



11 April 2023

Committee Secretariat
Senate Standing Committee on Community Affairs Legislation
PO Box 61000
Parliament House
CANBERRA ACT 2600
By Email: community.affairs.sen@aph.gov.au

QIFVLS Submission – Inquiry into the Social Security (Administration) Amendment (Income Management Reform) Bill 2023

Dear Director,

The Queensland Indigenous Family Violence Legal Service (QIFVLS) is pleased to write in relation to the recently tabled *Social Security (Administration) Amendment (Income Management Reform) Bill 2023* (the Bill).

Our submission is closely related to submissions we lodged on 12 August 2022 in response to the Senate’s then Inquiry into the *Social Security (Administration) Amendment (Repeal of Cashless Debit Card and Other Measures) Bill 2022*. In those submissions, attached hereto and marked “A”, our central thesis was that an approach grounded in self-determination and extensive consultation with those with a lived experience of using the cashless debit card was the best approach. This thinking was underpinned by our experiences of the diversity of opinion within the disparate Indigenous communities, meaning that a one-size fits all approach would be unsustainable. Thus while we understood that the Cashless Debit Card severely curtailed the human rights and individual autonomy of those under its scheme, we acknowledged there were other community members who saw it as a welcome tool, particularly when utilising it as a form of voluntary income management (VIM).

We understand that the Bill:

- extends the enhanced income management regime to include access to over one million outlets across Australia with improved technology including ‘Tap and Go’ transactions, online shopping and BPay;
- provides a choice for people under the income management regime to move to the enhanced income management regime from the commencement date, thereby providing access to the *BasicsCard* bank account and the *SmartCard*; and
- directs all new entrants to the enhanced income management regime while further consultation is undertaken on the long-term future of income management.

We stand by the approach we took last year as it pertains to our submission to this Committee now. Our core point remains – an approach to income management reform grounded in self-determination and consultation should be the guiding factor in the legislative process. We believe that income management is not designed to be a tool used in isolation. Rather, it should only form a suite of measures and ideally be the last resort when an individual and their circumstances warrant it.



Who we are

The Queensland Indigenous Family Violence Legal Services Aboriginal Corporation (QIFVLS) is a Family Violence Prevention Legal Service (FVPLS) and an Aboriginal and Torres Strait Islander Community Controlled Organisation (ACCO) that fills a recognised gap in access to culturally appropriate legal and wraparound support services for Aboriginal and Torres Strait Islander victim-survivors of family and domestic violence and sexual assault. We are a member of the Coalition of Peak Aboriginal and Torres Strait Islander peak organisations (Coalition of Peaks), and we are dedicated to achieving the priority reforms and socio-economic targets outlined in the [National Agreement on Closing The Gap](#).

Of the 17 socio-economic targets outlined in the National Agreement, our aim is to work with governments and the community to achieve Target 13 (ensuring families and households are safe and that domestic and family violence against Aboriginal and Torres Strait Islander women and children is reduced by at least 50% by 2031 as we progress towards 0) among the other inter-related targets. Target 13 is not an isolated objective and we highlight that in seeking to achieve all the socio-economic targets, a combined and coordinated approach between the government, communities and the community-controlled sector is required. To this end, efforts to meet the targets are underpinned by a set of four priority reforms that government parties to the National Agreement must meet:

- Priority Reform 1 – Formal partnerships and shared decision-making;
- Priority Reform 2 – Building the community-controlled sector;
- Priority Reform 3 – Transformation of mainstream institutions.
- Priority Reform 4 – Sharing data and information to support decision-making.

QIFVLS' Case Management Practice Model

Our feedback to you is informed by our model of care. At QIFVLS, we utilise our unique case management practice model to support our clients to address legal and non-legal needs. The Case Management Practice was developed as it was initially observed in Rockhampton and in Mount Isa that our clients were presenting to QIFVLS as a result of their unmet non-legal needs. The Case Management Practice is a non-therapeutic model based on the principles of the Case Management Standards of Australia but tailored to be delivered by an ACCO for and by Aboriginal and Torres Strait Islander peoples.

With a joint team of Lawyer and Case Management Officer (CMO), QIFVLS clients entering case management are assisted to address their non-legal needs whilst also responding to and addressing their legal needs. This is a holistic, wrap-around service delivery model that utilises strong referral pathways with existing service providers in community, whilst allowing a client to set achievable goals at a pace determined by the client, thereby achieving self-efficacy and self-determination.

Another stand out feature of QIFVLS Case Management Practice is that our Case Management Officers as well as our Case Management Practice Manager, are all identified roles. The case management support that is provided to QIFVLS clients is delivered by duly qualified Aboriginal and Torres Strait Islander QIFVLS staff within a trauma informed and culturally safe manner.

Our observations on the ground



Given the geographical spread of Queensland, QIFVLS provides services to over 80 communities, from the urban south-eastern corner of the state, out west to communities surrounding Mount Isa, reaching the Northern Territory border, and north to the outer islands of the Torres Strait, neighbouring Papua New Guinea.

Through our staff's observations in these diverse communities, the unique difficulties regional, rural and remote communities face in service delivery emphasise the necessity of governments working together in a coordinated approach that empowers the many diverse local communities to develop solutions and systems to combat family and domestic violence. Leaning into the National Agreement is vital in this regard.

