10. Income Management—Social Security Law

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Summary

10.1 ‘Income management’ is an arrangement under the Social Security (Administration) Act 1999 (Cth) by which a proportion of a person’s social security and parenting payments is quarantined to be spent only on particular goods and services, such as food, housing, clothing, education and health care. This chapter discusses the relevance of family violence to income management measures and the treatment of family violence in the income management of welfare payments under the Social Security (Administration) Act.

10.2 The chapter briefly explains the nature and the history of the income management regime and then examines the appropriateness of compulsory income management for people experiencing family violence. The ALRC concludes that the complexity of family violence and the intertwining of family violence with a number of the ‘vulnerability indicators’ that trigger the imposition of compulsory income management leads to serious questions about whether it is an appropriate response. Accordingly, the ALRC recommends that people experiencing family violence should not be subject to compulsory income management and examines alternative
approaches. In particular, the ALRC examines the voluntary income management model under the *Social Security (Administration) Act* and the Cape York Welfare Reform model. The ALRC ultimately recommends that the Australian government should create a flexible and voluntary form of income management—an ‘opt-in and opt-out’ model—to better meet the needs and protect the safety of people experiencing family violence.

10.3 Following discussion of compulsory and voluntary income management, the ALRC examines practical issues arising in relation to accessing income managed funds. The ALRC considers that ensuring victims of family violence are able to access and control their income management account—whether through a BasicsCard, voucher or other form of payment or credit—is consistent with the underlying principles of accessibility and self-agency articulated in Chapter 2 of the Report. In particular, the limited definition of ‘priority needs’ is contrary to these principles and poses particular difficulties for victims of family violence. The ALRC therefore recommends that the Australian Government should amend the definition of ‘priority needs’ in s 123TH of the *Social Security (Administration) Act* to include travel or other crisis needs for people experiencing family violence.

**The operation of income management**

**Overview**

10.4 Income management does not affect or otherwise reduce the total amount of welfare payments payable to a recipient; rather, it changes the way in which a person receives their payment. Under income management, a percentage of a person’s welfare payment is quarantined for use in purchasing particular goods and services such as food and housing, defined as ‘priority needs’.1

10.5 Payment amounts subject to income management are paid into a separate, notional, account held by welfare recipients called ‘income management accounts’.2 In order to access funds in income management accounts, welfare recipients may be issued with a stored value card, vouchers, or receive other payments or credits for use in purchasing goods and services.3 Stored value cards, vouchers or other payments or credits may not be used to purchase excluded goods or services, which include alcoholic beverages, tobacco products, pornographic material and gambling services.4

10.6 The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) has primary responsibility for the Australian Government’s income management system, which is administered by Centrelink. The Department of Human Services (DHS) provides a central policy and coordination role for the Government’s

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1 See *Social Security (Administration) Act 1999* (Cth) s 123TH for a definition of ‘priority needs’.
2 Ibid ss 123TC, 123WA.
3 Ibid pt 3B, div 6, subdiv B.
4 Ibid s 123TI.
delivery of services and now includes Centrelink within its portfolio.\(^5\) DHS is responsible for national service delivery strategy for income management.

### Staged introduction

**The model used as part of the ‘Northern Territory Emergency Response’**

10.7 Income management was first introduced in 2007 as part of the ‘Northern Territory Emergency Response’ (NTER) to allegations of child abuse in specific Indigenous communities, ‘to promote socially responsible behaviour and help protect children’.\(^6\) Under the [Social Security and Other Legislation (Welfare Payment Reform) Act 2007](https://www.legislation.gov.au/Series/Cmnd2007/2007) (Cth), the NTER imposed income management upon peoples receiving income support or family assistance payments ‘in 73 prescribed communities, their associated outstations and 10 town camp regions of the Northern Territory’.\(^7\) The object was ‘to improve the well-being of certain communities in the Northern Territory’.\(^8\)

10.8 The Australian Government implemented income management legislation as a ‘special measure’ for the purposes of the [International Convention on the Elimination of All Forms of Racial Discrimination](https://www.ohchr.org/en/human-rights-bodies/cid), \(^9\) and s 8 of the [Racial Discrimination Act 1975](https://www.legislation.gov.au/Details/C1975C0001) (Cth).\(^10\) Invoking the ‘special measure’ provision was necessary because the legislation had a disproportionate effect on Indigenous people in its application to persons living in a ‘declared relevant Northern Territory area’. As commented by FaHCSIA in the evaluation of the NTER released in November 2011:

> One of the most controversial aspects of the NTER was the introduction of compulsory income management. Income management was initially imposed according to place of residence, and only communities on Aboriginal-owned areas within the Northern Territory were selected.\(^11\)

### Other Australian income management measures

10.9 Other income management measures that have been introduced include:

- the Cape York Welfare Reform (CYWR) model—which is discussed later in this chapter;

- the Child Protection Scheme of Income Management (CPSIM) in parts of Western Australia from late 2008;

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\(^7\) For a description of the background, see Ibid, 31–32, Appendix A.

\(^8\) *Northern Territory National Emergency Response Act 2007* ((Cth)) s 5.


voluntary income management (voluntary IM) in parts of Western Australia from late 2008; and

- the Improving School Enrolment and Attendance through Welfare Reform Measure (SEAM) in parts of the Northern Territory from early 2009.12

**The new income management model**

10.10 In 2010 the income management regime was amended, following legal challenges to the NTER legislation on the basis of racial discrimination.13 On 1 July 2010, the Australian Government introduced a new welfare reform phase—known as the new income management model (New IM).15 The Government’s plan was that, “over time, and drawing on evidence from implementation experience in the NT, it may progressively be rolled out more broadly across Australia”.16

10.11 Implementation has progressed as follows: from 9 August 2010 income management applies in the Barkly region; from 30 August 2010 in Alice Springs, Katherine, East Arnhem Land and other outback areas; from 20 September 2010 in outback areas; and from 4 October 2010 in Darwin and Palmerston. New IM has been implemented in urban and rural areas such as Alice Springs, the Barkly region, Darwin, East Arnhem, Katherine, and Palmerston, and now applies to the whole of the Northern Territory.17

10.12 From 1 July 2012, aspects of the income management regime will operate in five new communities across Australia: Bankstown (NSW), Logan and Rockhampton (Qld), Playford (SA) and Shepparton (Vic).18 This is described as place-based income management and will apply to people assessed as vulnerable welfare payment

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16 Ibid, 6, [1].
17 Ibid, 7, [2].
recipients, persons who are referred for CPSIM by the relevant child protection authority and persons who volunteer to be income managed.\textsuperscript{19}

\textit{Stop Press: Stronger Futures}

10.13 In November 2011, the Australian Government introduced the Stronger Futures in the Northern Territory Bill 2011 (Cth), and its companion, the Northern Territory (Consequential and Transitional Provisions) Bill 2011 (Cth) into the House of Representatives. It simultaneously released the \textit{Stronger Futures in the Northern Territory: Policy Statement}. The Bills ‘form a part of [the Government’s] next steps in the Northern Territory’.\textsuperscript{20}

10.14 The Stronger Futures Bill is intended to replace the \textit{Northern Territory National Emergency Response Act} and contains three key measures—‘the tackling alcohol abuse measure, the land reform measure and the food security measure’.\textsuperscript{21} It also provides for an independent review of the measures after seven years of operation and the measures will sunset 10 years after commencement. The Consequential and Transitional Provisions Bill proposes to repeal the \textit{Northern Territory National Emergency Response Act} and contains savings and transitional provisions associated with the repeal.

