

The Senate

Standing Committee on
Community Affairs

Social Security and Veterans' Entitlements
Legislation Amendment (Schooling
Requirements) Bill 2008 [Provisions]

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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.

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'.¹ 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'.²

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.³ 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.⁴

1.6 The bill refers to income support payments, not income supplement payments.⁵ Thus, the provisions will not affect Family Tax Benefit (including any rent assistance component)⁶, nor income *supplement* payments under *A New Tax System (Family Assistance) Act 1999*, such as the child care benefit.⁷ 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.⁸

1.7 In relation to school enrolment, parents need to inform Centrelink of the school at which their child is enrolled.⁹ Regarding attendance, schools are required to monitor children's attendance and report irregularities to Centrelink.¹⁰ 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.¹¹ 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.¹²

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.¹³ 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.¹⁴

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.¹⁵

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.¹⁶

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.¹⁷

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'.¹⁸ 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.¹⁹

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.²⁰

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'.²¹ The proposed legislation is aimed at complementing these existing strategies.²²

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.²³ The trial sites were selected in consultation with the Northern Territory and Western Australian Governments respectively.²⁴

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'.²⁵

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.²⁶ 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'.²⁷

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 (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 (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.²⁸

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.²⁹ Division 4 allows for the exchange of information between schools, departments and Centrelink.³⁰

Student Assistance Act 1973

1.21 The bill also amends the *Student Assistance Act 1973* (SAA).³¹ 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.³²

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.³³

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 2009.³⁴

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.³⁵

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.³⁶ 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.³⁷

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.³⁸

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 (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'.³⁹

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'.⁴⁰ 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.⁴¹

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.⁴²

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.⁴³ The child protection initiative is linked to school enrolment and attendance through the *Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007*.⁴⁴

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.⁴⁵ 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 (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'.⁴⁶

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'.⁴⁷

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.⁴⁸ 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'.⁴⁹

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.⁵⁰ 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.⁵¹ Evaluations of these programs emphasised 'the importance of ensuring the availability of high quality education and health services'.⁵²

1.36 ACOSS noted that the overseas incentive-based models have had some success; however, the evidence base for sanctions approaches is much weaker.⁵³ 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'.⁵⁴ 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'.⁵⁵

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.⁵⁶ However, all but two submissions noted their reservations or objected to provisions of the bill on various grounds.⁵⁷

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.⁵⁸

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.⁵⁹

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'.⁶⁰ 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'.⁶¹ 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'.⁶² 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.⁶³

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.⁶⁴

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'.⁶⁵ 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'.⁶⁶

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'.⁶⁷ 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.⁶⁸

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.⁶⁹ 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.⁷⁰

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'.⁷¹ National Welfare Rights Network submitted that 'it may only be after a suspension has been imposed that the family's circumstances become known'.⁷²

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.⁷³

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.⁷⁴ A review of the bill noted that 'in most cases full arrears will be made'.⁷⁵ Responding to concerns about the timeliness of processing applications and payments,⁷⁶ Mr Robert Hall, Business Manager, Centrelink, assured that monies will be 'reinstated to the customer as quickly as possible'.⁷⁷

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.⁷⁸ They also retain income supplement payments under the FAA, such as the child care benefit.⁷⁹ 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.⁸⁰ 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'.⁸¹

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.⁸² Concerns were raised that in some cases a person's eligibility for a particular payment category might change following a cancellation.⁸³ 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.⁸⁴

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.⁸⁵

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'.⁸⁶ 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'.⁸⁷

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'.⁸⁸

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;⁸⁹ where both parents receive income support but only one parent is seen to be encouraging the child to attend school;⁹⁰ or when a child is cared for by two different families, whether both families lose the benefits or only one.⁹¹ 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.⁹²

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.⁹³

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.⁹⁴

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,⁹⁵ or 'caught up in overlapping jurisdictional responsibilities' between states and the Commonwealth.⁹⁶ 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'.⁹⁷

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.⁹⁸ 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.⁹⁹

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'.¹⁰⁰

1.64 Many witnesses commented that the legislation specifically targets Indigenous Australians, with six of the eight trial sites being predominantly Indigenous communities.¹⁰¹ 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.¹⁰² 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.¹⁰³

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

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'.¹⁰⁵ 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.¹⁰⁶

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.¹⁰⁷

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.¹⁰⁸ 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.¹⁰⁹

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.¹¹⁰ '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.¹¹¹ 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.¹¹²

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'.¹¹³

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.¹¹⁴

1.72 Witnesses were also uncertain how compliance with the bill's provisions would be assessed by authorities or 'demonstrated and evidenced by parents'.¹¹⁵ 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'.¹¹⁶ According to witnesses, this could result in authorities making decisions on the basis of subjective views rather than uniform criteria.¹¹⁷

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.¹¹⁸

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.¹¹⁹

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.¹²⁰

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.¹²¹ Lack of parenting skills was also identified as a problem.¹²²

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.¹²³

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'.¹²⁴ Witnesses noted that seasonal changes in weather, particularly in northern Australia, should be taken into consideration.¹²⁵

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.¹²⁶

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.¹²⁷

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.¹²⁸ 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.¹²⁹

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

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.¹³¹

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.¹³²

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...¹³³

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,¹³⁴ providing skilled teachers and using culturally appropriate teaching methods and school environment.¹³⁵ 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.¹³⁶ 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.¹³⁷

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.¹³⁸ According to ALS, the improvement of the relationship between Aboriginal parents and schools 'is paramount to increasing the attendance rate of Aboriginal children'.¹³⁹

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.¹⁴⁰

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.'¹⁴¹ 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.¹⁴²

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.¹⁴³

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'.¹⁴⁴ 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.¹⁴⁵

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.¹⁴⁶

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.¹⁴⁷ 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.¹⁴⁸

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.¹⁴⁹ 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.¹⁵⁰

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'.¹⁵¹ 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'.¹⁵²

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.¹⁵³ 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'.¹⁵⁴

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.¹⁵⁵ 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.¹⁵⁶

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.¹⁵⁷

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'.¹⁵⁸

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'.¹⁵⁹ The committee was advised that \$12.6 million has been allocated for Centrelink staffing, however, 80 per cent of this is for IT staff.¹⁶⁰ 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.¹⁶¹

Provision of information

1.102 Many witnesses indicated that families are becoming confused as a result of frequently changing programs and various schemes.¹⁶² 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.¹⁶³

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'.¹⁶⁴

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'.¹⁶⁵

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.¹⁶⁶

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.¹⁶⁷ 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.¹⁶⁸

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.¹⁶⁹

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'.¹⁷⁰

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.¹⁷¹

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.¹⁷² This was also confirmed by the departments.¹⁷³ 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'.¹⁷⁴

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.¹⁷⁵ However, the departments explained that education authorities would only be able to refer individual cases to Centrelink.¹⁷⁶

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...¹⁷⁷

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 (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'.¹⁷⁸

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.¹⁷⁹ 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.¹⁸⁰

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.¹⁸¹ 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.¹⁸²

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.¹⁸³

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.¹⁸⁴

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.¹⁸⁵ 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.¹⁸⁶

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

ADDITIONAL COMMENTS BY COALITION SENATORS

Coalition Senators welcome the focus represented by this bill on school attendance by at risk children.

