



# Victorian Aboriginal Legal Service Co-operative Ltd.

*Head Office:*  
6 Alexandra Parade,  
P.O. Box 218  
Fitzroy, Victoria 3065  
Phone: (03) 9419 3888 (24 Hrs)  
Fax: (03) 9419 6024  
Toll Free: 1800 064 865

**Victorian Aboriginal Legal Service Co-operative Limited's Submission to the Welfare Payments Reform Branch - Commonwealth Government in response to the policy outlines for new model of income management**

## INTRODUCTION

At the outset, the Victorian Aboriginal Legal Service Co-operative Limited (VALS) wishes to make its stance very clear. VALS recommends that the Government: **Abolish compulsory welfare quarantining, or where quarantining continues, that it be available on a voluntary basis, or employed only as a measure of last resort, applied on an evidence-based, case-by-case basis, that maintains full recourse to administrative and judicial review.**

The above recommendation applies whether income management is targeted at Aboriginal and Torres Strait Islander peoples, as is the case with the Northern Territory Intervention, or the wider population. The motivation for extending income management to the general population in the Northern Territory, and extending it beyond the Northern Territory subject to review, appears to be to justify bad policy.

The reason for VALS' categorisation of income management as bad policy is threefold:

1. Income management is ineffective and does not reflect best practice or an evidence based approach. In fact, there is evidence argues against income management and these will be outlined in this submission.
2. It seems that the extension of income management beyond Aboriginal and Torres Strait Islander peoples in the Northern Territory is the only way the Government can see to subdue arguments that the income management component of the Northern Territory Emergency Intervention (the Intervention) is racist. The Government is reinstating the Racial Discrimination Act (1975 Cth) by applying the income management policy of the Intervention across the board. In doing so, the Government overlooked the better option of how to reinstate the Racial Discrimination (RDA), that is: abandon the income management policy. Arguably this approach was not politically convenient to the Government. The Government preferred to amend the bad policy (i.e. apply it to all) in order to prove that applying the policy solely to Aboriginal and Torres Strait Islander peoples in the Northern Territory was not inappropriate.

3. The proposed model that will replace the current model connected to the Intervention is flawed. The proposed model is different in that it does not apply to Aboriginal and Torres Strait Islander people in a specified area, but applies to all people in States or Territories who are classified as “vulnerable”. Some people can also be exempted from the policy which was not previously the case. However, despite these changes VALS is still not satisfied with the policy, particularly the punitive flavour that runs through it, and argues for its abandonment. The punitive approach appears apply blame to people on welfare and penalises them with new requirements. The punitive flavour is apparent in:
  - a) How many people will be captured within the definition of ‘vulnerable welfare payment recipient’; and
  - b) The difficulties in proving that a person should be exempt from the policy.

## **EVIDENCE -BASED APPROACH**

Aboriginal and Torres Strait Islander peoples are the experts of their own experience. This experience should be treated as the most valid and informed source of evidence on which to base policy reform. This cannot happen without consultation and collaboration with Aboriginal and Torres Strait Islander communities.

Despite evidence that shows welfare quarantining under the income management program in the Northern Territory is not working, the extension of income management measures is set to be rolled out to all States and Territories. VALS considers this proposal to comprehensively contradict the Rudd Government’s commitment to evidence-based policy making. Kevin Rudd himself says: ‘I believe in evidence-based policy not just sort of grand statements’.<sup>1</sup> Kevin Rudd speaks often about his preference for “evidence based policy”. Responses to the 2020 summit are to be built on “a strong evidence base”. When he was the opposition leader, Kevin Rudd said before the election: ‘I’m a Labor moderniser. Always have been, always will be and what that’s on about is good evidence based policy in terms of producing the best outcomes for this nation, carving out its future in a pretty uncertain century where things fundamentally are changing.’<sup>2</sup>

