

# **SOCIAL SECURITY AND VETERANS' ENTITLEMENTS LEGISLATION AMENDMENT (SCHOOLING REQUIREMENTS) BILL 2008**

## **INQUIRY**

1.1 On 3 September 2008, the Senate, on the recommendation of the Selection of Bills Committee (Report No. 9 of 2008), referred the provisions of the Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008 to the Community Affairs Committee (the committee) for inquiry and report. The bill was introduced into the Senate on 15 September 2008.

1.2 The reasons given for the Selection of Bills Committee's referral of the provisions of the bill to the committee were for it to examine the 'effectiveness of the proposed measures and the impact on children and families'.

1.3 The committee received 31 submissions relating to the bill and these are listed at Appendix 1. The committee considered the bill at public hearings in Perth on 9 October 2008 and Canberra on 3 November 2008. Details of the public hearings are referred to in Appendix 2. The submissions and Hansard transcript of evidence may be accessed through the committee's website at [http://www.aph.gov.au/senate\\_ca](http://www.aph.gov.au/senate_ca).

## **BILL**

### ***Provisions***

1.4 The bill implements the Improving School Enrolment and Attendance through Welfare Reform Measure (SEAM) announced in the 2008–09 Budget. It targets 'parental responsibilities in relation to the school enrolment and attendance of their children'.<sup>1</sup> The Department of Education, Employment and Workplace Relations (DEEWR) and the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) (the departments) explained that 'SEAM has been designed as a trial to help build the currently limited evidence base on the impact of a welfare conditionality approach to improving school enrolment and attendance amongst the children of welfare recipients'.<sup>2</sup>

1.5 The purpose of the bill is to encourage parents in receipt of income support payments to ensure that their children are enrolled and attend school as required by state or territory laws. The proposed legislation allows for suspension or cancellation

---

1 *Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008*, Explanatory Memorandum, [p. 1].

2 Department of Education, Employment and Workplace Relations (DEEWR) and Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), *Submission 4*, p. 4.

of income support payments to parents who do not take reasonable steps to that effect. The bill outlines circumstances where suspension or cancellation of income support payments would occur, and notes the need to consider individual circumstances.<sup>3</sup> The departments noted:

The SEAM legislation and policies have been drafted to ensure parents and families who do the right thing are not adversely affected and that parents not meeting their responsibilities are offered support to do so.<sup>4</sup>

1.6 The bill refers to income support payments, not income supplement payments.<sup>5</sup> Thus, the provisions will not affect Family Tax Benefit (including any rent assistance component)<sup>6</sup>, nor income *supplement* payments under *A New Tax System (Family Assistance) Act 1999*, such as the child care benefit.<sup>7</sup> Payments under the *Veterans' Entitlements Act 1986* affected by the proposed legislation include age, partner and invalidity service pensions, income support supplement and the Defence Force income support allowance.<sup>8</sup>

1.7 In relation to school enrolment, parents need to inform Centrelink of the school at which their child is enrolled.<sup>9</sup> Regarding attendance, schools are required to monitor children's attendance and report irregularities to Centrelink.<sup>10</sup> In both cases, if the parents do not take reasonable steps to that effect, and they do not have a reasonable excuse or a special circumstance for non-compliance, and have not engaged adequately with the school regarding their children's attendance, the

---

3 The Hon Julia Gillard, Minister for Education, '*Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008*', Second reading speech, House Hansard, 27 August 2008, p. 6298.

4 DEEWR and FaHCSIA, *Submission 4*, paragraph 36.

5 Marilyn Harrington and Peter Yeend, Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008, *Bills Digest*, 2 September 2008, no 14, 2008–09, pp. 11–12.

6 The Hon Julia Gillard, Minister for Education, '*Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008*', Second reading speech, House Hansard, 27 August 2008, p. 6299; Department of Education, Employment and Workplace Relations, *Submission 4*, paragraph 41.

7 Marilyn Harrington and Peter Yeend, Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008, *Bills Digest*, 2 September 2008, no 14, 2008–09, p. 12. For a complete list of affected payments, refer to *Social Security Act 1991*, section 23 (vol 1).

8 Marilyn Harrington and Peter Yeend, Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008, *Bills Digest*, 2 September 2008, no 14, 2008–09, p. 20.

9 DEEWR and FaHCSIA, *Submission 4*, paragraph 39.

10 The Hon Julia Gillard, Minister for Education, '*Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008*', Second reading speech, House Hansard, 27 August 2008, p. 6299.

---

legislation allows for the provision of notices.<sup>11</sup> The notice must provide details of how to comply with the notice, initial compliance period (including that there is possibility of extension) and the consequences for non-compliance.<sup>12</sup>

1.8 In order to avoid sanctions, the parent needs to comply with the notice within the compliance period (at least 14 days for enrolment notices and 28 days for attendance notices) or extended compliance period. Should the parent not comply, income support payments can be suspended for up to 13 weeks. The decision to suspend payments is made by the Secretary.<sup>13</sup> Full back payment is restored as soon as parents comply. Departments commented:

It is expected that in most cases this would occur within a very short period, usually within the next fortnightly payment instalment period. Provided that this occurs within a 13 week period, the parent's payment will be fully back paid. Centrelink will have the ability to direct back payments to specific expenses or to make back payments available to families by instalment.<sup>14</sup>

1.9 The legislation provides for payments to continue to parents who make an effort to address their children's school attendance:

If the parent engages with the school (even if the child's attendance does not improve), the parent will be considered to be fully meeting their responsibilities and there will be no possibility of a payment suspension under the measure...This recognises that parents may be constructively working with schools but are unable to change the behaviour of (particularly older) children.<sup>15</sup>

1.10 According to the departments, Centrelink social workers will assist parents potentially facing suspension and assess whether the parent has a reasonable excuse or special circumstance for non-compliance.<sup>16</sup>

1.11 Should the parent not have complied within the suspension period or had a reasonable excuse or special circumstance or taken reasonable steps to engage with the authorities to address the situation, their income support payments may be cancelled by the Secretary:

...whether or not it is appropriate to cancel a person's payment as opposed to continuing the suspension of a payment needs to be carefully considered and it is appropriate that the Secretary take into account that the purposes of

---

11 Explanatory Memorandum, [p. 1].

12 *Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008*, Division 2, subsections 124F and 124K.

13 *Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008*, Division 2, subsections 124H and 124M.

14 DEEWR and FaHCSIA, *Submission 4*, paragraph 43.

15 DEEWR and FaHCSIA, *Submission 4*, paragraph 16.

16 DEEWR and FaHCSIA, *Submission 4*, paragraph 45.

the legislation should be fulfilled and that cancellation is rational and proportionate in the circumstances.<sup>17</sup>

1.12 The Minister for Education explained that suspension and cancellation will only be 'used as a last resort following repeated attempts to engage a parent over a considerable period of time'.<sup>18</sup> Departments explained that a 'decision to cancel payment would never be taken lightly':

...there may be circumstances where it becomes apparent that, after 13 weeks of suspension, the parent has no intention of trying to meet their responsibilities to get their children to school and no reasonable excuse or special circumstance exists. Payment cancellation may be appropriate in such circumstances. It is important to note that those people who cannot comply with the measure would have previously been identified by social workers and so will not reach the cancellation stage.<sup>19</sup>

1.13 Following a payment cancellation, affected persons would need to reapply for the payment. The Secretary may also reconsider the decision at his or her own initiative.<sup>20</sup>

1.14 The departmental submission made clear that state and territory education authorities remain responsible for school attendance and for 'what constitutes acceptable and unacceptable absences from school'. They have the ability to prosecute parents 'who persistently and without good reason refuse to meet their obligations'.<sup>21</sup> The proposed legislation is aimed at complementing these existing strategies.<sup>22</sup>

### ***Pilot***

1.15 The bill allows for a school attendance and enrolment pilot in six Northern Territory communities—Hermannsburg, Wallace Rockhole, Tiwi Islands, Katherine, Kathrine town camps and Wadeye—and two metropolitan locations (including Cannington, WA; the other location is yet to be determined), from January 2009

---

17 Explanatory Memorandum, [p. 12].

18 The Hon Julia Gillard, Minister for Education, '*Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008*', Second reading speech, House Hansard, 27 August 2008, p. 6299.

19 DEEWR and FaHCSIA, *Submission 4*, paragraph 49.

20 *Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008*, Division 2, subsection 124N (b).

21 Mr Carters, DEEWR, *Proof Committee Hansard*, 3 November 2008, p. 21.

22 DEEWR and FaHCSIA, *Submission 4*, paragraph 18.

onwards.<sup>23</sup> The trial sites were selected in consultation with the Northern Territory and Western Australian Governments respectively.<sup>24</sup>

1.16 The pilot scheme will be evaluated in 2010. The Minister for Education noted that 'if the trials are successful...the legislation will allow for the national rollout of the policy'.<sup>25</sup>

### ***Legislation to be amended***

1.17 The bill amends the following acts: *A New Tax System (Family Assistance) Act 1999* (FAA), *Social Security (Administration) Act 1999* (SSAA), *Student Assistance Act 1973* (SAA), and the *Veterans' Entitlements Act 1986* (VEA).