Although the inquiry heard that the truancy rate in Australia, by international standards, was not high, the situation where up to 20,000 children may either not be registered for or attending school is of enormous concern. Over each of these children a question mark must hang regarding their ability to fully participate in our society because of sustained absence from school. School attendance is a critical factor in literacy and numeracy development and in the social adjustment of these children as they grow up, as well as their employment prospects as adults.

In light of the important objective which this legislation seeks to achieve, Coalition Senators do not oppose this legislation. However, we note that some fundamental and valid concerns remain which at this point are not addressed by either the legislation or its subordinate legislation to implement the trials of this scheme in certain communities.

Coalition Senators note that this legislation seeks to deal with an education-related issue which has traditionally been the responsibility of the states and territories. At no point during this inquiry has the reason been adequately explained for the Commonwealth's "takeover" of this responsibility from state governments. Of course absence from school is a serious problem in addressing education standards and outcomes across Australia; but no evidence was advanced to the enquiry to suggest that state and territory governments were unaware of this problem or unsympathetic to taking stronger action, at the behest of the Federal Government, to deal with it.

The second philosophical concern about this legislation is the linkage of welfare payments to the attendance of the payee's child at school. To deny a person access to subsistence on the basis of their failure to comply with certain extraneous legal obligations represents a significant shift in the philosophy of social security in Australia.

Government witnesses were at pains to point out to the Committee that parents would be exempted from the onerous nature of these sanctions where they could demonstrate that they had made reasonable attempts to enforce their child's attendance. However it remains a reasonable question as to whether adhering to a range of social and legal obligations should be a precondition to a person's entitlement to receive income support where they otherwise qualify for it.

Comparisons were made during the inquiry to the former Coalition Government's income quarantining provisions as part of the Northern Territory Emergency Response. Coalition Senators note some similarities but also observe a significant

difference between these two regimes: income quarantining does not involve loss of an entitlement to receive income support (though it may restrict the way a recipient spends that income), whereas the regime in this bill may deny some recipients access to income support altogether.

Coalition Senators also note the poor level of prior consultation with affected communities prior to the scheme's announcement. They note in particular that this contrasts with the now government's criticism of the lack of consultation surrounding the income quarantining provisions announced by the previous government.

The committee heard that evidence of the successful linking of school attendance with welfare payments in other parts of the world was either lacking or ambivalent. However, we note that the present legislation underpins a trial in a select number of communities, mainly indigenous communities, and that testing the value of this linkage in the Australian context may be worthwhile in this context. Coalition Senators are prepared to suspend their doubts about the philosophical basis for this scheme if it does significantly improve school attendance rates.

As such, we do not oppose the passage of the bill. We do however strongly endorse the recommendations made in the substantive report of the Committee to address some issues with this scheme's implementation. Coalition Senators particularly endorse Recommendation 2 dealing with the allocation of sufficient resources to Centrelink to enable it to prevent welfare recipients losing their entitlements unnecessarily, in inappropriate circumstances.

Senator Gary Humphries

Senator Judith Adams

Senator Sue Boyce

Senator Mathias Cormann

Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008.

Minority Report – Australian Greens

Introduction

The Australian Greens believe that the best educational and social outcomes for Australian children and their families will be achieved if they are enrolled and regularly attending school and actively participating in an education that is relevant to their lives, their culture and their aspirations. However, we do not believe that the measures contained within this Bill represent a genuine attempt to deliver that outcome.

We note that nearly all of the submissions (29 out of 31) and the vast majority of witnesses to the inquiry were critical of the rationale for and likely success of the approach taken by the Bill, and many pointed to the failure of overseas trials of punitive measures, or the success of other initiatives based on a social inclusion framework to improving educational engagement and outcomes.

Inconsistency with Government policy commitments

The Australian Greens welcomed the ALP election promise of an "education revolution" as we saw that there was a real need to address the manner in which our education system was failing to engage with some of our children – particularly those from disadvantaged and 'socially excluded' backgrounds. We believe that more needs to be done to address the educational needs of Indigenous students, other children from migrant and refugee backgrounds for whom English is often also a second or third language, and those children growing up in households experiencing complex and multi-factorial disadvantage¹. However we do not believe that this approach is or could ever be part of a genuine 'education revolution' and we are concerned that it will actively undermine efforts at progressive educational reform – by unfairly targeting one group of disadvantaged students (whom the system is particularly failing) and making them directly responsible for the ill-fortune of their families rather than addressing the educational barriers they face.

We note that, in discussing the government's commitment to a Social Inclusion agenda, the Parliamentary Secretary for Social Inclusion and the Voluntary Sector, Senator Ursula Stephens said:

"This is what the social inclusion agenda is all about. It's a very ambitious agenda in which every one of us has a part to play. We have to identify the systems, attitudes, programs and processes that prevent everyone from having a fair go in our society. We have to understand

¹ As described by Professor Tony Vinson in his work on poverty postcodes *Dropping off the edge: the distribution of disadvantage in Australia*. Jesuit Social Services, 2007

why people aren't able to engage in work and education, or make connections with family, friends and their local community."²

Senator Stephens has also said, on another occasion, that:

"We are all challenged to think very differently in this agenda – because it is about seeking out the causes of social exclusion rather than only dealing with the fallout of that exclusion."³

The Australian Greens do not believe that this proposed legislation reflects a commitment to a Social Inclusion agenda or reflects a genuine effort to engage with the causes of social exclusion rather than the symptoms. There is no evidence of a concerted effort by the Government to understand and engage with the reasons why children are not engaging with the educational system or address the systemic barriers that prevent them getting a 'fair go'.

According to the Explanatory Memorandum, the primary purpose of the Bill is "... to engender behavioural change in parents who are receiving income support with the aim being to improve the school enrolment and attendance of their children."⁴ The entire approach taken by the Bill is built upon the premise that parental encouragement and a lack of parental responsibility among parents on income support is the key factor and primary cause of poor attendance ... and that a punitive sanctions-based approach is the most efficient and effective way to improve school attendance. The Australian Greens believe that this approach and these assumptions are fatally flawed, and that the scheme is not only unlikely to lead to better school attendance and improved educational outcomes, but is likely to lead to increased family stress and social exclusion for those affected.

The logic and assumptions underlying this policy approach are not based on the wealth of international and domestic research concerning school attendance, improved educational outcomes and social inclusion. They do not reflect best-practice models or the findings of successful programs. We cannot see how this reflects the commitment of the Rudd Labor Government to an "education revolution" or social inclusion.