The Health Impact Assessment (HIA) performed by the Australian Indigenous Doctors Association (AIDA) was not an evaluation of the Northern Territory Emergency Response (NTER or “the Intervention”), but rather an assessment of evidence from a variety of sources that has then been used to predict potential positive and negative impacts on the health of the people whose communities were prescribed under the legislation.<sup>3</sup> The HIA is concerned with assessing potential health impacts of a policy, plan, project or program on the population and making practical recommendations to improve that proposal. Broadly, the AIDA HIA concluded that ‘the

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<sup>1</sup> Australian Broadcasting Corporation (2007) ‘PM-elect in the spotlight’ *The 7.30 Report* 27<sup>th</sup> November, [www.abc.net.au/7.30/content/2007/s2102441.htm](http://www.abc.net.au/7.30/content/2007/s2102441.htm)

<sup>2</sup> Australian Broadcasting Corporation (2007) ‘Tony Jones Talks to Opposition Leader Kevin Rudd’ *Lateline*, 8<sup>th</sup> November, [www.abc.net.au/lateline/content/2007/s2085991.htm](http://www.abc.net.au/lateline/content/2007/s2085991.htm)

<sup>3</sup> Australian Indigenous Doctors’ Association and Centre for Health Equity Training, Research and Evaluation UNSW (2010). *Health Impact Assessment of the Northern Territory Emergency Response*. Canberra: Australian Indigenous Doctors’ Association.

Intervention has diminished its own chances of succeeding in improving the health and wellbeing of children and communities through its failure to engage constructively, respectfully, and fully with the Aboriginal people it was intended to help'.<sup>4</sup> Furthermore, the assessment report found that '[T]he impoverished notion of governance that the Intervention represented has profound, far reaching, and serious negative effects on the health (psychosocial, physical and cultural) of the people whose aspirations, knowledge, experience and skills were ignored'.<sup>5</sup>

Findings from AIDA's HIA that are more specific to income management revealed there to be far more negative impacts than positive impacts of compulsory income management, as visually represented below.

	Positive impacts				Negative impacts			
	Sources of evidence				Sources of evidence			
	Community visits	Key stake-holders	Expert reviews	Other	Community visits	Key stake-holders	Expert reviews	Other
Less pressure from family, improved ability to budget	✓	✓						
Improved food supply	✓	✓						
Discrimination, racism						✓		✓
Stressful, shaming and degrading					✓	✓		
Loss of autonomy					✓	✓		
Problems/cost of using the card					✓	✓		
Lack of development of sources of income other than benefits					✓			
Lack of evidence base for blanket use						✓		
Lack of financial advice						✓		
More difficulties budgeting					✓			
Increased pressure from others for money					✓			
Stigma and shame					✓	✓		
Undermining Aboriginal identity					✓			

<sup>4</sup> Ibid, p.18.

<sup>5</sup> Ibid.

**Table1.** Compulsory income management: summary of the evidence from communities, stakeholders, and expert reviewers.<sup>6</sup>

Income management was one of the most contested aspects of the NTER, especially because its implementation required the suspension of the RDA. The HIA found the following evidence regarding compulsory income management:

- There were substantial practical problems in using the cards and the costs of these were borne by the recipient rather than Centrelink.
- Rather than enabling Aboriginal and Torres Strait Islander families to better manage their money, the process of compulsory quarantining of welfare payments was seen as reinforcing beliefs that Aboriginal and Torres Strait Islander peoples were unable to manage their lives.
- The loss of autonomy about where to shop and what to buy was seen as degrading and shameful.
- The focus is not on whether people received enough money to be able to budget appropriately or provide skills in budget management.
- No evidence was found to suggest that the blanket quarantining of income was an effective strategy in improving child health and wellbeing (which was the Government claimed to be the purpose. In fact there was local evidence that was not effective in achieving its other stated aims.
- ‘The blanket application of the management to all residents in the prescribed communities and continued compulsory income management after people have left the communities have had serious impacts on the sense of cultural integrity within these communities. Most importantly the use of this measure is seen by those affected as humiliating, discriminatory and racist. For many people it forces them to re-live past experiences in mission times and reinforces feelings of helplessness and powerlessness. It has undermined their pride and identity in being an Aboriginal person’.<sup>7</sup>

Based on the evidence above, the HIA recommended the compulsory income management program be immediately abandoned. This recommendation has not only been ignored, but the Government has decided to apply elements of the income management program to all States and Territories. This flies in the face of evidence-based policy practices.