#### *A New Tax System (Family Assistance) Act 1999*

1.18 The amendments to *A New Tax System (Family Assistance) Act 1999* (FAA) 'ensure that a person continues to be considered as "receiving" a payment during a schooling requirement suspension period' and is thus eligible for the family tax benefit.<sup>26</sup> It further provides that if the continuous suspension exceeds 13 weeks and overlaps two income years, the person 'will be deemed to have been receiving the payment' for the first income year and not the second, to 'avoid delaying or revisiting a decision regarding the reconciliation of family tax benefit or child care benefit for the first financial year'.<sup>27</sup>

#### *Social Security (Administration) Act 1999*

1.19 The amendments are greatest in the *Social Security (Administration) Act 1999* (SSAA). Item 6 amends the legislation with a new part, Part 3C, that contains 'substantive provisions relating to schooling requirements'. These include definitions

---

23 The Hon Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs, 'Increasing school attendance in Cannington', media release, 17 July 2008, [http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/print/cannington\\_17jul08.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/print/cannington_17jul08.htm) (accessed 31 October 2008).

24 The Hon Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs and Ms Marion Scrymgour MLA, Deputy Chief Minister NT and Minister for Indigenous Policy, 'NT trials to boost school attendance', joint media release, 20 June 2008, [http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/boost\\_school\\_attendance\\_20june08.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/boost_school_attendance_20june08.htm) (accessed 31 October 2008) and DEEWR and FaHCSIA, Answer to question on notice 29, 3 November 2008.

25 The Hon Julia Gillard, Minister for Education, '*Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008*', Second reading speech, House Hansard, 27 August 2008, p. 6299; also see Mr Graham Carters, DEEWR, *Proof Committee Hansard*, 3 November 2008, p. 23.

26 Marilyn Harrington and Peter Yeend, *Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008*, *Bills Digest*, 2 September 2008, no 14, p. 16.

27 Explanatory Memorandum, [p. 4].

for who is affected by the amendments and what are considered schooling requirements payments. They also provide for ministerial legislative instrument determinations relating to school enrolment and attendance.<sup>28</sup>

1.20 Divisions 2 and 3 of Part 3C relate to school enrolment and school attendance provisions respectively. They allow for provision of notices for non-compliance and provide for an extension to the compliance period if personal or external circumstances require. They also provide for the suspension and cancellation of payments and their reinstatement.<sup>29</sup> Division 4 allows for the exchange of information between schools, departments and Centrelink.<sup>30</sup>

#### *Student Assistance Act 1973*

1.21 The bill also amends the *Student Assistance Act 1973* (SAA).<sup>31</sup> Under the bill, the information collected to administer the ABSTUDY scheme 'needs to be managed in accordance with' the SAA. It amends information about access to enrolment and attendance records and disclosure and use of information relating to the school enrolment or attendance of a student.<sup>32</sup>

#### *Veterans' Entitlements Act 1986*

1.22 Finally, the bill amends the *Veterans' Entitlements Act 1986* (VEA). It outlines the payments under VEA that fall into the category of schooling requirement payments, and allows for Centrelink to administer these payments on behalf of the Department of Veterans' Affairs to 'facilitate the effective and streamlined administration of the measure' and 'ensure consistency'. The payment and administration of veterans' entitlement payments remain subject to the VEA.<sup>33</sup>

#### ***Financial impact***

1.23 The financial impact of the bill is \$0.1 million in 2007–08 financial year, \$16.7 million in 2008–09 financial year and \$0.8 million in 2009–10 financial year. In total, this budget measure amounts to \$17.6 million. The 2008–09 figure includes funding for the school attendance and enrolment pilot commencing in January 2009.<sup>34</sup>

---

28 Explanatory Memorandum, [pp. 5–8].

29 Explanatory Memorandum, [pp. 8–16].

30 Explanatory Memorandum, [pp. 16–17].

31 The SAA 'appropriates money and provides for debt recovery of overpayments in relation to the ABSTUDY scheme'. Explanatory Memorandum, [p. 18].

32 Explanatory Memorandum, [p. 18].

33 Explanatory Memorandum, [p. 8].

34 Explanatory Memorandum, [p. 2].

---

## BACKGROUND

1.24 In its election promises and the 2008–09 Budget, the Labor government's agenda included several measures relating to families and education, including the 'education revolution' initiative. A commitment to improve school enrolment and attendance forms part of this initiative.<sup>35</sup>

1.25 The Minister for Education noted that nationally up to 20,000 children of compulsory school age may not be registered or attending school.<sup>36</sup> For example, in Northern Territory Indigenous communities:

There are an estimated 2,000 children, or 20 per cent of compulsory school age Indigenous students in the NT, who are not enrolled in school. A further 2,500 are not attending regularly. About 8,000 Indigenous children attend school only 60 per cent of the time on average.<sup>37</sup>

1.26 It is widely understood that school attendance affects school achievement and employment opportunities, outcomes for individuals, and, more widely, communities and the society:

Analysis of international research indicates that poor attendance is associated with lower academic outcomes and early school leaving. Studies also demonstrate that children without regular attendance can experience economic disadvantage for life, increased levels of unemployment, increased likelihood of engagement in criminal activity, increased likelihood of substance abuse, poorer physical and mental health in adulthood and increased likelihood of having children who exhibit problem behaviour.<sup>38</sup>

1.27 In the following sections, the committee outlines some of the recent or current initiatives that link welfare payments to school enrolment or attendance.

### *Northern Territory Emergency Response*

1.28 The Northern Territory Emergency Response (NTER) was established in July 2007. The aims of the response were to 'protect children and make communities safe',

---

35 Marilyn Harrington and Peter Yeend, Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) *Bill 2008, Bills Digest*, 2 September 2008, no 14, p. 6.

36 The Hon Julia Gillard, Minister for Education, 'Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) *Bill 2008*', Second reading speech, House Hansard, 27 August 2008, p. 6298.

37 The Hon Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs and Ms Marion Scrymgour MLA, Deputy Chief Minister NT and Minister for Indigenous Policy, 'NT trials to boost school attendance', joint media release, 20 June 2008, [http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/boost\\_school\\_attendance\\_20june08.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/boost_school_attendance_20june08.htm) (accessed 31 October 2008).

38 DEEWR and FaHCSIA, *Submission 4*, paragraph 19.

with the longer-term aim of creating 'a better future for Aboriginal communities in the Northern Territory'.<sup>39</sup>

1.29 The program encompassed education enhancement initiatives that tie income management measures to the school enrolment and attendance of children, allowing for 'the quarantining of up to 100 per cent of welfare payments'. While compulsory income management formed a key part of the NTER, the tie to school enrolment and attendance was never implemented, seemingly due to 'complex legal and administrative issues particularly relating to flow of data'.<sup>40</sup> This, according to the NTER review board, led the Labor government to develop a different approach, which is to be implemented through the Schooling Requirements Bill.<sup>41</sup>

1.30 Some income support recipients in the communities affected by the NTER compulsory income management might also come within the provisions of the Schooling Requirements Bill.<sup>42</sup>

### ***Cannington***

1.31 A similar overlap is likely to occur in Cannington, WA. It has been selected as a trial site under the proposed legislation but it is also part of the joint effort of the Australian and WA Governments to implement income management under the child protection initiative.<sup>43</sup> The child protection initiative is linked to school enrolment and attendance through the *Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007*.<sup>44</sup>

1.32 During the inquiry, the committee noted that there was confusion between the measures of the NTER, the child protection initiative and the proposed legislation. It is important to note that income management—used in the NTER and Cannington child protection trial—is not part of the proposed Schooling Requirements Bill. This bill only introduces the possibility of income suspension and cancellation.<sup>45</sup> However, in communities where both regimes are trialled or in use, some overlap between these measures is likely to occur. The department explained that in addition to current

---

39 Commonwealth of Australia, Northern Territory Emergency Response Report of the NTER Review Board, October 2008, p. 9.

40 Commonwealth of Australia, Northern Territory Emergency Response Report of the NTER Review Board, October 2008, p. 29.

41 Commonwealth of Australia, Northern Territory Emergency Response Report of the NTER Review Board, October 2008, p. 29.

42 ACOSS, *Submission 5*, [p. 6].

43 The Hon Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs, Increasing school attendance in Cannington, Media release, 17 July 2008, [http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/print/cannington\\_17jul08.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/print/cannington_17jul08.htm) (accessed 31 October 2008).