The Australian Greens also note that, while there has been a lot said by both the Minister and the Parliamentary Secretary for Social Inclusion the importance of a Compact with the Third Sector as a framework to increase consultation and collaboration with the sector, community service organisations complained that there had been no consultation with them about these measures, their capacity to support likely increases in demand for service, and no provision of extra resources in affected areas.⁵

² The Parliamentary Secretary for Social Inclusion and the Voluntary Sector, Senator Ursula Stephens, Re-Launch of the Pelican Foundation, Canberra - 30 Sept 2008. <http://www.ursulastephens.com/>

³ Parliamentary Secretary for Social Inclusion and the Voluntary Sector, Senator Ursula Stephens. Excerpt from Speech at Launch of Anglicare's Book *Creative Tension: Australia's Social Inclusion Agenda*. October 13 2008

⁴ Explanatory Memorandum, Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008

⁵ ACOSS Hansard, Canberra. WACOSS Hansard, Perth.

School attendance versus educational outcomes

The reasons for poor school attendance and engagement and for poor education outcomes are complex and multifaceted, and those relating to Aboriginal students doubly so⁶. A simplistic approach that reduces the problem to an issue of a lack of parental responsibility and misrepresents the problem as restricted predominantly to low income families is unlikely to produce any long-term improvement in educational outcomes for marginalised kids. Unless the approach taken to school truancy addresses the complex barriers to educational engagement and tackles the underlying causes of non-attendance it will not deliver results. As the budgetary allocations for the implementation of this one year trial in eight communities indicate,⁷ the proposed approach is complex and expensive to implement, while at the same time failing to address the underlying causes of truancy and delivering very little in the way of support services.

The government was unable to provide any evidence to back up the assertion that low rates of school enrolment and attendance were predominantly restricted to low income families on income support⁸. The submission from the Australian Council of Social Services (ACOSS) notes that national school enrolment and attendance data is not disaggregated by income source or socio-economic status, leading them to conclude that:

"...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. Indeed, US research has suggested that geographic location is a stronger predictor of non-attendance than welfare status."⁹

As the Western Australian Council of Social Services warned in its submission, this means that this initiative "...will be ineffective in dealing with truancy in 75% of families around Australia that are not reliant on welfare payments."¹⁰ Such an approach creates a two class system within our schools which treats the children of those on income support differently, increasing the level of stigma and exacerbating factors that contribute to social exclusion. The fact that the measure targets children and families purely on the basis of income source without any evidence-base to justify this approach

⁶ Prof. Larissa Behrendt and Ruth McCausland, *Welfare Payments and School Attendance: An Analysis of Experimental Policy in Indigenous Education*, Jumbunna Indigenous House of Learning, University of Technology Sydney, August 2008.

Submission 15, CAALAS & NAAJA

Submission 30, Prof. Larissa Behrendt and Ruth McCausland, Jumbunna Indigenous House of Learning, University of Technology Sydney.

⁷ Reference to costs in submission and Hansard

⁸ Submission 5, Australian Council of Social Services (ACOSS), page 2.

⁹ Submission 5, ACOSS, page 4.

¹⁰ Submission 11, Western Australian Council of Social Services (WACOSS), page 1.

led ACOSS to conclude that... "the targeting of this measure to income support recipients lacks policy logic and is discriminatory." ¹¹

Underlying causes of poor attendance and educational outcomes

Best practice programs in education focus on increasing student engagement by making educational materials and programs more relevant and accessible, and by engaging families and communities in the cultural life of the school.¹² While students can be compelled to attend they cannot be compelled to learn, and learning outcomes are best when they are the result of self-motivated and goal-orientated engagement. These issues of relevance and engagement are particularly important for Aboriginal children and children of migrant families, especially where English is a second or third language. The role of good teachers and the school culture in delivering educational outcomes for Aboriginal children is absolutely crucial.¹³

The problems with attendance, engagement and educational outcomes for Indigenous Australians is well documented and there is a substantial body of inquiries, reviews and reports into the nature of the problem and the relative success and failure of various approaches and interventions. ¹⁴

In relation to remote Aboriginal communities in the Northern Territory, we note that the recent comments and findings of the report of the NTER Review Board, who stated that...

"the failure of governments and Aboriginal communities to provide a functioning education system necessary for children's physical, intellectual and emotional development is of paramount concern for the future of Aboriginal communities"¹⁵

The NTER Review report went on to say that:

"The Board has had the benefit of advice from a principal of one of the largest schools who believes the appalling education outcomes can be turned around through a holistic approach, including good education infrastructure, recruiting good teachers, early childhood development and empowering teacher and community relationships.

This view is consistent with the thrust of the Board's strategic thinking that an integrated service delivery approach within a community development framework must be central to the future development of these communities."¹⁶

¹¹ Submission 5, ACOSS, page 4.

¹² Chris Sarra, Indigenous Education Leadership Institute, *The way forward- Indigenous children of the education revolution*. National Press Club, May 2008.

¹³ Chris Sarra, *Young Black and Deadly: Strategies for improving outcomes for Indigenous students*, ACE, 2003.

¹⁴ Chris Sarra, *Young Black and Deadly: Strategies for improving outcomes for Indigenous students*, ACE, 2003., DEEWR, *What Works Program*, <http://www.whatworks.edu.au/>, Submission 30, Prof. Larissa Behrendt & Ruth McCausland, Jumbunna, University of Technology Sydney, p7-11.

¹⁵ Peter Yu, Marcia Ella Duncan and Bill Gray, *Northern Territory Emergency Response: Report of the NTER Review Board*, October 2008, p 30. (as quoted in CAALAS submission, p6)

The NTER Review report also comments¹⁷ on the failure of the Northern Territory and Commonwealth Governments to heed and implement the recommendations of a far reaching review of NT Aboriginal education in 1999.¹⁸ This report, *Learning Lessons – an independent review of Indigenous education in the Northern Territory*, clearly identifies that the major factors in poor attendance and poor educational outcomes are predominantly due to systemic failures on the part of the schools and the education department. It established that there was "a widespread desire amongst Indigenous people for improvements in the education of their children" and "substantial evidence of long-term systemic failure to address..." "... unequivocal evidence of deteriorating outcomes from an already unacceptably low base."¹⁹

This report in 1999 described poor attendance rates as "an educational crisis" and recommended major changes to the Northern Territory education system and a significant commitment of resources to address underlying issues in health and housing as well as to provide more teachers, classrooms and educational resources. It also pointed to the need to collaborate and engage with Aboriginal families and communities, emphasising that there was "a need to establish partnerships between Indigenous parents, communities, and peak bodies, the service providers and both the NT and Commonwealth Governments, to honestly acknowledge the gravity and causes of declining outcomes, its destructiveness to future Indigenous aspirations, and to assume the joint responsibility of immediately reversing the downward trend."²⁰

The Australian Greens note that there was significant evidence presented to the committee of the underlying causes of poor school attendance.²¹ A number of witnesses referred to the findings of the Western Australian Aboriginal Child Health Survey and the work of Dr Fiona Stanley in particular,²² which indicated that low school attendance was most likely to result from student disengagement arising from frustration and lowered self-esteem as a result of poor school performance. It suggested that a lack of understanding and identification with the values and expectations and the ethos of the school, and its failure to be culturally relevant in ways that respect and validate the student's identity and culture and life experience.²³ It suggested the failure to provide educational experiences that were relevant to the child's life circumstances was a much greater factor than

¹⁶ Peter Yu, Marcia Ella Duncan and Bill Gray, *Northern Territory Emergency Response: Report of the NTER Review Board*.

