says:

I feel that the removal of cash from a place like the seat of [H]inkler would place a very large strain on the local economy.

1/ The local farmers who sell on the side of the road will feel it.

2/ People trying to sell second hand items will feel the loss of buyers.

3/The local markets will also lose buyers.

4/School fetes will lose out as some of the people targeted here will probably have school age children and won[']t have the cash to buy or participate[.]

5/ Children will miss out on school activities or buying second hand items from schools as the parents won[']t have cash.

6/ Local small businesses who deal in cash will lose customers.

7/ People won[']t be able to buy online thus pushing their cost of living up.²⁵

Conclusion

1.43 It is difficult to comprehend why the Government is pushing forward with the expansion of the Cashless Debit Card to the Bundaberg and Hervey Bay area, particularly when the evidence does not exist to support this further roll out. Instead,

22 Say No To Cashless Welfare Card/No Cashless Debit Card Hinkler Region, *Submission 75*, p. 3.

23 Name withheld, *Submission 1*, p. 1.

24 Name withheld, *Submission 1*, p. 1.

25 Name withheld, *Submission 12*, p. 1.

the Government should be investing the money to be spent administering this trial on services for the area.

Recommendation 1

1.44 The Australian Greens recommend that the bill not be passed.

Senator Rachel Siewert

Senator Andrew Bartlett

