

**SUBMISSION TO THE JOINT STANDING COMMITTEE ON THE
NATIONAL CAPITAL AND EXTERNAL TERRITORIES**

NORFOLK ISLAND GOVERNANCE INQUIRY

DEPARTMENT OF FAMILY AND COMMUNITY SERVICES



Summary

Norfolk Island is constitutionally part of the Commonwealth of Australia and has the status of a self-governing territory, similar to that of the Australian Capital Territory and the Northern Territory.

That said, Norfolk Island is specifically excluded from the definition of *Australia* in the social security and family assistance laws. Norfolk Island residents do not qualify for Australian social security, family assistance payments and supplementary payments. Further, recipients of Australian payments travelling to Norfolk Island are subject to overseas payment rules.

There are some areas of FaCS responsibilities that are not restricted by legislation authorising the provision of payments/services. However, in practice the department's involvement in Norfolk Island is very limited.

Any change in governance arrangements that result in the present exclusion was removed then residents of Norfolk Island could become eligible for the full range of FaCS payments and services. However, this is not a simple matter - social security and family assistance arrangements are intertwined with Australia's taxation, health and superannuation systems. Such a decision therefore has significant implications across the whole of government.

FaCS does not take a view on whether barriers to the application of the legislation should be removed or changed. This submission also does not purport to be a complete discussion of the issues relevant to all the payments and services the department provides. However, this submission may assist the Committee in understanding the different arrangements that apply between residents of Norfolk Island and the rest of Australia in social security and provision of community services.

1. Norfolk Island's welfare system

Norfolk Island is responsible for its own social security system. The *Norfolk Island Social Services Act 1980* provides for the payment of four means-tested benefits. These include an age benefit, an invalid benefit, a widowed person's benefit and a special benefit. Other entitlements include an orphan's benefit, handicapped children's benefit, supplementary children's benefit and a long-term care benefit.

Age benefits apply only to residents of Norfolk Island who have resided on the island for at least ten years immediately prior to the claim, while invalid benefits, widowed person's benefits and handicapped children benefits require residency of five years immediately prior to the claim. These payments and benefits are not portable outside Norfolk Island - recipients lose their entitlement if they leave the Island.

Norfolk Island benefits are indexed every six months using the movement in benefit adjustment factor based partly on the Norfolk Island retail price index. The levels of social service benefits are, broadly, maintained at 80% of the corresponding Australian social security payments.

A report carried out by the Commonwealth Grants Commission in 1996¹ suggested that the majority of social service benefits paid on Norfolk Island are paid to aged people. (The report noted that if current age trends continue the cost of the Island's social security scheme is likely to grow.)

2. Australian social security and family assistance systems and their applicability to Norfolk Island

FaCS is responsible for the provision of social security payments, family assistance payments, supplementary payments, and various disability, childcare, housing or community policies or services within Australia and, in certain circumstances, to Australians overseas.

Social security payments – residential requirements

Social security payments are authorised under the *Social Security Act 1991* and the *Social Security (Administration) Act 1999*. Generally, they are provided to people who are Australian residents.

Under these legislations Australian residents are defined as Australian citizens, permanent residents of Australia, or holder of specified visas who are residing in Australia. Norfolk Island is excluded from the definition of 'Australia' in the relevant part of the social security law - its people are not 'residing in Australia', and they do not therefore qualify for social security payments and associated services.

¹ Commonwealth Grants Commission, *Report on Norfolk Island*, 1997

Further, qualification for some social security payments (age pension, disability support pension, parenting payment, bereavement allowance and widow B pension) depends not only on current residence, but also on the person having been residing in Australia for a particular period of time, and during a particular phase of their life (eg working life – between age 16 and retirement).

The period of residence in Norfolk Island can not be counted towards this residence requirement and, even if physically present in Australia, Islanders do not qualify for payments that require a period of residence. For example, Australian citizens who have spent most of their life residing on Norfolk Island and move to the Australian mainland at age 65 would not qualify for an age pension under the social security law. They would only qualify if they had previously spent ten years of working life here. At the same time, they will have lost the right to a Norfolk Island retirement benefit, as that benefit is not portable.