Our feedback on the Bill

Welcome developments

Direct payments where there is family violence

We have noticed that the Bill makes provision for situations where payments to a recipient can be received differently by the recipient in circumstances where a recipient is unable to use their Card. We understand this may include circumstances where there is a relationship characterised by family violence and the relevant recipient is being pressured by their partner or their partner is withholding access to the *BasicsCard*. Accordingly, in emergency situations, direct payments may need to be made to individuals in a different way that does not involve the use of the recipient's card account¹. The Explanatory Notes state that such emergency situations may include where there is family and domestic violence. We welcome this flexibility.

We wish to add a note of caution for the Committee's consideration. Disclosing family violence is not easy. For many victim-survivors, predominantly women, we cannot assume they will be readily able to disclose the circumstances of violence in which they are living. From our point of view, this emphasises the necessity of community consultation, expanding the geographical reach of FVPLS' such as QIFVLS and community-controlled organisations and investing in additional resourcing of community-controlled organisations who can provide culturally safe wraparound services in a trauma-informed manner.

Further study into the card technology

We would be interested in further study on the usage of the cards and the exact services, necessities and benefits a card will enable a recipient to access. In terms of card functionality, we strongly believe that the technology needs to be accessible for all cardholders who have the responsibility of managing their income and payments. We would like to see this streamlined.

In that regard, we welcome Services Australia being the provider of the SmartCard as opposed to private providers. Despite this improvement, we must ensure that recipients are not being taken advantage of, particularly those with poor digital and technological literacy. Accordingly, we strongly recommend consultations with communities and with people who have lived experience of using or being placed on income management, in order to identify and address potential technological issues and other gaps that may arise. Throughout this process, self-determination and financial independence is the goal and ideally we envision that the *SmartCard* would act as a vehicle assisting

¹ Social Security (Administration) Amendment (Income Management Reform) Bill 2023 – clauses 123SLA(8), 123SLD(8), 123SLG(8), 123SLJ(8), 123SM(4) and 123SP(4)



recipients and account-holders to slowly gain financial independence to the level that income management is not needed.

Consultation

We stress that for this legislation to be effective, investing at the front-end in consultation with various communities and people with lived experience of being placed on income management is imperative. This closely relates to our point in last year's submission that First Nations communities are not a monolith. The culture, history, personalities, families and local issues in one community in North-East Arnhem Land, for example, cannot be blindly duplicated in a community on Palm Island or on the outer islands of the Torres Strait.

We are also careful to observe that not all income management is the same. Often the circumstances that lead one person to be placed on compulsory income management (CIM) are different to a person who willingly seeks to be placed on voluntary income management (VIM).

Consequently, our feedback is that consultation must be a genuine two-way deliberative process of dialogue prior to any further decisions to progress the Bill. Too often 'consultation' has merely consisted of 'telling' communities what will occur. To this point, we refer to Article 19 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which states that states should consult and cooperate in good faith with indigenous peoples in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them. The ability to genuinely influence the outcome of the decision-making process is a fundamental ingredient towards ensuring there is genuine consultation pursuant to Article 19.

At QIFVLS, we believe that consultations should be Indigenous-led and reflect the priority reforms in the National Agreement on Closing The Gap. Furthermore, the significance of consultation and partnerships must also be considered in light of what has been emerging in the Robodebt Royal Commission, noting that this will be the same Department administering the income management scheme. When factoring in Australia's colonial history and the understandable and justified mistrust in government over generations by Aboriginal and Torres Strait Islander peoples, we cannot stress enough how important it is that an Indigenous led consultative approach is adopted and used.

Self-determination and Human Rights

At its core, income management is a policy grounded in paternalism. This inherently clashes with our belief in self-determination. We cannot escape the fact that income management disproportionately targets Aboriginal and Torres Strait Islander peoples. CIM in particular stigmatises recipients and imposes stringent conditions on the provision of income support payments. It removes free choice which is an essential component of self-determination. Article 3 of UNDRIP provides that Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Self-determination is closely mated to community-led decision-making. In that regard, we note the example and unique structure of Queensland's Family Responsibilities Commission, which provides an example of Priority Reform 1 (shared decision-making and partnerships) in that the powers and responsibilities of the Crown have been shared with Indigenous people such that they hold formal decision-making powers. This is evidenced by the fact that all decision-makers under the *Family*



Responsibilities Act 2008 (QLD) are First Nations people with the exception of the Deputy Commissioner who exercises powers upon delegation from the FRC Commissioner. The FRC's decision-making powers align with the principles of self-determination and we note that the decision-makers at FRC conferences are the FRC Commissioner, Ms Tammy Williams, a Murri woman of the Guwa people and Wangan and Jagalingou peoples of central Queensland, supported by local Elders/other respected community members.

Ideally therefore, we urge that the Bill incorporate principles that seek to empower people and communities to take control of their lives where possible. As we have stated above, that cannot be done in siloes and indeed it will require a transformational paradigm shift, embarking on a coordinated whole-of-government approach addressing head-on the underlying factors causing systemic and structural racism, poverty, low economic participation, family violence, health and disability, housing/homelessness and the cycle of drug and alcohol abuse via the priority reforms and socio-economic targets in the National Agreement on Closing The Gap.

Conclusion

We take this opportunity to thank you for considering our feedback. We trust that you appreciate our viewpoint as both an Aboriginal and Torres Strait Islander Community Controlled Organisation and Family Violence Prevention Legal Service.

If you would like to discuss our response further, please don't hesitate to contact me at

Yours faithfully

Queensland Indigenous Family Violence Legal Service

Thelma Schwartz

Principal Legal Officer