Many now accept that in its current form, income management is not working and in some cases is making things worse. Sarah Marland, Campaign Coordinator for Amnesty International Australia, illustrates how quarantining a percentage of income support and family payments for food, housing, clothing, education and healthcare is supposed to ensure children are healthier and

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<sup>6</sup> Ibid, p. 21

<sup>7</sup> Ibid, p. 23.

better fed in theory, but it is an uncertain way to make sure that children in remote communities are properly nourished.<sup>8</sup> She argues that the evidence used to assess food security and child nutrition in this case does not stand up against international standards.

Nearly all major welfare agencies, including sole parent groups, other women's groups, Aboriginal and Torres Strait Islander Doctors, Academic researchers, a report from the Australian Institute of Health and Welfare, some statistics and one small longitudinal research project all oppose continuing and extending compulsory income management in the Northern Territory and Australia with 'the basis for the objections range across defending human rights to the practical problems of any such program, but all agree that there is no serious evidence that income management works.'<sup>9</sup>

Indigenous Affairs Minister Jenny Macklin's response to the latest evidence that income management doesn't work, from the Menzies Health Centre, is the latest example of anti-evidence based decisions in the welfare system.<sup>10</sup> The Medical Journal of Australia (MJA) report concludes:

*The government's aim in introducing income management is to ensure that people receiving welfare payments use this money in a government-prescribed "socially responsible" way, and in a way that makes money available to "feed, clothe, house and provide for the education of their children". Our findings suggest that income management may not be associated with healthier food and drink purchases, and may be having no effect on tobacco sales.<sup>11</sup>*

Aware of these findings, Minister Macklin has revealed that Government intends to go ahead with the rolling out of income management and therefore completely dismisses evidence known to her and her Government of its ineffectiveness.

## **Policy Outline 1 – Vulnerable Welfare Payment Recipient Measure**

Policy outline 1 is punitive in the following ways:

### Length:

A determination of vulnerability lasts for 12 months (i.e. a shorter amount is at the discretion of the Centrelink Social worker).

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<sup>8</sup> Marland S (2010) 'NT policy failing children' *The Sydney Morning Herald*, 14<sup>th</sup> June, [www.smh.com.au/opinion/politics/nt-policy-failing-the-children-20100613-y5us.html](http://www.smh.com.au/opinion/politics/nt-policy-failing-the-children-20100613-y5us.html)

<sup>9</sup> Cox E (2010) 'Will Caucus allow unproven, dangerous changes to income management?' *Crikey*, 31<sup>st</sup> March, [blogs.crikey.com.au/thestump/2010/03/31/will-caucus-allow-unproven-dangerous-changes-to-income-management-to-go-through-how-do-you-balance-expert-evidence-and-personal-communications-and-opinions/](http://blogs.crikey.com.au/thestump/2010/03/31/will-caucus-allow-unproven-dangerous-changes-to-income-management-to-go-through-how-do-you-balance-expert-evidence-and-personal-communications-and-opinions/)

<sup>10</sup> Ibid.

<sup>11</sup> Brimblecombe J, McDonnell J, Barnes A, Garnngulkpuy Dhurrkay J, Thomas D P and Bailie R S (2010) 'Impact of income management on store sales in the Northern Territory' *Medical Journal of Australia* 192 (10): 549-554.

### Review:

A request for reconsideration of personal circumstances once someone has been classified as vulnerable cannot be made more than once every 90 days. This is inadequate as is expecting that the Commonwealth review and appeal mechanisms are accessible to vulnerable people.