10.15 In addition, the Government introduced elements of the Social Security Legislation Amendment Bill 2011 (Cth), which applies beyond the Northern Territory, in order to provide ‘greater flexibility in the operation of income management so it can be implemented in five new sites’.\textsuperscript{22} It also contains proposed reforms to allow recognised state or territory authorities to refer individuals for income management as well as measures in relation to school enrolment and attendance.

10.16 All three Bills were referred to the Senate Community Affairs Legislation Committee, which is due to report on 29 February 2012.

\textbf{Income management measures}

10.17 Income management measures are targeted at specified groups of income support payment recipients. As explained in FaHCSIA’s \textit{Guide to Social Security Law}, income management operates by redirecting ‘a proportion of income support and family assistance payments, and 100% of lump sum payments of eligible income support recipients, to facilitate the expenditure of money on life essentials and in the best interests of children’.\textsuperscript{23}

\begin{itemize}
\item \textsuperscript{20} Commonwealth, \textit{Parliamentary Debates}, House of Representatives, 23 November, 6 (J Macklin—Minister for Families, Housing, Community Services and Indigenous Affairs).
\item \textsuperscript{21} Explanatory Memorandum, Stronger Futures in the Northern Territory Bill 2011 (Cth).
\item \textsuperscript{22} Explanatory Memorandum, Social Security Legislation Amendment Bill 2011 (Cth).
\item \textsuperscript{23} FaHCSIA, \textit{Guide to Social Security Law} \texttt{<www.fahcsia.gov.au/guides_acts>} at 1 November 2011.\end{itemize}
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10.18 The income management measures are as follows:

- child protection measure;\(^\text{24}\)
- vulnerable welfare payment recipients measure;\(^\text{25}\)
- parenting/participation measure—including the long-term welfare payment recipients measure\(^\text{26}\) and disengaged youth measure;\(^\text{27}\)
- school enrolment and school attendance measures;\(^\text{28}\)
- Queensland Commission measure;\(^\text{29}\) and
- voluntary income management measure.\(^\text{30}\)

10.19 The *Guide to Social Security Law* explains that income management measures are targeted to specified groups of income support payment recipients, comprising people:

- referred for income management by child protection authorities;
- assessed by a delegate of the Secretary (in practice, a Centrelink social worker), as requiring income management for reasons that include vulnerability to financial crisis or economic abuse;
- aged 15 to 24 years old who have been receiving Youth Allowance, New Start Allowance, Special Benefit or Parenting payment for more than 13 weeks out of the last 26 weeks (disengaged youth);
- aged 25 years old and above (and younger than age pension age), who have been in receipt of Youth Allowance, New Start Allowance, Special Benefit or Parenting payment for more than 52 weeks out of the last 104 weeks (long-term welfare payment recipients); and
- who have been referred to income management by the Queensland Families Responsibilities Commission under the CYWR model.\(^\text{31}\)

10.20 In addition, people who are not in any of the target groups, and reside in a declared area, may volunteer to have their income support and family assistance payments income managed.\(^\text{32}\)

\(^\text{24}\) *Social Security (Administration) Act 1999* (Cth) s 123UC.
\(^\text{25}\) Ibid s 123UCA.
\(^\text{26}\) Ibid s 123UCC.
\(^\text{27}\) Ibid s 123UCB.
\(^\text{28}\) Ibid ss 123UD, 123UE. These measures have not yet been implemented.
\(^\text{29}\) Ibid s 123UF.
\(^\text{30}\) Ibid s 123UFA.
\(^\text{32}\) Ibid.
10.21 Under the income management measures, a relevant person may be income managed either compulsorily or voluntarily. Voluntary income management is a separate measure from the other income management measures.\textsuperscript{33} People who are income managed under the participation/parenting measure can apply for an exemption from income management. However, people who are on income management under the child protection or vulnerable welfare payment recipient measures are not able to apply for an exemption.\textsuperscript{34}

10.22 Under compulsory income management (compulsory IM), an individual’s income support and family assistance payments are income managed at 50\% (under the participation/parenting and vulnerable measure) or 70\% (under the child protection measure), and all lump sum and advance payments are income managed at 100\%.\textsuperscript{35}

**Income management and family violence**

10.23 FaHCSIA states that income management is ‘part of the Australian Government’s commitment to reforming the welfare system’, ensuring that ‘income support payments are spent in the best interests of children and families and helps ease immediate financial stress’.\textsuperscript{36} The objects of income management, as set out in the *Social Security (Administration) Act*, are to:

\begin{itemize}
  \item[(a)] reduce immediate hardship and deprivation by ensuring that the whole or part of certain welfare payments is directed to meeting the priority needs of the:
    \begin{itemize}
      \item[(i)] recipient of the welfare payment; and
      \item[(ii)] recipient’s children (if any); and
      \item[(iii)] recipient’s partner (if any); and
      \item[(iv)] any other dependants of the recipient; [and to]
    \end{itemize}
  \item[(b)] ensure that recipients of certain welfare payments are given support in budgeting to meet priority needs;
  \item[(c)] reduce the amount of certain welfare payments available to be spent on alcoholic beverages, gambling, tobacco products and pornographic material;
  \item[(d)] reduce the likelihood that recipients of welfare payments will be subject to harassment and abuse in relation to their welfare payments;
  \item[(e)] encourage socially responsible behaviour, including in relation to the care and education of children;
  \item[(f)] improve the level of protection afforded to welfare recipients and their families.\textsuperscript{37}
\end{itemize}
In this chapter the ALRC identifies where these policy objectives may not be being met in the context of people experiencing family violence. The ALRC has identified three broad issues that arise in relation to the ways in which income management affects victims of family violence:

- the appropriateness of compulsory IM to victims of family violence;
- applying voluntary IM to victims of family violence; and
- practical issues that victims of family violence face in accessing necessary funds.

Compulsory income management

This section of the chapter considers the appropriateness of compulsory IM as a means to improve the safety of victims of family violence. It does so by examining how the assessment of ‘indicators of vulnerability’ in the ‘vulnerable welfare payment recipients measure’ may affect victims of family violence. It also considers how this assessment may affect a victim’s willingness to disclose family violence, and the criteria for exemption from income management.

Indicators of vulnerability and family violence

As noted above, one way a person is subject to compulsory IM is if the person meets the criteria under s 123UCA of the Social Security (Administration) Act, including that the Secretary (or delegated Centrelink staff) has determined them to be a ‘vulnerable welfare payment recipient’. In determining whether a person is a ‘vulnerable welfare payment recipient’, the Secretary must comply with certain decision-making principles set out in a legislative instrument. That instrument—the Social Security (Administration) (Vulnerable Welfare Payment Recipient) Principles 2010 (Principles)—requires the Secretary to consider whether:

- the person is experiencing an indicator of vulnerability; and
- whether the person is applying appropriate resources to meet some or all of the person’s relevant priority needs; and
- if the person is experiencing an indicator of vulnerability—whether income management under section 123UCA is an appropriate response to that indicator of vulnerability; and
- whether income management under s 123UCA of the Act will assist the person to apply appropriate resources to meet some or all of the person’s priority needs.