¹⁷ Peter Yu, Marcia Ella Duncan and Bill Gray, *Northern Territory Emergency Response: Report of the NTER Review Board*.

¹⁸ *Learning lessons - An independent review of Indigenous education in the Northern Territory*, Northern Territory Department of Education, Darwin 1999.

¹⁹ *Learning lessons - An independent review of Indigenous education in the Northern Territory*, Northern Territory Department of Education, Darwin 1999, p1.

²⁰ *Learning lessons - An independent review of Indigenous education in the Northern Territory*, Northern Territory Department of Education, Darwin 1999, page 2.

²¹ In particular, Submission 30, Prof. Larissa Behrendt and Ruth McCausland provides a comprehensive summary of the range of Australian research into the causes of poor school attendance.

²² See for instance WACOSS Hansard Perth and Jumbunna, Submission 30, Prof. Larissa Behrendt and Ruth McCausland.

²³ Zubrick et al, Western Australian Aboriginal Child Health Survey, Volume 3 Education, 2006, p116

parental responsibility, and was highly dismissive of the stereotypes presented by the media which sought to blame lazy and neglectful parents for the truancy of their kids.²⁴

The WAACHS website summarises its findings, indicating that the factors found to be associated with attendance at school by Aboriginal students included the following:

- Students were almost 30% less likely to have lower than median attendance if their carers had been educated beyond Year 10 to Years 11 or 12.
- Students assessed by their teachers to be at high risk of clinically significant emotional or behavioural difficulties were almost twice as likely to have at least 26 days of absence from school
- Students in families where 7 to 14 life stress events had occurred in the past 12 months were almost twice as likely to be absent for 26 days or more than students from families where 2 or less life stress events had occurred
- Students were more likely to miss 26 days or more of school if their main language spoken in the playground was Aboriginal English or an Aboriginal language
- Students who had trouble getting enough sleep were over one and a half times more likely to be absent for at least 26 days
- Students who had never attended daycare were one and a half times as likely to be absent from school for 26 days or more during the school year
- Students whose primary carer had needed to see the school principal about a problem the student was having at school were almost twice as likely to be absent for 26 days or more
- Students in schools with a high proportion of Aboriginal students, schools that had Aboriginal and Islander Education Officers (AIEOs), and Government schools in the highest quartile of Socioeconomic Index for schools were more likely to have poor school attendance.

From WAACHS website <http://www.ichr.uwa.edu.au/waachs/themes/education/attendance>

One important finding of this research is a direct empirical link between inter-generational trauma and poor school attendance, with children whose primary carer had been forcibly removed from their families as a result of the policies which produced the Stolen Generations much more likely to be absent from school:

The survey found that the proportion of students who had missed at least 26 days of school was significantly higher among students whose primary carer was forcibly separated from their natural family (69.0 per cent; CI: 59.6%–77.6%) than among those whose primary carer had not been separated (52.2 per cent; CI: 48.8%–55.7%) (Table 4.25)." page 130.

Professor Larissa Behrendt and Ruth MaCausland also summarised the results of a number of studies which provided evidence of poor school attendance by Aboriginal children being associated with low

²⁴ Ibid, p 115

socio-economic status, low parental achievement, domestic violence, child abuse and drug and alcohol abuse.²⁵

The Western Australian Council of Social Services and the Aboriginal Legal Service of WA also highlighted the links between poor health and school attendance, with a number of submissions²⁶ drawing attention to the results of the NACCHO Ear Trial and School Attendance Project²⁷ – which found that children with chronic suppurative otitis media attended only 69% of the days within the study, as compared to 88% of other children. The 1999 NT *Learning Lessons* report also found that children with low attendance rates were more likely to have hearing loss resulting from chronic ear disease.

Poor nutrition together with hunger associated with a lack of breakfast and an inability to provide school lunches have been found to impact on both school attendance and educational outcomes.²⁸ So too have inadequate housing and homelessness and associated lack of sufficient sleep.²⁹ These are significant issues which should be addressed by Commonwealth, State and Territory governments as a priority.

Focusing on addressing these underlying causal factors and building on successful programs is, in the opinion of the Australian Greens, a more sensible evidence-based approach which is more likely to produce worthwhile outcomes and deliver value for money. The NT Government currently lacks the capacity to cater for all of its eligible students – there would simply not be enough desks, classrooms or teachers to cope if all those students who should be at school turned up. The Commonwealth Government has a four year plan to address capacity and resource constraints within the NT school system. While the Commonwealth Government committed \$98.8 million in the 2008-09 Budget to provide an additional 200 teachers, the Australian Education Union doubts sufficient experienced teachers to can be found. The NTER Review report recommended that an additional \$1.7 Billion was needed over five years to close the education gap, including 1360 extra teachers, 585 additional staff and \$440 million spent on infrastructure.³⁰

DEEWR have indicated in response to questions on notice that a total of 45 new teachers have been employed to date, with 22 of these currently deployed as of term 3 2008, and 23 undertaking intensive training for deployment first term 2009. Four new classrooms are being built at Wadeye and Catholic education has been given \$10 million to build ten teacher houses there.³¹

While the \$17 million allocated to the administration of these new measures is relatively small by comparison of the scale of unmet need in Indigenous education in the Northern territory, the

²⁵ Submission 30, Prof. Larissa Behrendt & Ruth McCausland, Jumbunna, University of Technology Sydney, p8. See also Behrendt & McCausland, *Welfare payments and school attendance: an analysis of experimental policy in Indigenous education*, Issues paper for the Australian Education Union, August 2008, p28.

²⁶ WACOSS, Jumbunna, ALSWA, ...

²⁷ National Aboriginal Community Controlled Health Organisations, *Ear Trial and School Attendance Project*

²⁸ WACOSS, CAALAS / NAAJA, Behrendt, ACOSS

²⁹ WACOSS, CAALAS / NAAJA, Behrendt, ACOSS

³⁰ Peter Yu, Marcia Ella Duncan and Bill Gray, *Northern Territory Emergency Response: Report of the NTER Review Board*.

³¹ DEEWR, *Response to questions on notice*, question 24.

Australian Greens consider this money would be better spent on addressing these core needs – by building on successful programs and engaging Aboriginal families and communities in community-initiated programs to increase school attendance once the necessary teachers, classrooms and desks are locally available.

The Australian Greens are particularly concerned by the likely impacts of the measures on humanitarian migrant communities in the Cannington district on WA. We note that not only does the Cannington district have a higher proportion of Aboriginal people by comparison to metropolitan Perth as a whole³² but it is known for having a significant population of humanitarian refugees. This group have only recently settled in the Australia, having English as a second or third language, and come from a background in which they have had intermittent access to education and experienced significant trauma as a result of war. Community service providers we have spoken to are concerned that the children of this group are particularly at risk of poor educational outcomes, are manifesting higher rates of truancy, and already lack access to sufficient support services. We are particularly concerned about the capacity of these parents and carers to navigate and negotiate these provisions with Centrelink bureaucracy, and urge that particular consideration be given to their circumstances and additional support services provide to assist them.