The present governance arrangements also affect recipients of Australian income support payments who travel to Norfolk Island. As the Island does not form a part of Australia for the purpose of the social security law, our 'overseas' payment rules apply.

Age pension can be paid to Australian pensioners on Norfolk Island for an indefinite period. Under the portability rules (and changes to these which take effect 1 July 2004) age, the rate of these pensions paid after 26 weeks of absence depends on the length of the Australian working life residence (residence accrued between the age of 16 and the age pension age). Pensioners who have less than 25 years of Australian working life residence are paid at this 'proportionalised' rate.

Most other Australian income support payments can continue to be paid for up to 26 weeks of temporary stay at Norfolk Island. (The 2003-2004 Budget proposes to reduce this period to 13 weeks from 1 July 2004). The table at Attachment A outlines these.

There are currently twelve people who have been receiving Australian social security pensions in Norfolk Island long-term (for longer than 1 year). Most of them are age pensioners.

There are also other implications for payments:

- Supplementary payments such as pharmaceutical allowance and rent assistance are not available to recipients of social security payments that are paid in Norfolk Island on a long-term basis. These payments stop after 26 weeks of absence from Australia, or immediately if the departure is permanent.
- Remote area allowance (automatically available to recipients of income support living in a remote area) is not paid to residents of Norfolk Island.

- Concession cards (health care cards, pensioner concession cards) offer access to concessions and services provided by the Commonwealth and the States/Territories. They are only available to Australian residents in Australia. Concession cards are cancelled when a person departs Australia.

Australia has reciprocal social security arrangements with other countries that in effect extend the operation of our domestic arrangements to include previous residents now living in those countries. Residents of Australia and the other country are entitled to relevant portions of payments proportional to the period of residence and/or contributions in each place. People remain entitled to these payments and can claim them regardless of whether they were living in that other country or in Australia. This particularly benefits older people, who could move between that country and Australia while retaining payment.

However, FaCS notes that Norfolk Island is part of the Commonwealth of Australia, and that such an agreement would therefore be inappropriate.

Family assistance – residential requirements

Under family assistance law a customer needs to be an Australian resident, or a holder of a specified type of visa who is residing in Australia. 'Australian resident' is defined by reference to the definition in the *Social Security Act 1991*. Family tax benefit is therefore not payable if the recipient moves permanently to Norfolk Island.

However, under overseas portability rules, the base rate of family tax benefit part A can continue to be paid for up to three years of 'temporary' stay on Norfolk Island. Higher rates of family tax benefit part A, and family tax benefit part B, can be paid to Norfolk Island for a temporary stay of up to 26 weeks.

Maternity allowance and maternity immunisation allowance (one-off payments) are paid to Australian residents, or holders of special types of visas residing in Australia. They are not paid to residents of Norfolk Island.

Similarly, child-care benefit is not paid in respect of childcare provided on Norfolk Island.

3. *Issues arising from any changes in governance arrangements for Norfolk Island*

Any change in governance arrangements that affects the present exclusion of that Territory from social security legislation would need careful consideration.

Australia's taxation, health, social security and family assistance systems are all interlinked. The higher amount paid in an Australian age pension compared to that of the Norfolk island system has to be considered in the

context of taxation thresholds, means test arrangements, relative cost of living, provision of housing and medical services and other similar matters.

Equally, the impact of such a change on Norfolk Island's own social security system and the interaction between the two systems would need careful analysis. Any change that resulted in eligibility for social security and family tax benefit payments would have a significant cost to Australia and it is not clear what other balancing items there may be from such a change.

Consideration would have to be given to whether Australian social security law should cover Island residents who are not Australian citizens/permanent residents (ie Norfolk Islanders who are the descendants of Pitcairn Islanders).