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39 Social Security (Administration) Act 1999 (Cth) ss 123TC, 123UGA.
40 Ibid s 123UGA(2).
10.27 The Principles provide the following examples of indicators of vulnerability:

(a) financial exploitation;
(b) financial hardship;
(c) failure to undertake reasonable self-care; or
(d) homelessness or the risk of homelessness.\(^{42}\)

10.28 The Principles further illustrate what may satisfy three of these matters.\(^{43}\) For example, a person is said to be experiencing ‘financial exploitation’, if another person:

(a) has acquired; or
(b) has attempted to acquire; or
(c) is attempting to acquire;

possession of, control of or the use of, or an interest in, some or all of the first person’s financial resources, through the use of undue pressure, harassment, violence, abuse, deception, duress, fraud or exploitation.\(^{44}\)

10.29 While there is no express reference to family violence as an indicator of vulnerability, both the Principles and the Guide to Social Security Law recognise a number of links between indicators of vulnerability and family violence.\(^{45}\) For example, in addition to the definition in the Principles, the Guide explains that ‘financial exploitation’ may occur when

a person is subject to undue pressure, harassment, violence, abuse, deception or exploitation for resources by another person or people, including other family ... and community members.\(^{46}\)

10.30 While the determination to impose compulsory IM may be triggered by the particular indicators—which family violence is not a specific trigger in itself—family violence may be the overall context and cause of particular indicators of vulnerability, either individually or together. For example, ‘financial exploitation’ may amount to economic abuse and, in the context of the core definition of family violence set out in Chapter 3, may fit within the examples of the kinds of behaviour that may amount to family violence. ‘Homelessness’—another indicator of vulnerability—may also be the result of escaping family violence.

10.31 Family violence may be so caught up in the vulnerability indicators that income management may often be triggered in that context—and this in turn exacerbates a reluctance to disclose it. While FaHCSIA stressed that assessments to place persons into the ‘vulnerable stream’ of income management are made by Centrelink social

\(^{42}\) Ibid, pt 1, cl 3(2).
\(^{43}\) Ibid, pt 1, cls 3(3) (‘financial exploitation’); 3(4) (‘financial hardship’); 3(5) (‘homelessness or risk of homelessness’). There is no definition of ‘failure to undertake reasonable self-care’.
\(^{44}\) Ibid, pt 1, cl 3(3).
workers ‘drawing on all their professional experience and skills including factoring in issues of domestic and family violence’, the National Welfare Rights Network (NWRN) submitted that:

The experience of family violence is so interwoven with existing vulnerability factors that it is necessary to completely exempt a person or persons experiencing family violence from being subject to Compulsory Income Management. This is necessary to avoid people experiencing family violence from being reluctant to disclose their circumstances to Centrelink for fear of being ‘marked’ for income management.

10.32 Indigenous organisations made similar observations. The Central Australian Aboriginal Legal Aid Service (CAALAS), for example, suggested that the vulnerability measures ‘are likely to trigger compulsory income management for those experiencing family violence’. The Aboriginal and Torres Strait Islander Women’s Legal and Advocacy Service reported that, in its experience, ‘child safety intervention and family violence often occur simultaneously’.

If there is family violence in a household this may trigger a child safety investigation and a finding that due to exposure to violence the child is at risk of harm.

10.33 The wider question that this poses in this Inquiry is, therefore, whether the imposition of income management is an appropriate response to improve the safety of victims of family violence. The specific issue is whether there should be any change to the vulnerability indicators.

10.34 The Australian Human Rights Commission has stated that applying family violence as a trigger for the imposition of income management may have unintended consequences because people experiencing family violence living on low income welfare payments often require support services, not ‘merely’ financial management. The NWRN commented that one of the difficulties in the context of family violence is that the assessment of vulnerability, in leading to the imposition of income management, ‘is blurring the roles of providing support and enforcing compliance and punitive measures’. The need is for an appropriate supportive response. National Legal Aid submitted that

In the immediate short term it should be recognised that family violence alone and symptoms of that violence, should not warrant compulsory income management, including by way of the ‘vulnerable welfare payment recipient’ category being applied. Such recognition could facilitate some people who have experienced family violence to seek assistance and support from appropriate sources, such as Centrelink

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47 FaHCSIA, Submission CFV 162.
49 CAALAS, Submission CFV 107; North Australian Aboriginal Justice Agency, Submission CFV 73.
50 CAALAS, Submission CFV 107.
51 Aboriginal & Torres Strait Islander Women’s Legal & Advocacy Service, Submission CFV 103.
52 Australian Human Rights Commission, Comment to FaHCSIA’s Exposure Draft of the Policy Outlines for Income Management (2010), 5. The Australian Human Rights Commission also stated that ‘homelessness or risk of homelessness’ should be removed as an indicator of vulnerability.
social workers, without the threat of being income managed by reason of vulnerability.54

10.35 In *Family Violence and Commonwealth Laws—Social Security Law*, ALRC Issues Paper 39 (2011), the ALRC asked whether family violence should be included as an indicator of vulnerability for the purposes of administering the Vulnerable Welfare Payment under the income management provisions and, if so, what definition of family violence should apply.55

10.36 Most stakeholders opposed adding to the definition of vulnerability by including ‘family violence’ as an indicator, and argued instead that the indicators of vulnerability should be removed altogether.56 NWRN, for example, submitted that ‘any system of compulsory income management based on vulnerability is going to cause people experiencing family violence to be reluctant to disclose to Centrelink’.57 Stakeholders emphasised their concern that ‘vulnerability indicators’ may result in a person experiencing family violence being ‘triggered’ into income management and, as a consequence, compounding the problem through quarantined payments where the person wants to flee family violence.58

Exemptions

*Availability*

10.37 Exemptions are only available for one stream of compulsory IM: the participation/parenting measure, which applies to people under the Disengaged Youth and Long-term Welfare Payment Recipient Measures.59 That is, an exemption is not available under the ‘vulnerable’ stream, the child protection stream or the Cape York Reform model—however a person subject to income management on one of these bases ’may ask the decision maker to review their circumstances’.60

10.38 The Australian Government has explained:

> For people subject to income management under the disengaged youth and long-term welfare recipient categories, ... exemptions from income management are based on the demonstration of socially responsible behaviour. For people without dependent children, the exemption criteria are related, in general terms, to evidence being provided of engagement in study or a sustained pattern of employment. For those with

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54 National Legal Aid, *Submission CFV 164*.
58 Ibid; WRC (NSW), *Submission CFV 70*.
59 *Social Security (Administration) Act 1999* (Cth) ss 123UGB, 123UGC, 123UGD.
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dependent children, the exemption criteria are related to the provision of evidence of responsible parenting.  

10.39 The relevant provisions are s 123UGC (a person with no dependent children) and s 123UGD (a person with dependent children). The availability of these exemptions is subject to meeting a range of conditions in these statutory provisions. For example, a person on income management may qualify for an exemption under s 123UGD if, amongst other things, the person has a ‘school age child’ who is enrolled and attending school, or participating in other prescribed activities, and the Secretary is ‘satisfied that there were no indications of financial vulnerability in relation to the person during the 12-month period ending immediately before the test time’.

10.40 Section 123UGB(2) of the Act provides for the possibility of another exemption category. It provides that the Minister may, by way of legislative instrument, specify ‘a class of persons to be exempt welfare payment recipients’—that is, with respect to disengaged youth and long-term welfare payment recipients. The Secretary may then determine a person to be such an ‘exempt welfare payment recipient’.

10.41 The Guide to Social Security Law sets out some ‘core principles’ that should be applied in cases where a person seeks an exemption from income management. These principles, in part, state that:

- Exemptions are available in cases where income management is not necessary because a person has met the broad outcomes that comprise the objectives of income management. The person can demonstrate that they:
  - are not experiencing hardship or deprivation and are applying appropriate resources to meet their families’ priority needs,
  - can budget to meet priority needs,
  - are not vulnerable to financial exploitation or abuse, and
  - are demonstrating socially responsible behaviour, particularly in the care and education of dependent children ..., or
  - ... meet ... workforce participation requirements for those who are not a principal carer of a child.