Recommendation 1: The Australian Greens recommend that the Commonwealth Government prioritise investment of resources to addressing the underlying causes of poor school attendance and engagement.

Positive initiatives and evidence of successful interventions

As the NTER Review Report stated:

"There are universal success factors that improve education outcomes that don't appear to be contested: focus on early childhood development, good quality teaching, quality education infrastructure and teaching resources, quality bilingual education, and associated sporting, cultural and development programs. All these critically important ingredients that determine education achievement globally are highly deficient in remote Northern Territory Aboriginal community schools."³³

The *Learning Lessons* report undertaken by the Northern Territory Department of Education in 1999 (as mentioned previously) also described a number of successive positive initiatives that were being undertaken by schools on an individual ad hoc basis:

"Some schools have attempted to address this problem by having physical education or light play as the first activities of the day, with the idea of encouraging children to get to school

³² Submission 11, WACOSS, page 6.

³³ Peter Yu, Marcia Ella Duncan and Bill Gray, *Northern Territory Emergency Response: Report of the NTER Review Board*, p 31.

on time, and to ensure latecomers cause minimal disruption and not miss crucial information.

Others collect children by whatever transport the school has available—even the principal's own vehicle. Some schools offer breakfast programs, aiming to cure hunger and offer an enticement to attend school at the same time. In many schools, both punctuality and attendance are encouraged through various forms of incentive including excursions, involvement in sport or other recreational events."³⁴

It also provides a good example of a successful 'best practice' attendance initiative:

"At Alekerange, an excursion is provided for senior primary students at the end of each semester. These can be 'big ticket' interstate trips or more often local places of cultural interest to the students. The excursions are directly linked to attendance and the records of attendance are prominently displayed in the classroom. A one dollar 'fine' is imposed on the total excursion fee for every day of unexplained absence of the student. The 'fines' are paid by the family and no student misses out on the excursion. This initiative has the full support of the community and has increased the attendance for the class to around 90%."³⁵

p.142

In providing these examples the *Learning Lessons* report notes significantly that these individual school attendance initiatives appear to be in "... total isolation from any departmental advice on strategies or apparent interest in success or failure."³⁶ We think that it is highly significant that the Northern Territory Government has failed to act on this report and implement its recommendations. We do not believe that under these circumstances it is worthwhile or appropriate to be embarking on an expensive and highly speculative exercise in policy experimentation when there still remain a substantial number of basic problems within the educational system in the Northern Territory for which evidence-based solutions have been identified but have yet to be implemented.

The Australian Greens believe that there is a significant opportunity for the Commonwealth Government to contribute to improving school attendance and school outcomes by using its capacity and resources to assist State and Territory Governments, education departments and individual schools to pull together the knowledge and experience gained from existing successful programs and act on the recommendations of existing reviews. We acknowledge that the 'What Works' initiative³⁷ could be a step in this direction and believe the resources being committed to this speculative and punitive measure would be better dedicated to project implementation funding to assist the roll-out and assessment of some of these initiatives.

³⁴ Learning Lessons, Op cit, Page 145

³⁵ Learning Lessons, Op cit, Page 142

³⁶ Learning Lessons, Op cit, page 145

³⁷ DEEWR, *What Works*, <http://www.whatworks.edu.au/>

The Aboriginal Legal Service of WA provided evidence to the committee about the Aboriginal Student Support and Parent Awareness Program (ASSPA), which was a successful program that the Commonwealth ceased funding in early 2000. This program directly addressed the need to engage parents and carers in the culture and ethos of the school, through the formation of ASSPA committees. Over 12 years to 2000 3,811 ASSPA committees were established. In some schools these committees were able to have a high level of involvement in education decision making and were able to institute a range of language and cultural activities including language teaching resources and trips to country which were successful in increasing the attendance and engagement of Aboriginal students.³⁸

ALSWA also provided evidence on the success of the Foodbank WA School Breakfast Program. An assessment of this program had found that 81.7% of respondents to the survey indicated an improvement in class attendance and 19.2% reported a substantial improvement. In addition 90% indicated improved engagement in class and 90.3% reported improved student concentration levels. The program also resulted in higher levels of parental participation in schools, with 82.5% indicating increased participation.³⁹

Recommendation 2: The Australian Greens recommend that the Commonwealth Government prioritise investment in incentive-based programs that have demonstrated success in addressing the underlying causes of poor school attendance and engagement and improving educational outcomes

Vulnerable children and families

The Australian Greens are concerned by the possible impacts on vulnerable children and families, particularly where there are complex problems and risk factors which may be exacerbated through contact with this punitive regime. We are particularly concerned by the unintended consequences for other innocent family members where an older child is truanting and there are several younger children who are attending school and likely to be adversely impacted by the suspension or cancellation of supporting income. This may be particularly problematic for single parent families and for foster families, especially where there is an older child that they are struggling to control and unable to compel to attend school. This may prove to be a further disincentive to foster-parents in particular, who may risk jeopardising their ability to provide and care for their own children by taking on the care of someone else's child - especially where that child has had a difficult and traumatic childhood, a history of poor engagement school and attendance and may be failing at school.

The Welfare Rights Network notes:

Currently there is the potential for those who have limited capacity due to the above factors (vulnerable parents/guardians, physical or psychiatric disability, drug or alcohol abuse, domestic violence) to be exempted either fully or partially from certain participation

³⁸ Submission 6, ALSWA, p8-9. See also DEST, *Review of the Indigenous Education Direct Assistance Program*.

³⁹ Submission 6, ALSWA, page 11. Foodbank WA (2008) *Development and delivery of health promotion campaigns and programs in Western Australia*.

requirements to receive income support payments. It is not clear whether this type of vulnerability or a reduced capacity to comply will be permitted.⁴⁰

There is also a risk that the threat of loss of parental income support may lead some families at risk to force teenagers to leave home so as not to jeopardise family income. Families where there have been acrimonious separations and there are ongoing disputes about the care and custody of children are also potentially at risk. Where there are shared-care arrangements it is unclear whether one or both parents will be penalised if a child truants, and it may prove difficult for one parent to have any influence over whether the other parent is encouraging or compelling a child to go to school.⁴¹ Given that the legislation will apply to any parent who has at least 14% of the care there is the potential for a parent who may only have care of their child on the weekend to be penalised for non-attendance over which they have no influence or control. The possibility of sanctions could prove a disincentive to some parents to be involved in the care of a child, even though this care may well be in the child's best interests.