44 ACOSS, *Submission 5*, [pp. 22–23].

45 Mr Carters, DEEWR, Proof *Committee Hansard*, 3 November 2008, p. 21.



---

school attendance rates, the Cannington site was selected to examine 'the possible advantages, in terms of evaluation, of a partial overlap with the Child Protection measure trial in the region'.<sup>46</sup>

### *Halls Creek*

1.33 Many submissions to this inquiry referred to the Halls Creek, WA, trials undertaken in 2005 and 2006 to address school enrolment and attendance. In the first trial, which included a threat of sanctions for non-compliance, school attendance rates increased. However, due to the low number of participants, submitters indicated that the results 'should be interpreted cautiously'.<sup>47</sup>

1.34 The second trial, 'Engaging Families', took place in 2006. It aimed to increase parents' work-related activities and encourage them to improve their children's school attendance.<sup>48</sup> The trial was conducted on a voluntary participation basis, without the threat of sanctions, and was accompanied by 'highly intensive and continuous support on the ground'. The departments noted that 'There was no evidence that the approach trialled...resulted in an improvement in children's school attendance'.<sup>49</sup>

### *Overseas programs*

1.35 A number of witnesses informed the committee of overseas programs linking schooling requirements to welfare payments. In the US and the UK, programs mainly focussed on school completion or teenage parents' education, and thus provide limited evidence for this inquiry.<sup>50</sup> ACOSS reported on the Conditional Cash Transfers (CCT) program which in some Latin American and Caribbean countries provides incentives and additional payments to parents for compliance. Results showed that while enrolments had increased, attendance had not.<sup>51</sup> Evaluations of these programs emphasised 'the importance of ensuring the availability of high quality education and health services'.<sup>52</sup>

1.36 ACOSS noted that the overseas incentive-based models have had some success; however, the evidence base for sanctions approaches is much weaker.<sup>53</sup> Sanctions combined with case management, support services and financial incentives

---

46 DEEWR and FaHCSIA, Answer to question on notice 29, 3 November 2008.

47 See for example ACOSS, *Submission 5*, [pp. 7–8]; National Welfare Rights Network, *Submission 7*, p. 8.

48 DEEWR and FaHCSIA, *Submission 4*, paragraph 29.

49 DEEWR and FaHCSIA, *Submission 4*, paragraph 30. See also National Welfare Rights Network, *Submission 7*, p. 8.

50 DEEWR and FaHCSIA, *Submission 4*, paragraphs 21–25.

51 ACOSS, *Submission 5*, [pp. 10–11].

52 ACOSS, *Submission 5*, [p. 11].

53 ACOSS, *Submission 5*, [p. 7].

has had 'limited but positive results'.<sup>54</sup> Mr Graham Carters, Deputy Secretary, Employment and Policy, DEEWR, acknowledged the lack of evidence from overseas or domestic trials on the effectiveness of the proposed approach but argued that 'that is all the more reason for the trial rather than reason not to have one'.<sup>55</sup>

## ISSUES

1.37 In this section, the committee discusses concerns and comments made by witnesses during the inquiry about the effectiveness of the bill and its likely impacts. Before turning to specific issues, the committee notes some of the general concerns raised about the bill.

### *General comments*

1.38 Most submitters expressed their support for the government's intention with the bill, that is, the provision of education to children and the reduction of truancy rates.<sup>56</sup> However, all but two submissions noted their reservations or objected to provisions of the bill on various grounds.<sup>57</sup>

1.39 Witnesses pointed to a lack of evidence supporting the measures in the proposed legislation, that is, suspending or cancelling welfare payments for children's non-attendance at school. They noted that a number of studies and research have concluded that a punitive approach has no or little effect on school attendance and that targeting parents does not necessarily improve the child's school attendance rate.<sup>58</sup>

1.40 Regarding the overall legislation and pilot programs, ACOSS questioned the tough measures proposed in the legislation:

There is no evidence to suggest that Australia has significantly higher than average rates of non-enrolment or attendance, which raises questions about the justifications for severe sanctions to address the issues and for proposals to roll these measures out nationally if the trials are successful.<sup>59</sup>

---

54 Campbell, D. and Wright, J., *Rethinking Welfare School Attendance Policies*, 2005, quoted in ACOSS, *Submission 5*, [pp. 8–9].

55 Mr Carters, DEEWR, Proof *Committee Hansard*, 3 November 2008, p. 27.

56 See for example National Welfare Rights Network, *Submission 7*, p. 2; UnitingCare Burnside, *Submission 13*, p. 3.

57 The two submissions in support of the bill were those of The Hon Dr Bob Such, Member for Fisher (South Australia), *Submission 3*, and the Department of Education, Employment and Workplace Relations, *Submission 4*.

58 For references to research on this topic, see for example Marilyn Harrington and Peter Yeend, 'Social Security and Veterans Entitlements Legislation Amendment (Schooling Requirements) Bill 2008', *Bills Digest*, 2 September 2008, no 14, 2008–09, footnotes 3–11 and UnitingCare Burnside, *Submission 13*, p. 11.

59 ACOSS, *Submission 5*, [p. 2].

1.41 It further pointed out that 'there are significant problems with the data, which lacks national consistency, such that the scale of the problem is difficult to determine'.<sup>60</sup> It submitted that moves to improve school attendance data are underway through the Ministerial Council on Education, Employment, Training and Youth Affairs and through commissioned research by the Commonwealth to 'examine effective strategies' and recommend initiatives.

1.42 Several submitters and witnesses argued that the proposed legislation will have negative unintended consequences and may be 'disproportionate to the intended aim of realising children's right to education'.<sup>61</sup> Aboriginal Legal Service of Western Australia (ALS) argued that the bill will 'further alienate Aboriginal parents and children from the school community rather than increase their participation'.<sup>62</sup> Ms Kate Allingham, Policy Officer, ALS, summarised this sentiment in the following way:

...with this legislation the negative I think will far outweigh the positive. It will not just affect the children, it is going to affect entire families and entire communities, and increase the problems that already exist in those communities.<sup>63</sup>

1.43 At the committee's public hearing Mr Carters acknowledged that the government does not yet know whether the proposed approach will be effective, which is why the pilot program is being introduced in the proposed legislation and used to test whether the suspension of payments is a workable approach.<sup>64</sup>

1.44 ACOSS commented that trials can be useful if they are well designed and based on 'best available' evidence; and when the evaluation methodology is well constructed. However, it considered that in this case, 'on each of these fronts the measures...fall short'.<sup>65</sup> Ms Helen Wodak, Advocacy Manager, North Australian Aboriginal Justice Agency (NAAJA), noted that one of their major concerns is that 'everyone knows and has acknowledged that NT remote education is in crisis and yet we are still seeing the bill being implemented at this particular time'.<sup>66</sup>

1.45 Ms Leanne Strommen, Executive Manager, Centrecare, suggested that the government should be 'trailing a combination of supports and services that we know

---

60 ACOSS, *Submission 5*, [p. 2].

61 Australian Human Rights Commission, *Submission 12*, paragraph 5; also see Centrecare, *Submission 9*, p. 1.

62 Aboriginal Legal Service WA, *Submission 6*, p. 1.

63 Ms Allingham, Aboriginal Legal Service WA, *Proof Committee Hansard*, 9 October 2008, p. 59.

64 Mr Carters, DEEWR, *Proof Committee Hansard*, 3 November 2008, p. 29.

65 Mr Macfie, *Proof Committee Hansard*, 3 November 2008, p. 1; see also Ms Pengilly and Ms Wodak, *Proof Committee Hansard*, 3 November 2008, p. 12.

66 Ms Wodak, *Proof Committee Hansard*, 3 November 2008, p. 12.

do work'.<sup>67</sup> Mr Ian Carter, Chief Executive Officer, Anglicare, agreed noting that trialling only one model was inadequate. He provided an example:

We were involved in the one in Mirrabooka...We could adopt a similar model and actually allow organisations and communities to come together, using something like a results based accountability model. You would be surprised at what you get. If you put in a good evaluation, and research methodology, it will be evaluating success from around the country from a range of methodologies.<sup>68</sup>

### ***Suspension and cancellation of welfare payments***

1.46 The provisions for suspending or cancelling income support payments were the primary concern of submitters and witnesses.

1.47 ACOSS observed that the 13-week suspension period proposed in the legislation is 'unprecedented in Australian social security legislation'. It was concerned about the tough penalty regime, particularly when 'the evidence about the effectiveness of income support withdrawal and legal sanctions...is mixed'. ACOSS was of the opinion that the suspension of payments is likely to increase rather than decrease the risks of social exclusion.<sup>69</sup> It argued:

...payment suspension will be directly counter to the objective of the policy by making it impossible for families to meet the costs involved in getting children to school, for example, transportation.<sup>70</sup>

1.48 The departments noted that the proposed legislation 'contains a number of protections prior to the potential application of a payment suspension', including 'consideration of whether the parent has a reasonable excuse or special circumstance'.<sup>71</sup> National Welfare Rights Network submitted that 'it may only be after a suspension has been imposed that the family's circumstances become known'.<sup>72</sup>

1.49 Mr Carters stated:

...there is absolutely no intention to suspend anybody's payment until they...have been given significant opportunities to undertake whatever action may be necessary to enrol their children and to ensure that their attendance is there...