The review process for exemptions

10.42 Where an exemption is refused by Centrelink, the welfare recipient has various ways to request a review of the decision. A person can request an internal review of the decision made by the Centrelink officer, which is conducted by a Centrelink Authorised Review Officer (ARO). If the ARO decides not to exempt the person

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62 This is a defined term in the Act. See Social Security (Administration) Act 1999 (Cth) s 123UGC.
63 This is clear from the title of the subdivision. See Ibid pt 3B div 2 subdiv BB.
64 Ibid s 123UGB(1).
from income management, a person can seek review before the Social Security Appeal Tribunal. 67

**Problems in the context of family violence**

10.43 In the Discussion Paper, *Family Violence—Commonwealth Laws*, DP 76 (2011) the ALRC proposed that the *Social Security (Administration) Act* and the *Guide to Social Security Law* should be amended to ensure that a person or persons experiencing family violence are not subject to compulsory IM. 68

10.44 This evoked a strong response from stakeholders, the majority of whom did not support the policy of compulsory IM or its continuation as a general matter, or specifically to people experiencing family violence. 69 The Federation of Ethnic Communities’ Councils of Australia (FECCA), for example, submitted that for people experiencing family violence, compulsory IM fails to address ‘the specific needs, distinct challenges and barriers’ for victims and their family. 70

10.45 Particular themes that emerged, in research and in submissions and consultations, included:

- the importance of self-agency;
- the importance of community involvement;
- reluctance to disclose, due to a fear of imposition of income management;
- concerns about ‘labelling’;
- safety concerns;

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67 *Social Security (Administration) Act* 1999 (Cth) s 142. Under the NTER, amendments were made to the Act which provided that the Social Security Appeal Tribunal could not review a decision made under pt 3B to apply income management to a person, or to exempt them from income management. However, amending legislation in 2009 repealed that section (s 144(ka)) thus providing the right to seek external review from the SSAT: *Family Assistance and Other Legislation Amendment (2008 Budget and Other Measures) Act* 2009 (Cth) sch 2. Decisions of the Social Security Appeal Tribunal may be appealed to the Administrative Appeals Tribunal and the Federal Court of Australia.


69 National Welfare Rights Network, Submission CFV 150; Indigenous Law Centre, Submission CFV 144; Equality Rights Alliance—Women’s Voices for Gender Equality, Submission CFV 143; AASW (Qld) and WRC Inc (Qld), Submission CFV 138; AASW (Qld) and WRC Inc (Qld), Submission CFV 137; Good Shepherd Youth & Family Service, Submission CFV 132; Federation of Ethnic Communities’ Councils of Australia, Submission CFV 126; National Council of Single Mothers and their Children, Submission CFV 119; CAALAS, Submission CFV 107; Aboriginal & Torres Strait Islander Women’s Legal & Advocacy Service, Submission CFV 103; Aboriginal & Torres Strait Islander Women’s Legal Service North Queensland, Submission CFV 99. The following submissions in response to the Issues Paper, *Australian Law Reform Commission, Family Violence and Commonwealth Laws—Social Security Law*, Issues Paper 39 (2011), were to similar effect: CAALAS, Submission CFV 78; North Australian Aboriginal Justice Agency, Submission CFV 73; ADFVC, Submission CFV 71; WRC (NSW), Submission CFV 70; WRC Inc (Qld), Submission CFV 66; Good Shepherd Youth & Family Service, McAuley Community Services for Women and Kildonan Uniting Care, Submission CFV 65; Sole Parents’ Union, Submission CFV 63; WEAVE, Submission CFV 58; Council of Single Mothers and their Children (Vic), Submission CFV 55.

70 Federation of Ethnic Communities’ Councils of Australia, Submission CFV 126.
problems with exemptions; and
• tensions with respect to human rights.

Self-agency

10.46 The ALRC considers that the compulsory element in this form of income management runs counter to the theme of self-agency identified as a central theme in this Inquiry and, therefore, that compulsory IM is not an appropriate response for victims of family violence. Stakeholders argued strongly to similar effect—a problem arising from coercive and controlling conduct should not be met with a similar response. For example, the Good Shepherd Youth and Family Service, submitted that:

Family violence, the exercise of power and control of one person over another, is an attack on the individual autonomy, agency, and freedom of the victim. In this context, the risks of further disempowerment and loss of independence from compulsory income management are high. Replacing individual power and control with state power and control is at best stop-gap and at worst a further abuse.71

10.47 Disempowerment was an issue identified by other stakeholders. The Australian Domestic and Family Violence Clearinghouse (ADFVC) argued it would disempower people already experiencing family violence and only lead to more hardship for them.72 The New South Wales Women’s Refuge Movement described income management as ‘secondary victimisation’:

Women who experience domestic and family violence are subjected to a range of controlling behaviours by perpetrators. The use of compulsory income management has the potential to further disempower women by removing any control they may have over their own income.73

10.48 A report released by the Equality Rights Alliance in 2011, *Women’s Experiences of Income Management in the Northern Territory*, highlights serious concerns for people experiencing family violence who seek help from Centrelink as crisis assistance.74 The report identified that women who sought help to flee an abusive relationship, on applying for and then receiving the crisis payment, only weeks later were placed onto compulsory IM under the Vulnerable Welfare Recipient Measure.75 This raises serious issues for the safety and protection of victims and their children, when they fear being income managed.

10.49 The Equality Rights Alliance also referred to the disempowering effect of income management. In their submission the group referred to a quote included in their 2011 report from a domestic violence crisis support worker:

Some like having Centrelink pay their bills, but they’re not learning how to manage their money. It’s disempowering women. Basic livings skills courses teach than, it

71 Good Shepherd Youth & Family Service, Submission CFV 132.
73 NSW Women’s Refuge Movement, Submission CFV 120.
75 Ibid.
empowers women. The women can stop the course if they already have those skills. Not many women have a problem adapting to having money after having lived with an abuser who gives them so little to live on.76

10.50 Stakeholders drew attention to the lack of autonomy for people experiencing family violence under the income management regime.77 For example, a number of stakeholders indicated that the welfare recipient should be fully engaged with any decision on what percentage of their income, if any, may be quarantined.78 The Equality Rights Alliance noted that 82% of respondents to their survey would remain on income management if a more flexible voluntary model were offered.79

10.51 Stakeholders also emphasised the importance of choice—even in situations of family violence. While economic abuse may be a particular manifestation of family violence, CAALAS commented that it cannot be assumed that a person suffering domestic and family violence is also suffering economic abuse, nor should it be assumed that because of domestic violence, a person is unable to manage their financial affairs.80 Similarly, the study of Braaf and Barrett Meyering, for the ADFVC, reported that:

One reason given for compulsory income management is to ensure that payments are spent on basic needs like food, rather than on undesirable expenses such as alcohol, drugs or gambling. However, this study found limited evidence from the literature that women who are affected by domestic violence generally have less capacity than other people to manage their own finances. Indeed, women in the study appeared to be managing their finances well, although were greatly hampered by their low income exacerbated by, for example, ex-partners’ failure to meet childcare obligations and also by large costs often associated with the violence, such as relocation, medical and legal expenses.81

10.52 A further illustration was provided in the submission from the Good Shepherd Youth and Family Service, which noted that, in their experience, women who have experienced family violence, especially single mothers, have generally high levels of financial skill in juggling living costs on low and limited budgets.82

10.53 The key issue is the ability of the person to make a choice about the appropriate response. As commented by the Equality Rights Alliance, “[e]nsuring that women experiencing family violence are not subject to Compulsory Income Management