Recommendation 3: If this legislation proceeds, the Australian Greens recommend that the Commonwealth Government clarify how the proposed legislation will impact upon separated families and introduce amendments to ensure that where a parent does not have control of a child's attendance at school this is considered a 'reasonable excuse'

A number of witnesses were also concerned by the possible interaction of this scheme with families where there have been child protection notifications and parents or guardians are fearful of having a child removed from their care.⁴² There is a real risk that parents or guardians who have already been subject to a child protection notification will be fearful of engaging with authorities or contesting the referral and might decide that losing access to income support is preferable to the perceived risk of having a child removed.⁴³ This is particularly problematic for Aboriginal families where there has been a history of removal of children by white authorities, and poor parenting skills and a poor relationship with school authorities are a known consequence of that removal. The research conducted by the Western Australian Aboriginal Child Health Survey has quantified the impact of forced child removal on intergenerational trauma, and poor health, well-being and education outcomes.⁴⁴

Recommendation 4: If this legislation proceeds, the Australian Greens recommend that the Commonwealth Government clarify how the proposed legislation will impact upon families who are already engaged with the child protection system and take steps to ensure that the legislation does not result in negative outcomes for families at risk.

One group of disadvantaged students for which the question of school attendance versus educational outcomes is particularly important is those living with a disability – especially children with autism where there are not support services available, where teachers and classes lack the

⁴⁰ Submission 7, Australian Welfare Rights Network (AWRN) page 10.

⁴¹ Submission 7, Australian Welfare Rights Network (AWRN) page 11-12.

⁴² ALSWA, CAALAS/NAAJA, AWRN

⁴³ Submission 6, ALSWA. ALSWA, Hansard, Perth.

⁴⁴ Zubrick et al, Western Australian Aboriginal Child Health Survey 2006.

capacity to cope, or where their disability is yet to be diagnosed. While this issue was not raised during the Senate Inquiry it has since been brought to our attention.⁴⁵ We have also been made aware that children with a disability are significantly over-represented in distance education, with large numbers of families who are not living remotely opting to disengage from school attendance after traumatic experiences with local schools. These families are clearly making a decision based on their experiences of failure within the education system to put educational outcomes ahead of direct attendance.

Recommendation 5: If this legislation proceeds, the Australian Greens recommend that the Commonwealth Government address the needs of children with a disability for access to appropriate education and support, and ensure that the provisions of this legislation do not adversely impact on them.

Young carers are another vulnerable group that we believe are placed at risk by this legislation. As the WACOSS submission pointed out:

40,000 young carers currently live across WA, according to research conducted by Curtin University in 2004. Young carers as a target population have one of the highest school drop-out rates. Only 4% of young primary carers between the age of 15-25 years are still at school, compared to 23% of the general population.⁴⁶

The proposed legislation is likely to have a disproportionate and exacerbating impact on young carers who are already struggling to care for a parent or family member with a disability. Many of these carers are embarrassed or ashamed of their caring arrangements and are known to be reticent to acknowledge issues and come forward for help. This issue may become particularly fraught where they are caring for a parent who has an intermittent mental health problem, which is likely to be exacerbated by contact from Centrelink and the threat of income suspension, and may result in them avoiding or refusing contact with support services or a Centrelink social worker. While we note that in response to Questions on Notice, DEEWR has indicated that the circumstances of young carers will be relevant to the 'reasonable excuse' and 'special circumstances' provisions we remain concerned that, where acknowledgement and contact is avoided, the details of these circumstances may not come to light until serious hardship is experienced.

Recommendation 6: If this legislation proceeds, the Australian Greens recommend that the Commonwealth Government address the needs of children who are caring for a parent or family member with a disability and ensure appropriate support and respite services are available to enable them to attend school and to help them address educational disadvantage experienced as a result of caring for a loved one.

⁴⁵ *Personal communication*

⁴⁶ Submission 11, WACOSS, page 7.

Availability and capacity of existing support services

DEEWR have indicated an additional 3 social workers will be provided as part of the mobile team to service the 6 Northern Territory communities involved in the trial, and that an additional social worker will be provided in each of the metropolitan trial sites (the Cannington region in WA and another location yet to be announced).⁴⁷

DEEWR also emphasised that beyond the provision of social workers – who we suspect will have their work cut out contacting families and assessing 'special circumstances' 'reasonable excuses' and whether 'reasonable efforts' have been made to comply – DEEWR consider it the role of state governments and authorities, individual schools and non-government community service agencies to provide other social support and to develop and put in place attendance strategies. They also stated that there is no provision for financial case management under this legislation.⁴⁸

The Australian Greens note the evidence provided by WACOSS that community service and crisis support agencies are already severely stretched and unable to cope with unmet need, with 9750 people were turned away from overloaded community services in 2006-07 (even though 80% of these people were eligible for help).

ACOSS also stated that they considered that the trials would involve "serious implementation and resource challenges"⁴⁹ and noted that there was "potential for the policy to be applied unevenly across the trial sites depending on the school's capacity to work with families to address underlying issues."⁵⁰

The Australian Greens are deeply concerned that additional resources are not being provided to address both case management and financial crisis. Schools need to be provided with the resources and the expertise to comprehensively assist children who have been marginalised from school to reconnect, re-engage, make up lost ground and achieve educational outcomes.

Recommendation 7: The Australian Greens recommend that the Commonwealth Government engage with community service organisations to address existing capacity restraints and unmet need, and ensure that additional resources are provided to address the increased demand for support services as a result of the trial.

⁴⁷ DEEWR, Hansard, Canberra

⁴⁸ DEEWR, *Response to Questions on Notice*, Question 14.

⁴⁹ Submission 5, ACOSS, p23.

⁵⁰ Submission 5, ACOSS, p 24.

Transfer of confidential data between schools, education authorities and Centrelink

A number of witnesses expressed concern about the lack of clarity within the proposed legislation concerning the transfer of confidential data and the lack of safeguards to protect the privacy of individuals caught up in these provisions.⁵¹

In answer to questions on notice DEEWR indicated that Centrelink would not supply schools with a list of families on income support, and it was at the discretion of individual schools to refer individual cases to Centrelink. DEEWR emphasises that it was the responsibility of the schools (and implicitly, State or territory education authorities) to develop and implement a strategy to address poor attendance, and that it should only be after parents have failed to cooperate with these strategies that a referral should be made.⁵² We note however, that there is no provision for additional resources for schools to develop and implement these attendance strategies, and schools capacity and resources to do so are likely to be patchy.

As ACOSS pointed out:

"...the legislation does not impose mandatory reporting requirements on school authorities and officials. It is not clear whether Centrelink is to determine whether the required rate of attendance is reasonable and what expertise Centrelink officials will have in considering factors related to the school environment and family circumstances."⁵³

As it will not be immediately clear to school authorities which students are children of or cared for by parents or families on income support (except in those cases where parents and families have applied through the school for assistance programs for things such as books and uniforms) this means that principals may need to forward names or lists of names that may include parents and families who are not income support recipients. We note that Section 124P authorises the exchange of this information and acknowledge that DEEWR assert that information exchange must be in accordance of the Privacy Principles contained in Section 14 of the Privacy Act 1988,⁵⁴ however we remained concerned that Centrelink will be receiving details for parents and families who are not Centrelink clients, and reported that the information systems to deal with this confidential data have yet to be designed and implemented.⁵⁵ We note the implied complexity and scale of these systems, as indicated by the fact that 80% of the \$12.6 million cost of administering the measure has been allocated of IT staffing alone. By comparison, only \$0.3 million has been allocated to assessment and evaluation of project outcomes.