A further key issue would be the very strong link between family tax benefit payments and the taxation system.

- *Means testing of payments*

Verification of income and assets and compliance measures, including data matching, are reliant on sources of information that may not be available in Norfolk Island. Any change in governance arrangements that result in payments to people on Norfolk Island would require careful exploration of issues relevant to means-testing of payments. Unless taxation laws also covered them it may be difficult to apply the income and assets tests for pensions and benefits with the same confidence as in Australia.

- *Supplementary benefits and concessions*

While the cost of extending supplementary payments (Rent Assistance, Remote Area Allowance, Pharmaceutical Allowance, Telephone Allowance, Bereavement Allowance and Bereavement Payment) to Norfolk Islanders would not be high, the appropriateness of these payments would need to be considered.

For example, Pharmaceutical Allowance is a payment made to pensioners to help with the cost of pharmaceutical prescriptions under the Pharmaceutical Benefits Scheme. One of the features of the Scheme is the safety net under which a person receives free prescription items once a certain number of prescriptions listed under the Scheme have been purchased in any calendar year. If Norfolk Islanders do not have access to Australia's Pharmaceutical Benefits Scheme, then it is arguably not appropriate to pay Pharmaceutical Allowance. Similarly, payment of Telephone Allowance may also be inappropriate if telephone arrangements in Norfolk Island are significantly different to those in Australia.

Concession cards are a valued part of Australia's system but may not be relevant or of equivalent value to Norfolk Islanders. Concessions currently applicable to card holders in Norfolk Island may be completely different to those offered in Australian States and Territories.

- *Specific issues in relation to medical and work capacity assessment of people with a disability*

Payments to people with disabilities, illness or injuries usually involve examination of medical evidence from the customer's treating doctor and an independent medical or work capacity assessment. Continuing medical eligibility for DSP is generally determined by reviews, which are conducted every 2 or 5 years. These reviews may involve independent medical or work capacity assessments as for new claims.

Costs of assessments vary according to geographic area, as providers charge different rates according to whether travel to a given location is involved. For example, costs are much higher in remote areas of Northern Australia, where providers do not have existing staff and infrastructure, than for metropolitan areas.

In extremely remote areas, where travel to conduct assessments is not feasible, telephone interviews or file-based assessments may be conducted instead. However, this is not the preferred method of assessment. In some cases assessment is done overseas, using similar assessments and evidence to that obtained in Australia.

Any change in governance arrangements that results in people on Norfolk Island becoming eligible for payment of Disability Support Pension, then consideration would need to be given to medical and other assessment arrangements. It is unlikely that existing service providers would be willing to establish assessment facilities on Norfolk Island given the small customer numbers involved. Telephone interviews would also be very costly.

- *Services relevant to the assessment of individuals' barriers to economic and social participation*

Introduction of enhanced assessment of work capacity was part of the *Australians Working Together* initiative announced in the 2001 Budget. The measures provided a comprehensive and integrated package of measures designed to maximise economic and social participation for all social security customers, including people with disabilities. Government's intention is to focus on what people can do rather than what they cannot do, and provide support and assistance to help them realise their potential.

An important part of this is an assessment of any barriers to participation of an individual and identification of interventions that could improve their ability to work. Some of these interventions are provided through FaCS-funded services (such as Disability Employment Assistance) or other government agencies (such as CRS Australia) that are not available in Norfolk Island.

Any change in governance arrangements for Norfolk Island would need to take this into account.

- *Other services*

Centrepay is a facility that allows Centrelink customers to have automatic deductions taken from their Centrelink payments for various purposes, such as payment of rent, gas, water, rates, or electricity. Once a landlord or utility service provider has been approved for registration with *Centrepay*, their customers who are in receipt of a payment can nominate to use the deduction service. Any change in governance arrangements that result in social security or other payments were payable to residents of Norfolk Island, then *Centrepay* could also be available.