1.50 He further noted that attendance is state and territory governments' responsibility:

---

67 Ms Strommen, *Proof Committee Hansard*, 9 October 2008, pp. 26–27.

68 Mr Carter, *Proof Committee Hansard*, 9 October 2008, p. 78.

69 ACOSS, *Submission 5*, [p. 19].

70 ACOSS, *Submission 5*, [p. 20]; also see Aboriginal Legal Service WA, *Submission 6*, p. 5.

71 DEEWR and FaCHSIA, *Submission 4*, paragraph 11.

72 National Welfare Rights Network, *Submission 7*, p. 10.

...it is their call on what 'satisfactory attendance' means, and it will be up to them to decide who they do report to Centrelink, if anybody. At that stage it will be a matter of undertaking discussions with Centrelink social workers.<sup>73</sup>

1.51 Mr Carters explained that the suspension of payments has been 'quite successful in the past in getting people re-engaged' and that 'there would be very, very few people' who would be suspended for the full 13 weeks.<sup>74</sup> A review of the bill noted that 'in most cases full arrears will be made'.<sup>75</sup> Responding to concerns about the timeliness of processing applications and payments,<sup>76</sup> Mr Robert Hall, Business Manager, Centrelink, assured that monies will be 'reinstated to the customer as quickly as possible'.<sup>77</sup>

#### *Affected payment categories*

1.52 The committee noted that there was considerable confusion about which welfare payments come within the scope of the proposed legislation.

1.53 According to DEEWR, even during suspension of their income support payments, families will have access to the Family Tax Benefit (FTB), including any rent assistance.<sup>78</sup> They also retain income supplement payments under the FAA, such as the child care benefit.<sup>79</sup> This is in contrast with existing income management arrangements where both income support pension and benefits and income supplement payments like Family Tax Benefit Part A are affected.<sup>80</sup> The committee notes that the provisions of this bill only affect income *support* payments, not income *supplement* payments. A review of the bill noted that had the provisions included the latter, 'they would have applied to a greater number of families'.<sup>81</sup>

---

73 Mr Carters, DEEWR, Proof *Committee Hansard*, 3 November 2008, p. 27.

74 Mr Carters, DEEWR, Proof *Committee Hansard*, 3 November 2008, p. 33.

75 Marilyn Harrington and Peter Yeend, Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2007, *Bills Digest*, 2 September 2008, no 14, 2008–09, p. 15.

76 See for example ACOSS, *Submission 5*, [p. 22].

77 Mr Hall, Centrelink, Proof *Committee Hansard*, 3 November 2008, p. 32.

78 DEEWR and FaCHSIA, *Submission 4*, paragraph 41; see also discussion between Senator Brown and Mr Carters, Proof *Committee Hansard*, 3 November 2008, p. 34.

79 Marilyn Harrington and Peter Yeend, Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2007, *Bills Digest*, 2 September 2008, no 14, 2008–09, p. 12.

80 Marilyn Harrington and Peter Yeend, Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2007, *Bills Digest*, 2 September 2008, no 14, 2008–09, p. 12.

81 Marilyn Harrington and Peter Yeend, Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2007, *Bills Digest*, 2 September 2008, no 14, 2008–09, pp. 11–12.

*Other suspension and cancellation concerns*

1.54 Submitters and witnesses expressed concern about the need for parents to reapply for a welfare payment if the payment has been cancelled under the proposed legislation. This differs to a suspension, in which case the payment will be reinstated once evidence of compliance has been provided.<sup>82</sup> Concerns were raised that in some cases a person's eligibility for a particular payment category might change following a cancellation.<sup>83</sup> The departments advised the committee that as long as other eligibility requirements apply and the parent reapplies for benefits within 12 weeks of cancellation, the parent's entitlements remain the same.<sup>84</sup>

1.55 Other concerns related to the effect of the proposed legislation on vulnerable parents or guardians, such as those with a disability or those living in drug or alcohol abuse or domestic violence conditions. National Welfare Rights Network noted that currently those with limited capacity and receiving income support payments could be 'exempted either fully or partially from certain participation requirements' to receive their payments. It was unclear whether similar exemptions would be permitted under this legislation.<sup>85</sup>

1.56 Australian Human Rights Commission and National Welfare Rights Network reviewed the proposed legislation from a human rights perspective. The Australian Human Rights Commission argued that suspension or cancellation of payments 'contravenes the principle of acting in the best interests of the child as required under the [Convention on the Rights of the Child]', and undermines 'a child's right to benefit from social security'.<sup>86</sup> National Welfare Rights Network observed that 'the Convention on the Rights of the Child does not require school attendance as a precursor for these rights, and Australia may fail 'to observe our obligations'.<sup>87</sup>

1.57 Concerns were also raised about the capacity of Centrelink officers to make informed suspension assessments. Mr David Zarb, Chief Executive Officer, Playgroup WA, argued that rather than Centrelink officers, child protection officials should be involved in assessing each family's circumstances; otherwise, 'there is the potential in this system for people who may not have the skills, training or capacity to properly assess family functioning making judgments about how families are functioning'.<sup>88</sup>

---

82 See for example Ms Turnbull, *Proof Committee Hansard*, 3 November 2008, p. 10.

83 See Ms Wodak, *Proof Committee Hansard*, 3 November 2008, p. 14.

84 DEEWR and FaHCSIA, Answer to question on notice 3, 3 November 2008.

85 National Welfare Rights Network, *Submission 7*, p. 10.

86 Australian Human Rights Commission, *Submission 12*, paragraph 30.

87 National Welfare Rights Network, *Submission 7*, p. 11.

88 Mr Zarb, Playgroup WA, *Proof Committee Hansard*, 9 October 2008, p.48.

---

*Implementation in complex situations*

1.58 Many organisations questioned how the provisions of the bill will be implemented in situations where a family has several schooling requirement children but where only one truants;<sup>89</sup> where both parents receive income support but only one parent is seen to be encouraging the child to attend school;<sup>90</sup> or when a child is cared for by two different families, whether both families lose the benefits or only one.<sup>91</sup> For example, National Welfare Rights Network asked how much influence does a welfare recipient, who has at least 14 per cent care of a child, as indicated in the provisions, have on the child's school attendance if their contact is only one day per week.<sup>92</sup>

1.59 National Welfare Rights Network also observed that the proposed legislation might 'create a disincentive' for people to care for their own or another person's children if that may jeopardise their welfare payments, or increase welfare payment claims from young people if parents ask their truanting child to leave home to maintain their own welfare payments.<sup>93</sup>

1.60 Mr Carters addressed some of these concerns, noting that one child's truanting would not necessarily cause suspension or cancellation of the family's welfare payments:

It is based on what the family as a whole does...It is a matter of the parent making their best efforts to get children to enrol at school. If you have a family of four and three are attending, that is, again, pretty clearly a pretty strong effort on behalf of the parents to have the children attend. It would not be necessarily the case that because one of the four does not attend that the payments would be suspended.<sup>94</sup>

1.61 The Central Australian Aboriginal Legal Aid Service (CAALAS) and NAAJA observed, as noted before in relation to NTER and Cannington trials, that some families could be subject to several welfare payment regimes or compliance penalties,<sup>95</sup> or 'caught up in overlapping jurisdictional responsibilities' between states and the Commonwealth.<sup>96</sup> National Welfare Rights Network noted that where a family may already have involvement with an authority, it may not provide information or

---

89 See for example UnitingCare Burnside, *Submission 13*, p. 8; Aboriginal Legal Service WA, *Submission 6*, p. 5; National Welfare Rights Network, *Submission 7*, p. 11; CAALAS and NAAJA, *Submission 15*, p. 25.