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76 Equality Rights Alliance—Women’s Voices for Gender Equality, Submission CFV 143.
77 CAALAS, Submission CFV 78; ADFVC, Submission CFV 71; WRC (NSW), Submission CFV 70; WRC Inc (Qld), Submission CFV 66; Good Shepherd Youth & Family Service, McAuley Community Services for Women and Kildonan Uniting Care, Submission CFV 65; Council of Single Mothers and their Children (Vic), Submission CFV 55.
78 AASW (Qld) and WRC Inc (Qld), Submission CFV 138; AASW (Qld) and WRC Inc (Qld), Submission CFV 13; Good Shepherd Youth & Family Service, Submission CFV 132; Aboriginal & Torres Strait Islander Women’s Legal Service North Queensland, Submission CFV 99.
79 Equality Rights Alliance—Women’s Voices for Gender Equality, Submission CFV 143.
80 CAALAS, Submission CFV 78.
82 Good Shepherd Youth & Family Service, Submission CFV 132.
would be an improvement, and would not prevent women participating in Voluntary Income Management if they find it helpful.83

Community involvement

10.54 The Aboriginal and Torres Strait Islander Social Justice Commissioner argued that the critical step for substantial improvement for Indigenous peoples is to be major stakeholders in all stages of policy and legislative development impacting upon them.84

10.55 Until the late 1970s, the New Zealand Government implemented ‘social welfare’ policy for Maori communities in order to reverse overcrowded housing, poverty and other socio-economic malaise; due to official assimilation policies.85 The result was ‘a large scale welfare agency of increasingly diminished value’,86 with statistics suggesting that ‘the Maori were more likely than the general population to end up underemployed, poorly educated, imprisoned, or impoverished’.87 However, from 1977, a new culturally-inclusive model sought to address Maori disadvantage through increased self-determination, innovative community development and voluntary self-help, which combined the strengths of Maori and Pakeha (non-Indigenous).88 This initiative was met with ‘[w]idespread enthusiasm’ and ‘acceptance’, with one commentator noting that ‘the community development philosophy ... served the vested interests of the Maori, the Government and the Department of Maori Affairs’.89

10.56 The New Zealand Government’s approach up until 1977 could be said to be based upon a ‘public service model’; arguably the Australian Government’s income management policy has been based on a similar model. However, the New Zealand Government’s approach from 1977—which was more popularly received—was ‘grounded in the philosophy of self-determination and community development’.90

10.57 Similarly, as submitted to the ALRC in this Inquiry, a failure to consult, and measures which deny individual choice, rather than enhancing choice, risk being ineffectual or regarded as punitive.91

Reluctance to disclose

10.58 Barriers to disclose family violence are summarised in Chapter 1. In the context of income management, the prospect of the compulsory imposition of income
management was identified as a specific reason leading to failure to disclose family violence.

10.59 Several stakeholders submitted that people experiencing family violence are likely to be more reluctant to disclose their circumstances where such disclosure may lead to compulsory IM, which may result in the victim missing out on appropriate services and support. 

Victims of family violence may therefore ‘choose’ to stay in an abusive relationship rather than to leave, out of fear that disclosure to agencies may affect their social security payments. The NSW Women’s Refuge Movement submitted, for example, that

Lack of economic independence is a ‘major factor influencing a woman’s decision to remain with a violent partner’. CIM, whilst potentially restricting the ability of the perpetrator to misuse the income, also restricts the victim’s control over her income, does nothing to improve her financial independence and may further restrict her capacity to leave the violence.

10.60 The National Council of Single Mothers and their Children argued that compulsory IM financially penalises women who seek help from Centrelink, and they feared that income management may therefore ‘serve as a barrier for women disclosing violence, leaving abusive partners and reduce their ability to protect self and child at a time of crisis’. 

10.61 These issues are exacerbated where English is not the first language. For example, the Ombudsman commented that:

any expansion of voluntary IM must be accompanied by comprehensive communication tools and material in a broad range of languages, and be supported by the use of Indigenous language interpreters.

10.62 The AASW (Qld) and Welfare Rights Centre Inc Queensland (WRC Inc (Qld)) identified a connection between reluctance to disclose and a feeling that victims would not be believed:

They need to have their safety concerns believed and validated through all system interventions. Importantly victims need to be treated with dignity and respect, provided with all the necessary information to allow them to make choices for themselves which can assist them to move on from violence and abuse. ... [T]here needs to also be a shift from a culture of ‘disbelief’ of an individual’s experiences of family violence, to one of willingness to believe. This creates a more meaningful platform from which key Government departments such as Centrelink, can then engage with individuals.
10.63 The Equality Rights Alliance Report included information on the interaction with Centrelink and the response to family violence, which is referred to in the group’s submission to this Inquiry. In particular, 84% of respondents chose ‘I do not want to tell Centrelink if I have problems’, while only 14% chose ‘I feel safe talking to Centrelink’.

It is of great concern that such a high proportion of women on Income Management do not feel that they could talk to Centrelink about problems that might include financial vulnerability or family violence. In addition, some women have said that they decided not to apply for a Centrelink crisis payment to escape family violence because it might trigger a referral for Income Management under the Vulnerable Welfare Payment Recipient Measures.98

10.64 The group submitted that removing compulsory IM ‘will not prevent women from participating in the program voluntarily, should they find it helpful’ and that ‘women are not required to identify themselves to Centrelink staff as experiencing family violence if they do not feel safe to do so’.99

Labelling

10.65 The fear of being labelled as subject to income management was identified in the evaluation by FaHCSIA of the operation of the NTER, that reported in November 2011, which noted that the ‘abrupt imposition’ of things like income management ‘broke trust and made some people feel that they had been unfairly labelled’.100 FECCA stated that its ‘stance against the imposition of Income Management’ was ‘primarily because of its ability to stigmatise, inadvertently discriminate and impede culturally familiar practices, such as shopping at local markets’.101 FECCA emphasised the ‘impact of stigma and community shame’ of compulsory IM, where BasicsCard holders ‘face isolation from their communities due to the limitations of what shopping outlets and community activities are financially accessible under the scheme’.102

10.66 The sense of the ‘punitive’ character of compulsory income management was also identified by the NSW Women’s Refuge Movement.103

Safety concerns

10.67 Where a person experiencing family violence is placed on Compulsory IM following a violent incident, safety issues may arise for the victim, as the perpetrator may blame the victim for being income managed.104 The AASW (Qld) and WRC Inc (Qld) submitted that the imposition of income management was ‘a form of re-victimisation which carries the risk of putting the victim further in danger, due to either

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98  Equality Rights Alliance—Women’s Voices for Gender Equality, Submission CFV 143.
99  Ibid.
101  Federation of Ethnic Communities’ Councils of Australia, Submission CFV 126.
102  Ibid.
103  NSW Women’s Refuge Movement, Submission CFV 120.
104  North Australian Aboriginal Justice Agency, Submission CFV 73.
the lack of funds to take independent action of retribution from the perpetrator'. As another stakeholder remarked:

Family violence requires renewed and careful consideration in relation to social security law, especially given current income management policies and increasing knowledge of financial abuse and other financial aspects of family violence. Safety is probably a more fundamental consideration for family violence victims than for any other social security applicants ... the responsibility of the social security system to assist women whenever necessary to leave and re-build their lives is clear.106

10.68 In order to improve safety stakeholders identified the need for better education and training. National Legal Aid, for example, commented that

more community and service provider education, training and tools regarding family violence and the operation of income management should be developed. Centrelink staff should be familiar with appropriate service providers to whom people can be referred to address the family violence and related issues.108

10.69 The NSW Women’s Refuge Movement pointed to the inconsistency with many of the principles and policy directions contained within many of the Government’s other policy frameworks including the National Plan to Reduce Violence Against Women and their Children and the Homelessness White Paper: the Road Home. Both policy frameworks emphasise the need to improve coordination between agencies and ensuring that victims of family violence or other people experiencing homelessness should be able to disclose their experiences and receive appropriate responses by any agency through direct support or referral pathways. The Road Home refers to this as having ‘no wrong door’. CIM effectively ‘closes the door’.109

Exemptions

10.70 While New IM is intended to operate within the Racial Discrimination Act, stakeholders identified that it still operates in a way that has a disproportionate impact on Indigenous people. The NWRN submitted that the income management exemptions are ‘one-sided’ and that, in relation to the ‘discretionary area of decision-making’ in the form of the granting of exemptions from income management, ‘discrimination and paternalism appear rife’. Further, the network argued that ‘at its core the exemptions policy appears to be discriminatory in its application’:

As of March 2011, there were 2,130 persons granted an exemption from income management. Seventy-five per cent were non-Indigenous and just 25 per cent were Indigenous.