### Recurrence:

In effect, by including in the list of indicators of vulnerability a risk of recurrence of vulnerability if income management is varied or revoked, some people will find it difficult to get off the income management merry-go-round. It could result in a person who proves that they are able to spend welfare money the way the Government desires them to do so will still be subject to be managed by the Government.

VALS suggests that a better approach would be to not subject a person to income management if there were no indications of financial vulnerability when they were on income management. If this approach is not taken then income management is being used as a measure of first resort, not last resort. VALS supports the latter approach.

### Family violence:

The way that the policy reads, by including domestic and family violence as an indicator of vulnerability, both perpetrators and victims of family violence will be considered vulnerable welfare payment recipients. VALS requests clarification on whether this is the intention of the policy and adds that this does not appear to be fair to the victim, especially if they are not experiencing family violence in the form of financial exploitation. The fact that the policy includes financial exploitation as the third indicator of vulnerability, separated from the family violence context, suggests that it is intended that other forms of family violence (i.e. physical and emotional abuse) are indicators of vulnerability.

VALS asks how physical abuse is relevant to how a person uses their welfare payments? VALS does not see any logical link between these two things and is fearful that the policy will cause undue hardship. The policy may prevent victims leaving a family violence situation and seeking safety due to lack of funds.

### Mental health:

The inclusion in the policy of mental health issues (fourth vulnerability category) indicating a failure to undertake reasonable self care appears punitive. It is inappropriate to classify mental health issues as a matter of a person failing to undertake reasonable self care as it is an illness and not an addiction or life choice. It is offensive to put mental health in the same category of substance abuse or problem gambling.

### Financial exploitation:

By including within the notion of financial exploitation persons subject to unauthorised debt practices by stores, businesses or sole traders a punitive approach is being taken. VALS does not understand why consumers are getting the blame when stores prey on their vulnerability.

### Homelessness:

VALS is concerned that homelessness is included as indication of vulnerability in the policy. VALS stresses the very obvious point that the very fact that people are homeless is due to a financial issue. VALS draws the logical conclusion that income management has the potential to compound financial issues (i.e. lack of freedom of spending, such as to find stable accommodation).

### Financial hardship:

The notion of financial hardship within the indicators of financial vulnerability will in effect capture many people. It reflects a punitive approach as it is a harsh requirement for people on welfare given the demographic of many welfare recipients.

VALS has the following comments:

- There is no need to include reasonable self care in the indicators of vulnerability as the notion of meeting priority needs is sufficient to get the same point across. VALS is against inclusion of reasonable self care as an indicator of vulnerability as it is overly emotive.
- The Centrelink Social Worker who is the decision maker about whether someone is a vulnerable welfare payment recipient should have ongoing cultural awareness training. This is because the way the worker exercises their discretion will impact people dramatically.
- VALS questions how the worker can determine whether income management has worked or not worked for an individual. This is especially if a decision is not made on the basis of a face to face interview, but via telephone or file assessment. Also, how can a worker tell if a recurrence of vulnerability may occur? It is difficult to measure these things or be consistent in the measurement of them. Given that the decisions of a worker will have such a big impact on people's financial situation, these decisions should be made on the basis of face to face contact and ongoing training. To date, income welfare measures in Australia have not been sufficiently tested so as to be able to say that they can be directly tied to proven results. The current methods used to evaluate income management measures (point-in-time descriptive surveys and qualitative research) sit at the bottom of what can be referred to as an evidence

hierarchy.<sup>12</sup> A major problem for evaluation is the lack of a comparison group, baseline data, and quantitative data in general, so as to enable the measurement of what would have happened in the absence of income management. In other words, since there was no quality baseline data on the situation before income management, it has proven difficult to determine what changes, if any, have been due to income management, rather than other factors.<sup>13</sup>

## **EXEMPTIONS**

VALS repeats calls for income management to be abolished. In the event that income management continues VALS is pleased to see that there are policies in place for people to be exempt from income management. However, the policies for exemptions, and procedures that will relate to them, are problematic as they have punitive undertones.