90 ACOSS, *Submission 5*, [p. 22].

91 National Welfare Rights Network, *Submission 7*, p. 12.

92 National Welfare Rights Network, *Submission 7*, p. 12.

93 National Welfare Rights Network, *Submission 7*, p. 12.

94 Mr Carters, DEEWR, *Proof Committee Hansard*, 3 November 2008, p. 30.

95 CAALAS and NAAJA, *Submission 15*, p. 24; also see National Welfare Rights Network, *Submission 7*, p. 4.

96 UnitingCare Burnside, *Submission 13*, p. 5.

challenge a decision 'for fear of further action from child protection authorities—a particularly sensitive issue for Indigenous communities'.<sup>97</sup>

### ***Targeting particular groups***

1.62 A number of witnesses considered the proposed legislation to be discriminatory. The proposed legislation only affects parents receiving welfare payments and 'differentiates between parents on the basis of income' rather than their conduct.<sup>98</sup> ACOSS explained:

...there is no evidence indicating that children in families who receive income support are more likely to have poor school attendance records than children in families who are not in receipt of income support payments.<sup>99</sup>

1.63 WACOSS argued that the legislation will thus 'be ineffective in dealing with truancy in 75% of families around Australia that are not reliant on welfare payments'.<sup>100</sup>

1.64 Many witnesses commented that the legislation specifically targets Indigenous Australians, with six of the eight trial sites being predominantly Indigenous communities.<sup>101</sup> Answering a question on notice in relation to Cannington, the departments noted that the selection was not based on the number of Indigenous students in the location.<sup>102</sup> Witnesses raised concerns about the application of the proposed legislation among Indigenous families, some of which are highly mobile and where the responsibilities for getting children to attend school may be borne by a number of people.<sup>103</sup>

1.65 Witnesses also observed that the proposed legislation is 'likely to disproportionately affect women, who comprise the majority of parents on income support'.<sup>104</sup>

1.66 Mr Carters noted that the legislation is not intended to 'unfairly target people on low incomes'. People receiving income support payments have been selected for the trials because the 'Australian government has direct policy leverage to encourage behavioural change'.<sup>105</sup> He further noted that the trial sites were selected after a

---

97 National Welfare Rights Network, *Submission 7*, p. 10.

98 ACOSS, *Submission 5*, [p. 20]. Also see Ms Jane Stanley, *Submission 14*.

99 ACOSS, *Submission 5*, [p. 2].

100 WACOSS, *Submission 11*, [p.1].

101 ACOSS, *Submission 5*, [p. 3]; see also National Welfare Rights Network, *Submission 7*, p. 7; Centrecare, *Submission 9*, p. 2.

102 DEEWR and FaHCSIA, Answer to question on notice 29, 3 November 2008.

103 ACOSS, *Submission 5*, [p. 20].

104 ACOSS, *Submission 5*, [p. 20]; see also National Welfare Rights Network, *Submission 7*, p. 7.

105 Mr Carters, DEEWR, Proof *Committee Hansard*, 3 November 2008, pp. 21 and 34.



---

consideration of a 'mixture of factors', including different types of schools; existing problems with enrolment and attendance; and Centrelink presence.<sup>106</sup>

### ***Ambiguity of terminology and lack of detail***

1.67 Witnesses expressed concern over what they perceived as ambiguous terminology in the legislation and considered it left the legislation open for interpretation. For example, witnesses argued that it is unclear what constitutes a 'reasonable excuse' or a 'special circumstance' to be taken into account in considering non-compliance. Mrs Amanda Hill, Western Australian Council of State School Organisations, observed:

To date there appears to be no finite list of what is considered to be reasonable or to be the best efforts of the parents. This cannot be discretionary for the person responsible for suspending or cancelling payments.<sup>107</sup>

1.68 The Explanatory Memorandum to the bill stated that terminology and definitions 'will be developed in consultation with relevant stakeholders' and incorporated into accompanying guidelines.<sup>108</sup> Further, that guidance will be provided to authorities in 'a legislative instrument determination (if any) made by the Minister under section 124C':

These discretions ensure that a range of circumstances will be available for consideration by the Secretary or to bind the Secretary (or delegate) to ensure that decision-making takes into account the individual circumstances of a person before deciding to suspend or cancel their income support payment.<sup>109</sup>

1.69 The departments explained that reasonable excuses or special circumstances could range from a parent's mental illness to issues beyond the parent's control, such as natural disasters.<sup>110</sup> 'General exemptions' could include 'major personal crisis, major disruption to the person's home, cultural business and sorry business' [mourning]. Additional circumstances could include unavailability of appropriate school places in the area or the school not being a safe environment; health issues with either the child or the parent; mobility restrictions; and caring responsibilities.<sup>111</sup> Mr Carters further explained that, in the first instance, the school principal needs to decide what is

---

106 Mr Carters, DEEWR, Proof *Committee Hansard*, 3 November 2008, p. 25.

107 Mrs Hill, Western Australian Council of State School Organisations, Proof *Committee Hansard*, 9 October 2008, p. 19.

108 See for example Explanatory Memorandum, [p. 14].

109 Explanatory Memorandum, [pp. 9–10].

110 DEEWR and FaCHSIA, *Submission 4*, paragraph 48.

111 Senator The Hon Chris Evans, Senate Official Hansard, 1 September 2008, pp. 4160–4161.

reasonable. Should they refer a parent to Centrelink, it becomes Centrelink's responsibility.<sup>112</sup>

1.70 In Associate Professor Brian Simpson's view, ministerial regulations 'further [confuse] the relationship between the Federal and State laws, as it is not clear here whether such reasonable excuses will be consistent with State and Territory laws'. He questioned whether the excuses outlined in a determination 'can differ logically or sensibly from what is already present in State and Territory law'.<sup>113</sup>

1.71 Further, National Welfare Rights Network submitted that by including 'important aspects of these provisions' in legislative instruments and guidelines, they will not be scrutinised before Parliament.<sup>114</sup>

1.72 Witnesses were also uncertain how compliance with the bill's provisions would be assessed by authorities or 'demonstrated and evidenced by parents'.<sup>115</sup> For example, as ACOSS noted, 'It is also not clear how many days a child would need to be attending school again for a parent to be considered compliant with their obligations'.<sup>116</sup> According to witnesses, this could result in authorities making decisions on the basis of subjective views rather than uniform criteria.<sup>117</sup>

### ***Evaluation***

1.73 Witnesses, including WACOSS, observed that 'there is very little information about how the trials will be monitored and evaluated, other than school attendance levels'; at what stage the trial will be deemed successful; and how the negative impacts on families will be monitored.<sup>118</sup>

1.74 Mr Carters advised that DEEWR has the overarching responsibility for the evaluation, with \$0.3 million allocated towards undertaking it. He indicated that while the details of the evaluation are yet to be determined, an evaluation framework has been developed and the department would conduct the preparation phase of the trial. The engagement of independent academic bodies in the evaluation process has not been decided. Mr Carters doubted whether the evaluation would be independently reviewed but maintained that the department will be 'careful' in how it undertakes the evaluations.<sup>119</sup>

---

112 Mr Carters, DEEWR, Proof *Committee Hansard*, 3 November 2008, p. 32.

113 Associate Professor Simpson, *Submission 8*, pp. 10–11.

114 National Welfare Rights Network, *Submission 7*, p. 9.

115 See for example ACOSS, *Submission 5*, [p. 3]; National Welfare Rights Network, *Submission 7*, p. 9.

116 ACOSS, *Submission 5*, [p. 22].

117 Associate Professor Simpson, *Submission 8*, pp. 3, 7–8.

118 WACOSS, *Submission 11*, [p.2].

119 Mr Carters, DEEWR, Proof *Committee Hansard*, 3 November 2008, pp. 23–24.

1.75 Mr Carters explained that the evaluation will look at the effect of the pilot on the school enrolment and attendance levels and how the parents met their obligations in this regard. He indicated that the departments have 'a significant amount of baseline information' regarding attendance rates, number of students in schools, etc. The evaluation will examine data from relevant schools in trial sites and undertake focus group studies to seek the views of people involved, from parents to government officials, in order to assess the effect of the trial.<sup>120</sup>

### *Underlying causes of truancy*

1.76 A common theme in evidence to the inquiry was the reasons for truancy. A great number of underlying factors can cause truancy: a lack or shortage of educational services or infrastructure; poor or lack of transport, particularly in remote communities; school culture; standard of teaching and teachers; bullying; health issues; malnutrition; poverty; and a lack of role models to encourage studying.<sup>121</sup> Lack of parenting skills was also identified as a problem.<sup>122</sup>

1.77 In relation to the quality of educational infrastructure and teaching services, ACOSS noted that in some areas:

[it] is so poor that students have little to gain from attending school. In this context, a sanctions-based policy response that seeks to increase demand without substantially addressing supply issues is likely to have little impact.<sup>123</sup>

1.78 According to a US study, 'the geographic location was a stronger predictor of non-attendance than welfare status and that illness rather than truancy was the major cause of absence'.<sup>124</sup> Witnesses noted that seasonal changes in weather, particularly in northern Australia, should be taken into consideration.<sup>125</sup>

1.79 Mr Carters noted the importance of taking into account the reasons for non-attendance and stated that there would be a 'fairly rigorous analysis' of the underlying causes of truancy by both Centrelink and state and territory governments.<sup>126</sup>

---

120 Mr Carters, DEEWR, Proof *Committee Hansard*, 3 November 2008, pp. 23–24.

121 Australian Human Rights Commission, *Submission 12*, pp. 7–9; also see ACOSS, *Submission 5*, [p. 13].

122 Ms O'Connor, *Submission 19*.

123 ACOSS, *Submission 5*, [p. 14].

124 Campbell, D. and Wright, J., *Rethinking Welfare School Attendance Policies*, 2005, quoted in ACOSS, *Submission 5*, [p. 9]; National Welfare Rights Network, *Submission 7*, p. 6.