- *Cost*

Costs of any extension of benefits would require further careful and extensive analysis. Any change in governance arrangements that result in Norfolk Islanders becoming eligible for Australian social security payments and other services would certainly increase Australia's outlays. Further it is not possible to consider one part of the system without also considering the whole – and its integration with other systems such as taxation. While the increase in social security outlays themselves may be modest, the impact on other systems is not clear and it is uncertain what balancing benefits such a change may bring.

3.3 *Other programs/services provided by the department*

FaCS portfolio responsibilities extend beyond the provision of social security payment and family assistance payments. The following information may assist the Committee to consider the impact of any governance changes on some other programs administered by FaCS.

- *Stronger Families and Communities Strategy*

Under this Strategy FaCS provides funding of up to \$5,000 for community organisations to increase opportunities for social and economic participation by building the capacity of volunteers, voluntary organisations and their communities.

Community organisations from Norfolk Island are already eligible to apply for a 2003 Volunteer Small Equipment grant focusing on organisations that provide family support and strengthen local communities and aimed at boosting the effectiveness, safety and attractiveness of voluntary work. Applications have already been received from Norfolk Island (in 2001 the Norfolk Island Rescue Squad received \$4,632.64 from the small equipment grants).

Any change in governance arrangements would therefore not impact on this program.

- *Disability services and child care services*

There are currently no Commonwealth funded disability, rehabilitation or childcare services on Norfolk Island. The extension of grants made to organisations providing disability services would require amendments to the *Disability Services Act 1986*, as its operation does not cover Norfolk Island.

It is difficult to comment on the possibility of impact of any change in governance arrangements that impact on provision of those services without undertaking a needs analysis looking at current service provision (if any) and demand in the community.

- *Housing support*

Housing support assists low to moderate income households to access affordable housing and supports initiatives to assist homeless people. The demand for housing and homelessness/crisis assistance on Norfolk Island is unclear.

The Commonwealth law governing the Commonwealth State Housing Agreement the *Housing Assistance Act 1996* currently exclude Norfolk Island. The Act specifically enables grants to be made only to States, which are defined to include the ACT and the NT. The Act also requires a statutory matching of grant funding by the States. Similarly, the *Supported Accommodation Assistance Act 1994*, which covers services to people who are homeless, requires States and Territories to match Commonwealth grant funding. Further, States and territories do the day-to-day administration of both programs.

Any change in governance arrangements that result in Norfolk Island being included under these legislations would need careful consideration of capacity of Norfolk Island to meet this requirement.

The inclusion of Norfolk Island would also require alteration of the distribution formula for base funding provided by the Commonwealth, or additional Commonwealth funding provided. Any changes to the existing funding distribution would draw a negative reaction from the States and Territories. For example, Tasmania, ACT and NT receive extra funding over and above the per capita funding basis under the Housing Agreement, and are allocated a guaranteed \$7.3 million in base funding annually (this amount would not necessarily apply to the Norfolk Island).

- *Gambling*

The Productivity Commission Report *Australia's Gambling Industries* identified concerns around the expansion of gambling activities to widen State and Territory revenue bases and the growing reliance on these revenues to support other public services such as hospitals and community groups.

In response the Commonwealth established a Ministerial Council on Gambling that auspices the development of a national strategic framework around prevention, early intervention and continuing support for

implementation by State and Territory governments. Norfolk Island is represented on the Council by the current Minister for Health and Environment Mr John McCoy.

Any change in governance arrangements that allowed an expansion of gambling activities on Norfolk Island (ie to increase financial sustainability and broaden the revenue base on the Island) then this needs to be balanced against the potential impact of problem gambling.

- *Community Programs - issues*

Community Programs administered by FaCS are generally funded following a needs planning assessment. There is no "entitlement" to programs and programs are established within budgetary restraints. Decisions regarding allocation of capped funds are currently based on ABS and Centrelink data and, for some programs; indicators of community disadvantage are used. Any change in governance arrangements that allow or require the extension of these programs to Norfolk Island would mean that existing outlays would need to reduce and the funds reallocated, or additional funds provided. It could also be difficult to obtain comparable data from Norfolk Island to enable a fair redistribution.