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105 AASW (Qld) and WRC Inc (Qld), Submission CFV 138; AASW (Qld) and WRC Inc (Qld), Submission CFV 137.
106 Good Shepherd Youth & Family Service, McAuley Community Services for Women and Kildonan Uniting Care, Submission CFV 65.
107 For example: National Legal Aid, 2011 #3593; Equality Rights Alliance—Women’s Voices for Gender Equality, Submission CFV 143; WEAVE, Submission CFV 58.
108 National Legal Aid, Submission CFV 164.
109 NSW Women’s Refuge Movement, Submission CFV 120.
Put another way, non-Indigenous welfare recipients, who make up just 4 per cent of the entire population on quarantined payments in the NT, accounted for three quarters of all exemptions granted.\footnote{110}

10.71 The Commonwealth Ombudsman, in a general review of Centrelink’s internal review model, has highlighted the complexity involved for a welfare recipient to have a matter reviewed by Centrelink.\footnote{111} The Ombudsman found that:

Prioritisation of reviews exists in some instances, but does not uniformly consider the complexity of the case, vulnerability of the customer, and severity of the decision consequence for the customer.\footnote{112}

10.72 The Ombudsman also pointed out that communication difficulties surround the exemption process—of particular concern in relation to communicating with people from Indigenous and multicultural communities and the limitations of telecommunication systems (as the majority of the financial vulnerability decisions are made after phone contact with customers).\footnote{113}

10.73 The Equality Rights Alliance Report revealed that a range of problems surround the access to exemptions, which include welfare recipients not knowing how to obtain an exemption, the belief that exemptions were too difficult to access, minimal or no skills in English, provided with incorrect information by third parties and an adherence to inflexible exemption requirements.\footnote{114} In their submission the group stated that understanding how the system works is particularly important for women who do not speak English as their first language, do not have strong written literacy skills, or have no previous experience of the Australian social welfare system. Women who are reliant on income support payments for the first time in their lives, or who do not easily understand the complexity of the system as explained in standard Centrelink letters, will need Centrelink staff to explain the system to them, possibly more than once, in order to understand how to best manage within the rules.\footnote{115}

10.74 The ALRC considers that the general approach to exemptions within income management, as reflected in the decision-making principles under the \textit{Social Security (Administration) Act}, would make it difficult for most people experiencing family violence to obtain an exemption. The difficulty of meeting the requirements for exemption may be exacerbated where people experiencing family violence live in rural, remote or discrete communities, because they have limited access to support services, low-income housing and temporary accommodation.

10.75 A number of stakeholders supported an unqualified exemption from compulsory IM for people experiencing family violence. The NWRN submitted that a ‘general exception’ should be established and that ‘information acquired during the course of addressing an instance of family violence is never used in support of a determination of compulsory income management’. 117

10.76 CAALAS suggested that access to an exemption is unduly onerous to navigate and places an administrative burden of proof on people seeking to be exempt from income management. 118 NAAJA considered that the exemption process is time consuming, in particular the review and appeal process. 119

10.77 NAAJA also suggested that the test time of 12 months under s 123UGD(1)(d) should be amended, for example, where a welfare recipient experiencing family violence has recently left a violent relationship and settled down to a safe environment, the person is still required to wait 12 months for the exemption period to end. 120

**Human rights concerns**

10.78 The AASW (Qld) and WRC Inc (Qld) pointed to the ‘inherent tensions’ concerning ‘fundamental human rights’ which underpin the ALRC’s conceptual framework for the Inquiry:

> Striving for social justice is a key value of social workers and our experience is that [compulsory income management] in fact perpetuates social injustice. 121

10.79 They also submitted that

> Violence against women and children is a complex issue that is steeped in a long history of dispossession, oppression, coercion and disconnection from country and kin. Any sustainable and effective strategy needs to be holistic and take a ‘bottom up’ approach, where it is developed by the communities, with the support and resources of government and other services. 122

10.80 Another stakeholder argued that ‘fundamental principles of justice and human rights to dignity are undermined by compulsory IM applied across any whole population group (now amended to be on geographic and demographic grounds rather than racial grounds, but still applying to whole groups)’. 123

10.81 The vulnerable position of people experiencing family violence, and the complex needs for their safety and protection, suggest that a different response is

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116 National Welfare Rights Network, Submission CFV 150; CAALAS, Submission CFV 78; North Australian Aboriginal Justice Agency, Submission CFV 73; ADFVC, Submission CFV 71; WRC (NSW), Submission CFV 70; WRC Inc (Qld), Submission CFV 66; Sole Parents’ Union, Submission CFV 63; WEAVE, Submission CFV 58; Council of Single Mothers and their Children (Vic), Submission CFV 55.


118 CAALAS, Submission CFV 78.

119 North Australian Aboriginal Justice Agency, Submission CFV 73.

120 Ibid.

121 AASW (Qld) and WRC Inc (Qld), Submission CFV 138; AASW (Qld) and WRC Inc (Qld), Submission CFV 137.

122 AASW (Qld) and WRC Inc (Qld), Submission CFV 138; AASW (Qld) and WRC Inc (Qld), Submission CFV 137.

123 Good Shepherd Youth & Family Service, Submission CFV 132.
required. The ALRC considers the development of such flexibility in the context of voluntary IM models, discussed below.

**Recommendation 10–1** The Australian Government should amend the *Social Security (Administration) Act 1999* (Cth) to ensure that a person or persons experiencing family violence are not subject to compulsory Income Management. The *Guide to Social Security Law* should reflect this amendment.

**Voluntary income management**

**Social Security (Administration) Act model**

10.82 The *Social Security (Administration) Act* includes an option of voluntary IM, under which a person may enter into a written agreement with the Secretary agreeing to be subject to the income management regime throughout the period in force (which must be at least 13 weeks). The agreement remains in force until it is terminated, or the period in force expires. When a recipient applies to terminate the voluntary agreement, the recipient cannot make a new voluntary agreement for a period of 21 days.

10.83 Under voluntary IM, all lump sum and advance payments are income managed at 100%, while other regular payments are income managed at 50%.

**Cape York Welfare Reform model**

10.84 The CYPWR model is ‘a different approach to welfare’, based on ‘conditional welfare’. It is being trialled in the Cape York communities of Aurukun, Coen, Hope Vale, and Mossman Gorge and associated outstations. It is a partnership between the four communities, the Australian Government, the Queensland Government and the Cape York Institute for Policy and Leadership. The reforms run from 1 July 2008 up to and including 31 December 2011 and ‘aim to create incentives...”