125 Mrs Hill, Western Australian Council of State School Organisations, Proof *Committee Hansard*, 9 October 2008, p. 19.

126 Mr Carters, DEEWR, Proof *Committee Hansard*, 3 November 2008, p. 30.

*Indigenous issues*

1.80 In addition to general underlying causes, Indigenous students often face further challenges. The evaluation of the Halls Creek *Engaging Families* trial found that from an early age, children are encouraged to be independent and make their own decisions, including whether to go to school or not. This often limits the parents' influence on their children's school attendance.<sup>127</sup>

1.81 Other challenges include illiteracy, overcrowded housing and factors such as a lack of infrastructure and services due to the remoteness of the location.<sup>128</sup> ALS explained:

Approximately 1 in 5 Aboriginal and Torres Strait Islander peoples living in remote areas have difficulty understanding or being understood by service providers...many Aboriginal people cannot read and write. The process of getting to the local Centrelink office, which can be located hundreds of kilometres away, speaking to Centrelink staff, filling out the correct forms and having the correct documents to attach is a very intimidating and difficult process for many Aboriginal people.<sup>129</sup>

1.82 The review of the NTER went further, stating that 'there is an education system failure in Northern Territory Aboriginal communities'.<sup>130</sup>

*Addressing underlying causes*

1.83 Generally, witnesses noted that measures addressing underlying causes have contributed to an increase in school attendance, and thus, the focus should be on what is causing the problem of truancy.<sup>131</sup>

1.84 UnitingCare Burnside observed the effect of positive measures:

Measures that build family awareness of the importance of education; foster parental engagement with children's learning early in a child's life; create relevant and responsive education programs in schools; and address underlying causes of disengagement from school such as poverty, social exclusion and locational disadvantage are more likely to have long-term success.<sup>132</sup>

---

127 Department of Employment and Workplace Relations, Halls Creek Engaging Families Trial February–July 2006 Evaluation Report, September 2006, p. 30.

128 See for example CAALAS and NAAJA, *Submission 15*, p. 19.

129 Aboriginal Legal Service WA, *Submission 6*, p. 6.

130 Commonwealth of Australia, Northern Territory Emergency Response Report of the NTER Review Board, October 2008, p. 30.

131 Australian Human Rights Commission, *Submission 12*, pp. 7–9; also see ACOSS, *Submission 5*, [p. 13].

132 UnitingCare Burnside, *Submission 13*, p. 3; also see WACOSS, *Submission 11*, [p. 8]; Mrs Walter, Ngala, *Proof Committee Hansard*, 9 October 2008, p.42.

1.85 Witnesses were concerned that the proposed legislation does not address these factors and may even make some families worse off. WACOSS commented:

Penalising families by cutting welfare payments will not help improve parenting skills, provide much needed support or make school a more attractive place. In fact, cutting a family's income may well exacerbate existing poverty related issues...<sup>133</sup>

1.86 Witnesses outlined several positive measures to improve enrolment and attendance at schools, such as engaging children through sports and other activities, including during school holidays,<sup>134</sup> providing skilled teachers and using culturally appropriate teaching methods and school environment.<sup>135</sup> A number of witnesses also noted the importance of partnerships between families, schools, support services and the wider community, including home visits, community liaison and consistent follow-up.<sup>136</sup> In addition, witnesses suggested that parents should be taught the importance of parenting and made aware of their responsibilities in regard to school enrolment and attendance.<sup>137</sup>

1.87 In particular in relation to Indigenous communities, witnesses pointed out that attendance rates could improve if schools were more culturally aware and sensitive to Aboriginal cultures and if teachers were trained to teach children who have English as their second or third language.<sup>138</sup> According to ALS, the improvement of the relationship between Aboriginal parents and schools 'is paramount to increasing the attendance rate of Aboriginal children'.<sup>139</sup>

### ***Support services***

1.88 There was an overall consensus in the evidence to the inquiry that the objectives of the proposed legislation cannot be reached without proper support mechanisms for families. Issues ranged from the type and extent of support to provision of information to those affected by the proposed legislation.

---

133 WACOSS, *Submission 11*, [pp. 2, 4]; also see Mr Stevenson, *Communicare*, *Proof Committee Hansard*, 9 October 2008, p. 35.

134 Aboriginal and Torres Strait Islander Legal Service (QLD) Ltd, *Submission 2*, pp. 3–4; see also Australian Human Rights Commission, *Submission 12*, paragraph 28; and ACOSS, *Submission 5*, [p. 8].

135 See for example Mr Eggington, *Aboriginal Legal Service WA*, *Proof Committee Hansard*, 9 October 2008, p. 53.

136 WACOSS, *Submission 11*, [p. 4]; also see UnitingCare Burnside, *Submission 13*, pp. 9–10; Ms Walker, CAALAS, *Proof Committee Hansard*, 3 November 2008, p. 19; and Ms Wodak, NAAJA, *Proof Committee Hansard*, 3 November 2008, p. 13.

137 Mr Stevenson, *Communicare*, *Proof Committee Hansard*, 9 October 2008, p. 35.

138 *Aboriginal Legal Service WA*, *Submission 6*, pp. 6–9.

139 *Aboriginal Legal Service WA*, *Submission 6*, p. 7.

*Provision of services*

1.89 A number of submitters commented that it is not clear what support services or programs will be provided to help parents comply with the schooling requirements and who would provide the services.<sup>140</sup>

1.90 ACOSS was unclear about schools' resources to monitor attendance and to support families. It noted the potential for 'enormous discrepancies in the amount of school support that families are provided before being reported to Centrelink.'<sup>141</sup> Ms Sue Ash, Chief Executive, WACOSS, proposed that civilian families be provided with similar supports as those that are provided for Australian Defence Force (ADF) families who are required to move around the country at regular intervals.<sup>142</sup>

1.91 The departments acknowledged the importance of support mechanisms and explained that they have been incorporated into the proposed legislation 'to help [parents] meet their requirements before any suspension is considered':

Support will be provided, with Centrelink social workers working with parents to identify any reasonable excuse or special circumstances that may impact on their ability to comply, as well as liaising with schools and support agencies to help parents meet their requirements.<sup>143</sup>

1.92 Mr Carters advised that Centrelink will routinely contact any person in a suspension period to 'see if any support can be offered...to help the parents meet their requirements. There is a safety net factored in there in attempts to engage parents'.<sup>144</sup> Further, he advised that decisions would be made over a period of time:

...the Centrelink social worker [would meet] with the school and [form] an attendance plan that looked at reasonable steps that could be taken to be confident that the parent was attempting to have the child attend. Only if there was no reasonable attempt by the parent would Centrelink then make the call to do something different.<sup>145</sup>

1.93 Ms Wodak noted the improvement of Centrelink services in remote NT communities as a result of NTER:

We now have very regular visits by quite large Centrelink teams...I think Centrelink has learnt a great deal through the experience of income management and through the confusion that has been existing for a lot of people with respect to income management, and so it has changed the way

---

140 See for example National Welfare Rights Network, *Submission 7*, p. 9; and Aboriginal Legal Service WA, *Submission 6*, p. 5.

141 ACOSS, *Submission 5*, [p. 21].

142 Ms Ash, WACOSS, *Proof Committee Hansard*, 9 October 2008, p. 4.

143 DEEWR and FaCHSIA, *Submission 4*, paragraphs 9, 37 and 38.

144 Mr Carters, DEEWR, *Proof Committee Hansard*, 3 November 2008, p. 32.

145 Mr Carters, DEEWR, *Proof Committee Hansard*, 3 November 2008, p. 32.

---

it delivers its services. It does not rely so much on free call numbers and the like.<sup>146</sup>

1.94 However, Miss Walker noted that in some Central Australian communities—such as Hermannsburg and Wallace Rockhole—Centrelink social workers are not currently permanently in those communities; rather, they visit on a three-weekly basis.<sup>147</sup> She added:

There need to be increased resources put into Centrelink social workers actually being in the communities, not just coming every couple of weeks, because school attendance is a day-to-day problem and it needs day-to-day solutions. The reliance on Indigenous call centres is also problematic when we are talking about communities with limited access to telephones and also no Central Australian languages speakers within those call centres.<sup>148</sup>

1.95 Ms Wodak observed that Centrelink staff are 'extremely busy' and 'under quite considerable pressure' micro-managing family budgets, and questioned whether they will be able to handle another complex scheme.<sup>149</sup> In an answer to a question on notice, the departments explained that provision has been made for three additional social workers in Centrelink's Remote Servicing teams in the Northern Territory and one additional social worker in both Cannington and the second metropolitan location.<sup>150</sup>