⁵¹ ACOSS, CAALAS/NAAJA, AWRN, WACOSS, ALSWA

⁵² DEEWR, *Response to Questions on Notice*, Questions 39-41.

⁵³ Submission 5, ACOSS, page 8.

⁵⁴ DEEWR, *Response to Questions on Notice*, Questions 39.

⁵⁵ Hansard, Centrelink, DEEWR & FaHCSIA, Canberra

Extent and impact of the proposed legislation

Government spokespeople, including the Minister for Families, Community Services and Indigenous Affairs, and the Parliamentary Secretary to the Minister for Health and Ageing,⁵⁶ have sought to emphasise that the Legislation is a one-year 'trial' which is restricted to eight communities. The Australian Greens note however that the proposed legislation is not restricted either spatially or geographically as suggested by the government, but rather applies to all Australians who are in receipt of the relevant income support payments and has no trial end-date, no provisions for trial evaluation and criteria for continuation, and no sunset clause. There is nothing in the Bill that guarantees that once the legislation is passed it cannot and will not be extended to other communities, and nothing that stipulates that it must achieve attendance targets and deliver measurable outcomes in educational performance for it to be considered a success.

Recommendation 8: The Australian Greens recommend that the Commonwealth Government introduce a sunset clause for the legislation and specify geographic boundaries to its application to specify that it only applies to those communities involved in the trial and only for the trial period.

Recommendation 9: The Australian Greens also recommend that the Commonwealth Government specify within the legislation the evaluation framework and criteria to stipulate clear targets and outcomes for the assessment and evaluation of the trials success or failure.

Definitional issues

Many witnesses to the inquiry expressed concern that a number of the key concepts within the Bill were not adequately defined and that there would be substantial differences in interpretation leading to patchy and inconsistent application of the measures. The Australian Greens remain concerned that what constitutes a "reasonable excuse" or "special circumstances" is not defined within the legislation and will be left to yet-to-be-developed guidelines over which there will be no parliamentary scrutiny.

We are also concerned that what constitutes a "reasonable effort" to encourage or compel a child to attend school or to engage with the school, State or territory educational authorities, non-government service providers or Centrelink social workers is similarly ambiguous and open to interpretation. We note that Centrelink social workers are unlikely to have a relevant background in educational practice and yet will be required to assess referrals from schools to determine whether parental responsibility is to blame for attendance failures. This may become particularly problematic where there is an ongoing dispute with the school over issues such as unrecognised or unaddressed bullying, or conflict with a teacher or principal where the student may not be wholly to blame.

We note that, while the Minister for Education, Julia Gillard MP has emphasised that the suspension or cancellation of income support is intended to be used only as a "last resort" that this language is

⁵⁶ Second reading speeches

not used within the Bill, and there is nothing to compel the Secretary of Centrelink to in fact ensure that all other efforts have been made to improve school attendance, all other options have been exhausted, and that any such cancellation or suspension is in fact being used as an option of last resort.

Conclusion

The Australian Greens believe that the Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008 is extremely poor social policy. It is not evidence based, and in fact the evidence presented to the committee inquiry overwhelmingly shows this approach will not work. This punitive approach that will cause more harm than good, and it is targeted at punishing parents rather than addressing the needs of children and the underlying causes of failure to attend to school.

The Australian Greens believe that this legislation should be withdrawn.

We urge the Government to commit resources to addressing the causes of child alienation from the education system and to take an incentives-based approach that encourages families and communities to engage with the school culture ... and likewise encourages schools to open their doors and reach out to the community.

Recommendation 10: The Australian Greens recommend that the Social Security and Veterans' Entitlements Legislation Amendment (Schooling Requirements) Bill 2008 not be passed.

Senator Rachel Siewert

Appendix 1

Analysis of results from the Western Australian Aboriginal Child Health Survey

Modelling the association between school attendance and student factors⁵⁷

A multivariate logistic regression analysis was performed to model the probability of having an attendance ratio at or below 87.5 per cent, i.e. absent from school for 26 days or more (Table 4.22). The following student-related factors were found to be independently associated with being absent from school for 26 days or more in a school year.

- **Language spoken in the playground.** Students who spoke Aboriginal English in the playground were over twice as likely (Odds Ratio 2.06; CI: 1.39–3.06) to have been absent from school for 26 days or more than students who spoke English in the playground. Students who spoke an Aboriginal language were nearly six times more likely (Odds Ratio 5.77; CI: 2.00–16.40).
- **Risk of clinically significant emotional or behavioural difficulties.** Students assessed from teacher reports to be at high risk of clinically significant emotional or behavioural difficulties were twice as likely (Odds Ratio 1.98; CI: 1.42–2.76) as students at low risk of being absent from school for at least 26 days in the school year.
- **Ever been in day care.** Students who had never been in day care were almost twice as likely (Odds Ratio 1.91; CI: 1.41–2.59) to have been absent from school for at least 26 days than students who had been in day care.
- **Primary carer or partner needed to see school principal about problem student had at school.** Students whose carers had needed to see the school principal in the past six months because of problems the student was having at school were almost twice as likely (Odds Ratio 1.89; CI: 1.35–2.65) to have been absent from school for 26 days or more.
- **Helping with school work at home.** Students who have no-one to help them with their school work were almost twice as likely (Odds Ratio 1.86; CI: 1.18–2.91) to have been absent from school for at least 26 days than those who were helped with their school work by someone within their household.
- **Has trouble getting enough sleep.** Students who have trouble getting enough sleep were almost twice as likely (Odds Ratio 1.73; CI: 1.19–2.51) to be absent from school for at least 26 days in the school year than students who did not have trouble getting enough sleep.
- **Overall academic performance.** Students with low academic performance were almost twice as likely (Odds Ratio 1.76; CI: 1.37–2.24) to be absent for at least 26 days in a school year than students whose overall academic performance was average or above average.

⁵⁷ Zubrick et al, *Western Australian Aboriginal Child Health Survey, Volume 3 Education*, 2006, p.129.

Modelling the association between school attendance and carer factors⁵⁸

A multivariate logistic regression analysis was performed and it was found that, when carer factors were controlled, the following carer factors were independently associated with the student being absent from school for at least 26 days (Table 4.31).