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124 Social Security (Administration) Act 1999 (Cth) s 123UM.
126 Social Security (Administration) Act 1999 (Cth) s 123UN(1)(b)(ii) (duration); s 123UO (termination).
127 Ibid s 123UO(4).
130 Cape York Institute for Policy and Leadership, *Welfare Reform* <www.cyi.org.au/welfarereform.aspx> at 22 July 2011. The notion of conditional welfare as a tool of welfare reform takes a ‘carrot and stick’ approach to welfare recipients receiving government payments, which rewards or punishes the welfare recipient according to their behaviour or compliance to receiving welfare entitlements and payments.
for individuals to engage in the real economy, reduce passivity and re-establish positive social norms'.

10.85 The legislative framework of the CYWR model is set out in the *Family Responsibilities Commission Act 2008* (Qld) (the *FRC Act*). The *FRC Act* establishes the Families Responsibilities Commission (FRC), which has the power to make decisions about agency notices concerning matters such as school enrolment and attendance, and child safety and welfare matters.

10.86 The FRC has power to hold a conference about agency notices to discuss the matter with the person, after which the FRC may decide to make a referral to Centrelink for income management. The FRC may require a person to be subject to income management for at least three months, but not more than one year, advising Centrelink as to how much of a person’s income may be managed—this is ‘likely to be 60 or 75 per cent of regular fortnightly payments and all of any advance and lump sum payments’.

10.87 The main difference between the CYWR model and the *Social Security (Administration) Act* model is that the CYWR model ‘does not include blanket quarantining of benefits’ but implements both voluntary and compulsory IM regimes. Another notable difference is in s 109(2) of the *FRC Act* which provides:

> The commissioner must amend or end the agreement, as requested by the person, unless the commissioner is satisfied the amendment or ending would be detrimental to the interests, rights and wellbeing of children, and other vulnerable persons living in a welfare reform community area.

10.88 As noted by FaHCSIA, it differs ‘from some of the measures of income management operating in the Northern Territory in that it involves individualised conferencing resulting from various triggers’.

10.89 Other differences include:

- the commissioners of the FRC recognise customary practice and take into account the customs and traditions of the individual;
- appointed ‘local commissioners’ are representative of their community and satisfy the ‘good standing’ criteria for appointment;

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133 *Family Responsibilities Commission Act 2008* (Qld) ss 10(1)(a), 40, 41, 42.
134 Ibid s 69.
135 Ibid s 69(1)(b)(iv).
138 FaHCSIA, *Submission CFV 162*.
139 *Family Responsibilities Commission Act 2008* (Qld) ss 5(2)(c), 63(a).
• a community resident in Cape York can apply to the FRC for a voluntary referral to income management; the FRC takes into account ‘the best interests of the person, a child of the person or another member of the person’s family’ in the decision-making process; \(^{142}\)

• the person or welfare recipient may participate in decision to income manage—for example, the FRC holds conferences with community members to enable the person to enter into a Family Responsibilities Agreement and prepare a ‘case plan’; \(^{143}\) and

• under the FRC Act, income management is applied as ‘a last resort’. \(^{144}\)

10.90 The CYWR model is generally consistent with recommendations in the National Plan to Reduce Violence Against Women and Their Children 2010–2022 (the National Plan) and the Royal Commission into Aboriginal Deaths in Custody (the Royal Commission). The National Plan encouraged communities to identify and develop their own solutions to localised family violence. \(^{145}\) The Royal Commission also recommended that Indigenous communities be self-determining and resolve violence within their own communities. \(^{146}\) The CYWR model is also consistent with the findings of the Fitzgerald Cape York Justice Study, which noted that government policies aiming to protect victims of violence have little hope of success if the community is not engaged in the process. \(^{147}\)

10.91 These reports and studies emphasised the importance of individual agency and community involvement—consistent with the principle of self-agency/autonomy central to this Inquiry. Many submissions expressed qualified support for voluntary IM measures, provided they are flexible and focused on the individual needs of people experiencing family violence, and within their control. \(^{148}\) As submitted by the AASW (Qld) and WRC Inc (Qld):

limited voluntary income management is entirely different to compulsory income management and it does have the potential to provide support for those who want it. Any such system needs to be developed and implemented with great sensitivity to the particular circumstances of people experiencing family violence and only on a strong

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\(^{140}\) Ibid s 12(4).
\(^{141}\) Ibid s 18.
\(^{142}\) Ibid s 108(1).
\(^{143}\) Ibid s 68.
\(^{146}\) P Memmott and others, Violence in Indigenous Communities (2001), prepared for the Crime Prevention Branch, Australian Government Attorney-General’s Department, 18.
\(^{147}\) Aboriginal and Torres Strait Islander Social Justice Commissioner, Ending Family Violence and Abuse in Aboriginal and Torres Strait Islander Communities: Key Issues (2006), 124.
\(^{148}\) CAALAS, Submission CFV 107; Aboriginal & Torres Strait Islander Women’s Legal & Advocacy Service, Submission CFV 103; AASW (Qld) and WRC Inc (Qld), Submission CFV 138; AASW (Qld) and WRC Inc (Qld), Submission CFV 137; Aboriginal & Torres Strait Islander Women’s Legal Service North Queensland, Submission CFV 99; Good Shepherd Youth & Family Service, McAuley Community Services for Women and Kildonan Uniting Care, Submission CFV 65, Council of Single Mothers and their Children (Vic), Submission CFV 55.
evidence base. Until such time as a thorough, independent assessment of the impact of current voluntary income management arrangements has been conducted, there should be no moves to extend this.\(^{149}\)

**How voluntary is ‘voluntary’?**

10.92 The ALRC considers that the compulsory element of income management hinders access to welfare and support for victims of family violence and that a more flexible voluntary approach provides a more measured response that includes a focus on individual autonomy for people experiencing family violence. In the Discussion Paper the ALRC suggested that the CYWR model provided an instructive model for the Australian Government and the administering agencies of welfare reform, because of its flexibility in the approach to income management and a focus on the individual needs of the person. In contrast with the *Social Security (Administration) Act* model, the CYWR model provides more engagement and empowerment of the individual within welfare reform and involves the welfare recipient in the decision-making process and the determination of income management.

10.93 On this basis the ALRC suggested that the CYWR model could provide a basis on which to conduct further research and trials for a flexible voluntary policy, that is an opt-in and opt-out one, coordinated with meaningful community consultation. As the evidence from the Cape York trial becomes available and is reviewed, it would be timely to review the income management approach more generally—in particular for people experiencing family violence.

10.94 This received support from stakeholders. For example, National Legal Aid commented that the Cape York experience ‘might be informative’.

The priority should be to identify all issues and the best response to those issues, which might then avert the need for income management. Whilst this approach would require front-end resourcing, it could also avert the need for resource intensive applications for exemption.\(^{150}\)

10.95 Stakeholders strongly supported a more flexible income management model, commenting, for example, that:

- any model should be flexible;\(^{151}\)
- a more flexible voluntary IM model would enable women to regain management of their money;\(^{152}\)
- an alternative approach to income management may be beneficial to Indigenous women experiencing domestic violence as a mandatory income management regime may discourage reporting.\(^{153}\)

\(^{149}\) AASW (Qld) and WRC Inc (Qld), Submission CFV 138; AASW (Qld) and WRC Inc (Qld), Submission CFV 137.

\(^{150}\) National Legal Aid, Submission CFV 164.

\(^{151}\) CAALAS, Submission CFV 107; Aboriginal & Torres Strait Islander Women’s Legal & Advocacy Service, Submission CFV 103.