### **Policy Outline 2: Parental exemptions – indicators of financial vulnerability (s123 UGD (5)).**

There is potential to implement policy 2 in a punitive manner depending on how “family” is interpreted and “culture” is viewed. An exemption from classification as financially vulnerable is possible if during the previous 12 months a person and their family’s priority needs have been met. In the Aboriginal and Torres Strait Islander community an extended concept of family exists that captures more people than the concept of a nuclear family (i.e. mother, father and children). In Aboriginal and Torres Strait Islander culture responsibility is felt towards extended family: grandma, aunts, uncles, cousins. Will providing money to extended family be seen as making individuals vulnerable because it effects their ability to meet the needs of their nuclear family? It seems that this will be the case as the customer will be asked: ‘do you find it difficult to say no to some family members or others when asked for money’ (discussion point with customer).

VALS has some suggestions and a question in relation to Policy 2:

1. Policy 2 should not just apply to parents of school age children or younger children but the general community. The policy currently reads that only parents described above can apply for an exemption on the basis that they are not financially vulnerable. This excludes parents of children who are older than school age or people without children.
2. Duplication of information should be avoided. The first pages (paragraphs 1-7) of policy 2 and 3 contain the exact same wording. In light of suggestion 1, paragraphs 1-7 are only necessary to be relayed in relation to Policy 3.
3. Who will do the assessment about indicators of financial vulnerability? Is it

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<sup>12</sup> Australian Institute of Health and Welfare (2009), *Report on the Evaluation of Income Management in the Northern Territory*, Australian Government Printing Service, Canberra, p. IV.

<sup>13</sup> Ibid, p. IV.

- a) The Centrelink Social Worker (as per Policy Outline 1)? or
- b) The Centrelink Customer Service Agent (as per Policy Outline 2)?

Will there be continuity between who from Centrelink does the interview and assessment or will these two things be done by different people?

**Policy Outline 3 – Parental exemptions: parents with children of compulsory school age and under compulsory school age.**

Policy 3 seems punitive in requiring evidence about a child not regularly attending school due to severe illness or disability. If a child has a chronic condition or disability will it be necessary for evidence to be gathered each time a child misses a period of school or is it satisfactory that Centrelink is advised of this once? The requirement of evidence may be a barrier to some people applying for the exemption they are entitled to.

**Policy Outline 4 – Class Exemption: Special Benefit**

Policy 4 is punitive in that income management will apply to Special Benefit Customers under 16 years of age. Also, the effect of the policy is to add an indicator of vulnerable welfare recipient that is not included in Policy 1: people who require contact with a Centrelink Social worker. VALS finds the following statement confusing:

*Groups of Special Benefit customers should be exempt if they do not have the same characteristics as customer groups that are subject to category income management.*

VALS is concerned that it will be interpreted in a manner which is consistent with the punitive undertones of the exemptions policies.

**Policy Outline 5 - Qualification for matched savings scheme (income management) payment and Approved money management course.**

Policy 5 is punitive in only enabling savers to benefit from the policy if the final 6 weeks of the qualifying savings period does not constitute more than 50% of the person's total qualifying savings amount. Putting a time stipulation on savings is a punitive measure. Also, it seems unreasonable to not permit savings to be assessed across multiple accounts.

It is positive that the delivery requirements of the approved money management course are to be tailored to the needs and situations of participants. The course should be culturally appropriate. Such services should be included in the FaHCSIA approved money management course list that is given to Centrelink.

## CONCLUSION

VALS recommends that the Government:

**Abolish compulsory welfare quarantining, or where quarantining continues, that it be available on a voluntary basis, or employed only as a measure of last resort, applied on an evidence-based, case-by-case basis, that maintains full recourse to administrative and judicial review.**

VALS is not supportive of the Policy Outlines 1-5 in that they have punitive undertones and will subject many people to income management as the exemptions to income management will be difficult to prove.