- **Primary carer forcibly separated from natural family.** Students whose primary carer had been forcibly separated from their natural family were over one and a half times more likely (Odds Ratio 1.75; CI: 1.19–2.56) to have been absent for at least 26 days in a school year than students whose primary carer had not been forcibly separated.
- **Primary carer highest level of education.** Students whose carers had been educated to Years 11 or 12 were one and a half times less likely (Odds Ratio 0.65; CI: 0.49–0.87) to have been absent from school for 26 days or more than students whose carers left school after Year 10. Similarly, students whose carers had been educated for 13 years or more were over one and a half times less likely (Odds Ratio 0.57; CI: 0.34–0.96) to have been absent from school for 26 days or more.
- **Primary carer labour force status.** Students whose primary carers were either unemployed or not in the labour force were over one and a half times more likely (Odds Ratio 1.61; CI: 1.09–2.38 and Odds Ratio 1.73; CI: 1.34–2.24 respectively) to have missed at least 26 days of school than students whose primary carers were employed.
- **Primary carer ever arrested.** Students whose primary carer had ever been arrested or charged with an offence were one and a half times more likely (Odds Ratio 1.45; CI: 1.14–1.85) to have missed at least 26 days of school than students whose primary carers had never been arrested or charged.
- **Primary carer attended an Aboriginal funeral in the past 12 months.** Students whose primary carers had attended an Aboriginal funeral were one and a half times more likely (Odds Ratio 1.57; CI: 1.19–2.06) to have been absent from school for 26 days or more.
- **Main language spoken.** Students whose primary carer spoke Aboriginal English as their main language were four times more likely (Odds Ratio 4.04; CI: 1.30–12.40) to have been absent from school for 26 days or more and three times more likely (Odds Ratio 2.62; CI: 1.22–5.64) if their carer spoke an Aboriginal language.

⁵⁸ Zubrick et al, *Western Australian Aboriginal Child Health Survey, Volume 3 Education*, 2006, p.132.

APPENDIX 1

Submissions received by the Committee

- 1 Lockhart, Mr Keith (WA)
- 2 Aboriginal and Torres Strait Islander Legal Service (QLD) Ltd (ATSILS) (QLD)
- 3 Such MP JP, Mr Bob Such (SA)
- 4 Department of Education, Employment and Workplace Relations (ACT)
Supplementary information
 - Answers to questions on notice from the hearing, received 10.11.08
- 5 ACOSS (NSW)
- 6 Aboriginal Legal Service WA (WA)
- 7 National Welfare Rights Network (ACT)
Supplementary information
 - Supplementary submission dated 24.10.08
- 8 Simpson, A/Professor Brian (NSW)
- 9 Centrecare (WA)
- 10 Mansour, Ms Julia (NSW)
- 11 WACOSS (WA)
Supplementary information
 - Supplementary submission received 24.10.08
- 12 Australian Human Rights Commission (NSW)
- 13 UnitingCare Burnside (NSW)
- 14 Stanley, Ms Jane (VIC)
- 15 North Australian Aboriginal Justice Agency (NAAJA) and Central Australian Aboriginal Legal Aid Service (CAALAS) (NT)
- 16 Heysen, Mr Kerry (SA)
- 17 Cowan, Ms Carmel (VIC)
- 18 Morrow, Dr Ann (VIC)
- 19 O'Connor, Ms Loreto (SA)
- 20 Van Ruth, Sr Katrina (SA)
- 21 Madigan, Ms Michele (SA)

- 22 *Form Letters*
Lowe, Ms Janet
Merckenschlager, Mr Max and Ms Jacqui
Lynn, Ms Joan
Lynn, Mr Peter
- 23 Evans, Ms Joan (SA)
- 24 Morris, Sister Elizabeth (SA)
- 25 WA Council of State School Organisations (WACSSO) (WA)
- 26 Ngala (WA)
- 27 Nair, Ms Gayatri; Franjic, Ms Belinda & Petrie, Mr Nicholas (NSW)
- 28 Dunell, Ms Maria
- 29 Aboriginal Legal Service WA (WA) supplementary submission
- 30 Behrendt, Professor Larissa and McCausland, Ms Ruth (NSW)
- 31 ACT Department of Education (ACT)

Additional information

Anglicare

Diagrams – *The Concept of Civil Society* and *Results-Based Decision Making* tabled at hearing 9.10.08

UnitingCare West

Supplementary information provided following the hearing 9.10.08, dated 31.10.08

APPENDIX 2

Public Hearings

Thursday, 9 October 2008

The Marque Hotel, Perth

Committee Members in attendance

Senator Claire Moore (Chair)

Senator Rachel Siewert (Deputy Chair)

Senator Mathias Cormann

Witnesses

WACOSS

Ms Sue Ash, Chief Executive Officer

Ms Irina Cattalini, Director, Social Policy

National Welfare Rights Network

Ms Kate Beaumont, President

WA Council of State School Organisations (WACSSO)

Ms Amanda Hill, Policy and Research Officer

Centrecare Inc

Ms Leanne Strommen, Executive Manager

Communicare Inc

Mr Wayne Stevenson, General Manager

Playgroup WA

Mr David Zarb, Chief Executive Officer

Ngala

Mrs Rae Walter, Chief Executive Officer

Aboriginal Legal Service of Western Australia

Mr Terry Whitby, President

Mr Dennis Eggington, Chief Executive Officer

Miss Kathryn Allingham, Policy Officer

South Metropolitan Youth Link (SMYL)

Ms Julie Mitchell, Executive Officer

Uniting Care West

Mr Chris Hall, Chief Executive Officer

Ms Lyn Shirley, Executive Manager

Ms Melissa Del Borrello, Corporate Projects Officer

Anglicare

Mr Ian Carter, Chief Executive Officer

Mr John Berger, Executive Manager Operations

Monday, 3 November 2008

Parliament House, Canberra

Committee Members in attendance

Senator Claire Moore (Chair)

Senator Rachel Siewert (Deputy Chair)

Senator Judith Adams

Senator Catryna Bilyk

Senator Mark Furner

Senator Gary Humphries

Witnesses***ACOSS (via teleconference)***

Mr Gregor Macfie, Policy Manager

Ms Jacqueline Philips, Policy Officer

North Australian Aboriginal Justice Agency (NAAJA) (via videoconference)

Ms Priscilla Collins, Chief Executive Officer

Ms Helen Wodak, Advocacy Manager

Ms Annabel Pengilley, Welfare Rights Solicitor

Ms Liz Turnbull, Welfare Rights Solicitor

***Central Australian Aboriginal Legal Aid Service (CAALAS)
(via videoconference)***

Mrs Patricia Miller AO, Director

Mr Mark O'Reilly, Principal Legal Officer

Ms Lauren Walker, Welfare Rights Lawyer

Department of Education, Employment and Workplace Relations

Mr Graham Carters, Deputy Secretary, Employment and Strategic Policy

Mr William Goff, Assistant Director, School Enrolment and Attendance Measure Implementation Team

Mr Stephen Goodwin, Acting Branch Manager, Northern Territory Taskforce

Mr Geoff Kimber, Principal Government Lawyer

Mr Damien McGrath, Director, National Student Attendance Unit

Ms Teena Parkinson, Director, School Enrolment and Attendance Measure Implementation Team

Department of Families, Housing, Community Services and Indigenous Affairs

Mr Gavin Matthews, Acting Branch Manager, Welfare Payments Reform Branch

Centrelink

Mr Robert Hall, Business Manager, School Enrolment and Attendance Project