1.96 Many witnesses referred to the conclusion of a US study that programs without case management services 'did nothing to improve school attendance' and that case management was 'the most critical variable in determining attendance'.<sup>151</sup> ACOSS argued that case management has not been provided for in the bill even though it had been identified as 'a critical factor in determining the success of school enrolment and attendance schemes' and ensuring 'that Centrelink and schools have the capacity to provide these additional support services'.<sup>152</sup>

1.97 Witnesses noted that case management support services, both government and non-government, are under-resourced and expressed their concerns that the non-government (NGO) sector was expected to provide the services outlined in the proposed legislation. NGOs themselves indicated they are stretched to the limit and

---

146 Ms Pengilley, NAAJA, Proof *Committee Hansard*, 3 November 2008, p. 13.

147 Miss Walker, CAALAS, Proof *Committee Hansard*, 3 November 2008, p. 16.

148 Miss Walker, CAALAS, Proof *Committee Hansard*, 3 November 2008, p. 20.

149 Ms Pengilley, NAAJA, Proof *Committee Hansard*, 3 November 2008, p. 13.

150 DEEWR and FaHCSIA, Answer to question on notice 13, 3 November 2008.

151 CAALAS and NAAJA, *Submission 15*, p. 2.

152 ACOSS, *Submission 5*, [p. 17].

without additional funding cannot provide further services.<sup>153</sup> For example, Mr Carter observed:

One of the interesting things that is going on generally at the moment is that the non-government sector is under so much pressure and the non-government sector is getting a lot better in terms of understanding its core value base. The state government has had a couple of experiences of recent times...where they have put out the tender, expecting us to be joyous about it and putting money at it and everyone is going, 'Not interested'.<sup>154</sup>

1.98 Mr Wayne Stevenson, General Manager, Communicare, noted that over the last year, support services provided by his organisation had increased by 16 per cent and the year before by 12 per cent.<sup>155</sup> Miss Walker noted that the uptake of government services has been lower than that of community services, attributing this to 'better engagement' by non-government sector with the community.<sup>156</sup>

#### *Cost of services*

1.99 While UnitingCare Burnside acknowledged the need for 'significant resources' to administer the proposed legislation, it considered that 'resources would be better directed to supporting families by increasing the access to services that support engagement with education and learning'. It was concerned about how much of the allocated \$17.6 million would be spent on support services as opposed to the administration of compliance and monitoring activities.<sup>157</sup>

1.100 Mrs Amanda Hill, Policy and Research Officer, Western Australian Council of State School Organisations, questioned whether the amount of money required to implement the legislation is justifiable when the legislation affects only 'a very small minority of parents who are being irresponsible'.<sup>158</sup>

1.101 Centrelink informed the committee that 'As part of the overall funding package, there are provisions for social workers as an additional resource in the remote areas'.<sup>159</sup> The committee was advised that \$12.6 million has been allocated for Centrelink staffing, however, 80 per cent of this is for IT staff.<sup>160</sup> The committee

---

153 See for example WACOSS, *Submission 11*, [p. 5]; Mr Zarb, Playgroup WA, *Proof Committee Hansard*, 9 October 2008, p. 43.

154 Mr Carter, Anglicare WA, *Proof Committee Hansard*, 9 October 2008, p. 81.

155 Mr Stevenson, Communicare, *Proof Committee Hansard*, 9 October 2008, p. 40.

156 Miss Walker, CAALAS, *Proof Committee Hansard*, 3 November 2008, p. 20.

157 UnitingCare Burnside, *Submission 13*, pp. 6–7.

158 Mrs Hill, Western Australian Council of State School Organisations, *Proof Committee Hansard*, 9 October 2008, p. 22.

159 Mr Hall, Centrelink, *Proof Committee Hansard*, 3 November 2008, p. 28.

160 Ms Carters, *Proof Committee Hansard*, 3 November 2008, p. 22. DEEWR was allocated \$0.1 million for staffing.



---

sought to ascertain how much funding had been allocated for the provision of additional social workers. According to NGOs, the cost for a three-month case support can range from \$10,000 to \$16,000 per family, depending on the complexity of the case.<sup>161</sup>

### *Provision of information*

1.102 Many witnesses indicated that families are becoming confused as a result of frequently changing programs and various schemes.<sup>162</sup> There is a need for clear information about the requirements of the new measure. Ms Allingham provided an account of the likely situation in Indigenous communities:

What will happen in practice is that, rather than it acting as a deterrent, their Centrelink payment will get cut off, and it will get cut off for the full 13 weeks, because people will not know how to deal with what is happening to them. They will not understand the processes, and the administrative process, that you have to go through to reapply for that Centrelink payment. You have got to fill in these really thick forms; you have to have all the attached documents; you have got to have everything photocopied. It is a very difficult and confusing process for a lot of Aboriginal people, especially people who live in regional areas who do not speak English as a first language and who have very minimal education, and who find walking into a room full of white people in suits is a very intimidating and scary experience as well.<sup>163</sup>

1.103 Mrs Hill recommended that Centrelink, education departments and schools undertake an information campaign to ensure that parents and carers 'are aware of and fully comprehend their responsibilities in relation to their child's education...[and] to enable them to comply with the proposed legislation'.<sup>164</sup>

1.104 The Australian Human Rights Commission noted that it is important to provide 'comprehensive, accurate, timely and accessible information and community education' to avoid the 'barriers and uncertainty lack of information can create when new measures are introduced'. It pointed out that this is 'particularly important for people for whom English is not a first language' or who have literacy problems. It also noted information should be available 'in forms that are accessible for people with disabilities'.<sup>165</sup>

---

161 Mr Zarb, Playgroup, Proof *Committee Hansard*, 9 October 2008, p. 43; Mr Stevenson, Proof *Committee Hansard*, 9 October 2008, p. 38.

162 Ms Ash, Proof *Committee Hansard*, 9 October 2008, p. 2; see also NAAJA, *Submission 15*, p. 10.

163 Ms Allingham, Aboriginal Legal Service WA, Proof *Committee Hansard*, 9 October 2008, p. 50.

164 Mrs Hill, Western Australian Council of State School Organisations, Proof *Committee Hansard*, 9 October 2008, p. 19

165 Australian Human Rights Commission, *Submission 12*, p. 13.

1.105 Many witnesses noted the need for culturally sensitive and appropriate services not only for Indigenous people but also for migrants. Mrs Rae Walter, Chief Executive Officer, Ngala, observed that:

We cannot just have 'one approach fits all' either. It does not work that way. We need to be culturally sensitive across the whole spectrum of families in our work within our community.<sup>166</sup>

1.106 CAALAS and NAAJA recommended that all notices regarding non-enrolment or attendance should be in writing and in plain English or in the recipient's first language.<sup>167</sup> Mr Robert Hall, Business Manager, Centrelink, advised the committee that Centrelink staff will be trained to be culturally aware and sensitive in their interaction with clients.<sup>168</sup>

### ***Confidentiality of information and information exchange***

1.107 The proposed legislation provides for the exchange of information between authorities, including schools and Centrelink, regarding students' enrolment and attendance at school. According to witnesses, the bill does not outline how the information exchange will take place. Ms Ash stated:

...it certainly is a growing concern for us about how that information is going to be transmitted from the schools to Centrelink and then what is actually going to happen with that information at Centrelink, because we understand that Centrelink databases really are not set up to hold this sort of confidential information.<sup>169</sup>

1.108 CAALAS and NAAJA argued that 'it would appear that the normal protections that would generally apply to personal information [Privacy Act 1988 and Information Act NT] would not apply to children or their families who come under the Bill'.<sup>170</sup>

1.109 Ms Irina Cattalini, Director Social Policy, WACOSS, raised the matter of third-party access to personal information. She noted that there may be a need for NGOs or child protection authorities to have access to information in order to be able to provide support service to families.<sup>171</sup>

1.110 Addressing this matter, the Minister for Families, Housing, Community Services and Indigenous Affairs indicated that '[s]chools will not be given a list of

---

166 Mrs Walter, Ngala, *Proof Committee Hansard*, 9 October 2008, p. 47; also see for example Mr Eggington, Aboriginal Legal Service, *Proof Committee Hansard*, 9 October 2008, p. 53.