Current community programs funding agreements require specific insurance, indemnity, and tax status arrangements. Different legal requirements on Norfolk Island (eg exemption from GST) could affect the structure of contracts, impacting on financial management systems, funding agreements and, service delivery frameworks. At the same time Norfolk Island may lack organisations willing to deliver services, and there would need to be a process to develop appropriate community organisations.

- *Child Support*

The operation of the child support legislation (the *Child Support Assessment Act 1989* and the *Child Support (Registration and Collection) Act 1988*) extends to Norfolk Island to the effect that the maintenance liability of a Norfolk Island resident is enforceable under these Acts. Any change to governance arrangements would therefore not affect child support arrangements.

Conclusion

FaCS does not take a view on whether barriers to the application of the legislation should be removed or changed. This submission also does not purport to be a complete discussion of the issues relevant to all the payments and services the department provides.

This submission is provided to assist the Committee in understanding the different arrangements that apply between residents of Norfolk Island and the rest of Australia in social security and provision of community services. The various payments and services discussed in this submission cannot be looked

at in isolation. Any change to eligibility in one part of the system has implications for other parts. Consideration needs therefore to be given to the relevance and applicability of the system as a whole. Further, social security and family assistance arrangements are intertwined with Australia's taxation, health and superannuation systems. Such a decision therefore has significant implications across the whole of government.

FaCS would be happy to provide further information that may assist the committee in its deliberations, if required.

Payment	Portability - After July 1, 2004
Any payment under a social security agreement	Determined by agreement.
Any Age, DSP recipient in New Zealand	Determined by agreement.
Age Pension	Unlimited portability. For the first 26 weeks paid at the full domestic rate. If absence is temporary the payments also includes supplementary allowances (eg pharmaceutical benefits allowance). After 26 weeks of absence proportional rate is paid if a person does not have 25 years of Australian working life residence.
Disability Support Pension	13 weeks before payment and supplementary allowances cancelled. Discretion to extend portability if a person cannot return to Australia. Also discretion to allow longer portability period in some cases of severely disabled persons.
Carer Payment	13 weeks before pension and supplementary allowances cancelled. Discretion to extend portability if a person cannot return to Australia.
Parenting Payment	13 weeks before pension and supplementary allowances cancelled. Discretion to extend portability if a person cannot return to Australia.
Mature Age/Partner Allowance/Widows Allowance	13 weeks before pension and supplementary allowances cancelled. Discretion to extend portability if a person cannot return to Australia.
Widows B Pension	13 weeks before pension and supplementary allowances cancelled. Discretion to extend portability if a person cannot return to Australia.
Wife Pension	13 weeks before pension and supplementary allowances cancelled. Discretion to extend portability if a person cannot return to Australia.
Newstart Allowance	13 weeks for specified reason (e.g. family death). Discretion to extend portability if a person cannot return to Australia.
Youth Allowance (study)	13 week before payment cancelled (except if pursuing a course of study overseas). Discretion to extend portability if a person cannot return to Australia.
Youth Allowance (other)	13 weeks for specified reason (e.g. family death). Discretion to extend portability if a person cannot return to Australia.
Sickness Allowance	13 weeks for specified reason (e.g. family death). Discretion to extend portability if a person cannot return to Australia.

Payment	Portability - After July 1, 2004
Austudy	13 week (except if pursuing a course of study overseas) before payment cancelled. Discretion to extend portability if a person cannot return to Australia.
Special Benefit	13 weeks for specified reason (e.g. family death). Discretion to extend portability if a person cannot return to Australia.
Family Payments	13 weeks at higher rate for then 3 years at minimum rate. Discretion to extend portability if a person cannot return to Australia.
Carer Allowance, Mobility Allowance	13 weeks before payment cancelled. Discretion to extend portability if a person cannot return to Australia.
Concession Cards	Not portable.