167 CAALAS and NAAJA, *Submission 15*, pp. 10–11.

168 Mr Hall, Centrelink, *Proof Committee Hansard*, 3 November 2008, p. 27.

169 Ms Ash, WACOSS, *Proof Committee Hansard*, 9 October 2008, p. 7.

170 CAALAS and NAAJA, *Submission 15*, p. 26.

171 Ms Cattalini, WACOSS, *Proof Committee Hansard*, 9 October 2008, p. 7–8.

families on income support. The details of how the data exchange will operate are being negotiated with the states, but there certainly will not be a wholesale release of data by Centrelink.<sup>172</sup> This was also confirmed by the departments.<sup>173</sup> However, certain data could be released. The Explanatory Memorandum to the bill noted that 'Such information could be disclosed and used, for example...to determine infrastructure or resourcing requirements at a school'.<sup>174</sup>

1.111 According to Mrs Amanda Hill, Western Australian Council of State School Organisations, people's rights to privacy can be maintained. She noted that if schools provided Centrelink with data on all students, schools would not need information on each family's welfare status. She argued that 'from a technology point of view', it would be possible for Centrelink to filter through those receiving welfare payments.<sup>175</sup> However, the departments explained that education authorities would only be able to refer individual cases to Centrelink.<sup>176</sup>

1.112 Mrs Hill expressed concerns about the time lag in processing data between schools and Centrelink:

We see that Centrelink have interfaces with datamatching with universities to gain information around enrolment, and we often see quite substantial lags between someone not being enrolled...and Centrelink being notified, or that Centrelink get the information and it is sitting there for five or six months before they do anything with it, so someone accrues an overpayment in that period. We are concerned about how this is actually going to be operationalised...<sup>177</sup>

1.113 At the committee's public hearing, departments advised that authorities were still working on the details regarding information exchange. Mr Carters noted that privacy issues are not 'new to Centrelink or the school authorities' and assured that 'the relevant authorities will meet the privacy provisions'. Mr Geoff Kimber, Principal Government Lawyer, DEEWR, added that information exchange between state and

---

172 The Hon Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs, '*Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008*', Second reading speech, 4 September 2008, [http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/social\\_security\\_bill\\_04sept08.htm](http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/social_security_bill_04sept08.htm) (accessed 2 October 2008).

173 DEEWR and FaHCSIA, Answers to questions on notice 40 and 41. 3 November 2008.

174 Explanatory Memorandum, [p. 17].

175 Mrs Hill, Western Australian Council of State School Organisations, *Proof Committee Hansard*, 9 October 2008, p. 20.

176 DEEWR and FaHCSIA, Answer to question on notice 41, 3 November 2008.

177 Ms Beaumont, National Welfare Rights Network, *Proof Committee Hansard*, 9 October 2008, p. 16.

territory education authorities, DEEWR and Centrelink will be 'subject to some fairly stringent controls over its use and disclosure to third parties'.<sup>178</sup>

### ***Federal versus state and territory legislation***

1.114 Some witnesses were also concerned about how the proposed legislation would interact with state and territory legislation.<sup>179</sup> ACOSS noted that this 'lack of planning and clarity creates risks of both service duplication...as well as program inconsistency' as legislation regarding non-attendance varies across jurisdictions.<sup>180</sup>

1.115 Mr Carters noted that 'the provision of schooling and school support services is and will remain the province of state and territory governments'. He emphasised that issues to do with truancy remain the responsibility of the states and territories.<sup>181</sup> The departments explained that the proposed legislation 'will provide an additional policy lever to assist states and territories in their efforts to combat non-enrolment and poor attendance'. Parents not receiving welfare payments would remain subject to only state and territory legislation.<sup>182</sup>

### ***Lack of consultation***

1.116 Most witnesses made clear that there had been a lack of consultation with the NGO sector and affected communities about the bill. They explained that they had 'relied on anecdotal conversations' or had not been engaged at all. Some had had more formal discussions but had not been provided detailed information.<sup>183</sup>

1.117 When questioned about the departmental consultation with stakeholders, Mr Carters advised that the federal departments had consulted relevant Northern Territory and Western Australian state departments but that it did not 'go to the communities' to discuss the issues. This was because:

...the NT education department has had very good information and advice on the situations in the specific communities and the schools that were involved. They had the data and they have the enrolment and attendance type information as well.<sup>184</sup>

---

178 Mr Hall, Mr Kimber and Mr Carters, *Proof Committee Hansard*, 3 November 2008, pp. 24–25.

179 Mr Lockhart, *Submission 1*, p. 2.

180 ACOSS, *Submission 5*, [p. 15]; for an outline of some of the differences in state and territory attendance policy, see Associate Professor Simpson, *Submission 8*, pp. 3–6; Mr Keith A Lockhart, *Submission 1*, p. 2.

181 Mr Carters, *Proof Committee Hansard*, 3 November 2008, p. 21.

182 DEEWR and FaHCSIA, *Submission 4*, paragraph 7.

183 Ms Cattalini, WACOSS, *Proof Committee Hansard*, 9 October 2008, p. 6; Mrs Hill, Western Australian Council of State School Organisations, *Proof Committee Hansard*, 9 October 2008, p. 20; and Ms Beaumont, National Welfare Rights Network, *Proof Committee Hansard*, 9 October 2008, p. 13.

184 Mr Carters, DEEWR, *Proof Committee Hansard*, 3 November 2008, pp. 26–27.

---

1.118 The committee was informed that Centrelink had had discussions with Tiwi Island communities but not with Central Australian communities such as Hermannsburg or Wallace Rockhole.<sup>185</sup> Mr Carters noted that consultation in these communities 'will occur at the time of the implementation' and that the government 'will certainly provide significant information to the affected people' at that time.<sup>186</sup>

## Conclusion

1.119 Submitters and witnesses to the committee's inquiry raised a number of concerns about the proposed legislation. While many witnesses were fundamentally opposed to the provisions of the bill, they also raised other concerns related to ensuring that sound arrangements exist for the implementation of the measure. Concerns raised included the lack of an evidence base supporting the bill, the perceived discriminatory nature of the bill, absence of detail with regard to important elements of the measure, inadequate measures to address the underlying causes of truancy, lack of detail regarding information exchange and adherence to privacy laws, lack of consultation in the development of the bill, and the possible effects of suspension and cancellation of income support payments on families.

1.120 The committee supports the intention of the bill to increase school enrolment and attendance. It notes the concerns raised throughout the inquiry but considers it appropriate that provisions for the suspension or cancellation of income support payments be trialled in selected communities. The committee supports the measure's focus on parents' engagement with schools regarding their children's attendance. It emphasises that provisions allowing for suspension or cancellation of income support payments are intended not as a first response, but as a possible mechanism to be used only after significant effort has been made by schools, state and territory authorities and Centrelink. The committee considers that the 13-week suspension period, with full backpay upon compliance, is a long enough period to avoid the cancellation of income support payments.

1.121 The committee notes that states and territories are and remain responsible for monitoring and addressing school attendance and truancy and that the provisions of the bill reinforce that responsibility.

1.122 The committee emphasises that the outcomes of the pilot and subsequent evaluation must provide the basis for any further roll-out of the measures proposed in the bill.

## Recommendation 1

**1.123 The committee recommends that the evaluation of the pilot in selected communities be made publicly available before the provisions of the bill are implemented in any further sites.**

---

185 Mr Hall, Centrelink, Proof *Committee Hansard*, 3 November 2008, p. 27.

186 Mr Carters, DEEWR, Proof *Committee Hansard*, 3 November 2008, p. 27.

1.124 The committee notes concerns raised regarding the privacy of people affected by the proposed legislation. The committee considers it imperative that adequate mechanisms be put in place to ensure that the processing and exchange of the personal information required to implement the measure remains consistent with privacy laws. As noted in submissions, Centrelink, schools and education authorities are not new to handling information covered by privacy laws.

1.125 The committee heard strong concerns about the adequacy of support services for families to assist them in meeting their obligations under the proposed legislation. The committee notes that many non-government agencies' resources are already stretched and considers that there is a need for additional resources for case management.

### **Recommendation 2**

**1.126 The committee recommends that the government allocate sufficient resources to enable Centrelink social workers to be easily accessible within each of the communities participating in the pilot established by the bill.**

1.127 The committee agrees with the evidence that services need to be culturally appropriate. The committee considers that the government must ensure that cultural differences are taken into account in the provision of support services to assist families to meet their schooling requirements and in the administration of the measures contained in the bill.

### **Recommendation 3**

**1.128 The committee recommends that compliance notices issued under the proposed legislation be in plain English or in the language of the welfare recipient. The committee further recommends that compliance periods take into account the additional time to deliver notices in remote areas.**

1.129 The committee heard strong concerns regarding the consultation process undertaken prior to the introduction of the bill. The committee is disappointed that stakeholders that will be integral to the implementation of the measure were not consulted or meaningfully engaged in the planning process. The committee considers that the consultation process in preparation of this bill was inadequate and notes its disappointment with the government departments in this regard.

### **Recommendation 4**

**1.130 The Committee recommends that the government improve its consultation processes for future legislation, including engaging with the non-government organisations and people in communities affected by proposed legislation.**

1.131 In summary, despite concerns about the consultation process and that implementation details are yet to be finalised, overall, the committee is confident that the provisions of the bill are reasonable.

**Recommendation 5**

**1.132 The committee recommends that the Senate pass the bill.**

Senator Claire Moore  
Chair

November 2008