\(^{152}\) Equality Rights Alliance—Women’s Voices for Gender Equality, Submission CFV 143.
many people would like to utilise voluntary IM, but they would like more control over the percentage of the managed payments and the ability to opt-in and opt-out at their own discretion;\textsuperscript{154}

the effectiveness and consequences of the CYWR model should be rigorously evaluated through the communities where this model has been introduced and any further expansion needs to be informed by robust empirical data conducted by an independent research organisation and findings to be made public for further comment.\textsuperscript{155}

10.96 The ALRC recognises that it is important to offer a flexible welfare policy to address the needs and safety of the welfare recipient and his or her children for people experiencing family violence. In addition, the ALRC considers that further research and evaluation of the various voluntary measures will assist to identify the relationship between family violence and appropriate responses.

10.97 Submissions from many stakeholders did not support the current voluntary IM regime because it was not flexible for people experiencing family violence, and that it was not a truly ‘voluntary’ scheme, in form or substance. The controversial aspect of income management is not only the compulsory regime but also the voluntary provisions.

10.98 A number of stakeholders commented on the problems that exist under the voluntary measure under the \textit{Social Security (Administration) Act} model. CAALAS submitted that the provisions are unduly inflexible: 50% of the welfare recipient’s income is quarantined, and recipients must remain on the voluntary IM for 13 weeks before being able to exit.

10.99 A number of stakeholders were also critical of the way in which the CYWR model is working, namely that:

- it does not allow for flexibility and is not an appropriate model;\textsuperscript{156} and
- it is not supported without further information and assessment of its impact on communities and also raises systemic issues as a welfare model.\textsuperscript{157}

10.100 Some responses from stakeholders stated that voluntary IM under the CYWR model also seeks to impose restrictions.\textsuperscript{158} For example, the AASW (Qld) and WRC Inc (Qld) submitted that,

\textsuperscript{153} Indigenous Law Centre, Submission CFV 144. See above.
\textsuperscript{154} Commonwealth Ombudsman, \textit{Correspondence}, 28 October 2011.
\textsuperscript{155} AASW (Qld) and WRC Inc (Qld), Submission CFV 138; AASW (Qld) and WRC Inc (Qld), Submission CFV 137; Aboriginal & Torres Strait Islander Women’s Legal Service North Queensland, Submission CFV 99.
\textsuperscript{156} Equality Rights Alliance—Women’s Voices for Gender Equality, Submission CFV 143; CAALAS, Submission CFV 107.
\textsuperscript{157} Aboriginal & Torres Strait Islander Women’s Legal Service North Queensland, Submission CFV 99.
\textsuperscript{158} AASW (Qld) and WRC Inc (Qld), Submission CFV 138; AASW (Qld) and WRC Inc (Qld), Submission CFV 137; Aboriginal & Torres Strait Islander Women’s Legal Service North Queensland, Submission CFV 99.
While in essence income management is voluntary, there are instances where this is not the case particularly where someone has been referred to the income case management team by, for example, the Department of Communities (Child Safety Services) in these communities. The unintended consequences of this require further evaluation.\textsuperscript{159}

10.101 CAALAS pointed out that:

while the Cape York Welfare Reform model creates a more flexible administration of income management (by allowing the Family Responsibilities Commission to take into account the best interests of the person, their children and families in deciding to refer a person for voluntary income management), it does not create extra flexibility for an individual in terms of how voluntary income management will work for them. ... It is not an appropriate model upon which to base any amendment of the voluntary income management measure.\textsuperscript{160}

10.102 The Aboriginal and Torres Strait Islander Women’s Legal Services NQ Inc stated that they did not support the CYWR model ‘without further information and assessment of the impact on the communities and individuals’.

In our experience, any system which seeks to impose restrictions, unless by consent of the individual/s affected, risks producing fractured communities and may be perceived as punitive action by the decision-makers (especially if local) rather than supportive measures. Further, such a system is open to abuse where there are long-standing disagreements between families or individuals.\textsuperscript{161}

10.103 Voluntary IM under the \textit{Social Security (Administration) Act} and the CYWR models have some ‘voluntary’ characteristics, but neither is fully ‘voluntary’ as there is an inflexibility for a person to ‘opt-in and opt-out’ of these systems when they choose. However, many submissions expressed qualified support for voluntary IM measures, provided they are flexible and focused on the individual needs of people experiencing family violence.\textsuperscript{162}

\textbf{‘Opt-in and opt-out’ model}

10.104 The ALRC recommends that the \textit{Social Security (Administration) Act 1999} should be amended to create an ‘opt-in and opt-out’ income management model that is voluntary and flexible. Stakeholders supported this approach, on the basis that it would encourage the disclosure of family violence,\textsuperscript{163} and still ensure that the complex needs of victims and their safety are provided for,\textsuperscript{164} and that it had the potential to offer dignity and choice in the very complex system of social security compliance.\textsuperscript{165}

\textsuperscript{159} AASW (Qld) and WRC Inc (Qld), Submission CFV 138; AASW (Qld) and WRC Inc (Qld), Submission CFV 137.
\textsuperscript{160} CAALAS, Submission CFV 107.
\textsuperscript{161} Aboriginal & Torres Strait Islander Women’s Legal Service North Queensland, Submission CFV 99.
\textsuperscript{162} CAALAS, Submission CFV 107; Aboriginal & Torres Strait Islander Women’s Legal & Advocacy Service, Submission CFV 103; Good Shepherd Youth & Family Service, McAuley Community Services for Women and Kildonan Uniting Care, Submission CFV 65, Council of Single Mothers and their Children (Vic), Submission CFV 55.
\textsuperscript{163} Indigenous Law Centre, Submission CFV 144.
\textsuperscript{164} Good Shepherd Youth & Family Service, Submission CFV 132.
\textsuperscript{165} WRC Inc (Qld), Submission CFV 66.
10.105 CAALAS, for example advocated for reform of voluntary IM

to allow individuals to enter into, and exit from, a voluntary income management
agreement at any time, and to allow voluntarily income managed individuals to
determine the percentage of their income that is income managed including the
percentage of any lump sum payments.\footnote{CAALAS, Submission CFV 107. See also CAALAS, Submission CFV 78.}

10.106 The ALRC considers that the development of such an ‘opt-in and opt-out’
income management model needs to include a number of key aspects, such as:

- ways to ensure that individuals understand the consequences of voluntary IM,
  particularly where victims of family violence may be experiencing trauma or
  have language barriers;
- ways in which the community may be involved, to ensure appropriate support
  for individuals; and
- other measures, such as financial counselling, which may support and strengthen
  the effectiveness of any voluntary IM measures.

10.107 The ADFVC submitted that a system of voluntary IM should be supported
by voluntary financial counselling and access to financial products. As their research
showed,

women who were able to stabilise their financial situation quickly after separation
were doing much better than women who were not. Women who were able to find
long term, affordable accommodation, who were able to find work, who did not have
protracted legal battles and who could attend to health needs were doing better than
those who were not.\footnote{ADFVC, Submission CFV 71. The availability of financial counselling was also encouraged by:
CAALAS, Submission CFV 78.}

10.108 The Commonwealth Ombudsman reported that it received general feedback
from people and representative organisations that

many people would like to utilise voluntary IM, but they would like more control over
the percentage of their payments that are managed and their ability to opt-in and opt-
out at their own discretion.\footnote{Commonwealth Ombudsman, Correspondence, 28 October 2011.}

10.109 The Aboriginal and Torres Strait Islander Women’s Legal and Advocacy
Service Aboriginal Corporation argued that any type of voluntary IM should be
flexible—‘the social security recipient should have the capacity to make an informed
decision’.\footnote{Aboriginal & Torres Strait Islander Women’s Legal & Advocacy Service, Submission CFV 103,}

Future reform—the need for further evidence

10.110 Many submissions recognised the importance of evidence-based policies,
and the ALRC considers that the development of a new voluntary model of income
management should be informed by the development of an appropriate evidence base.

\footnote{166 CAALAS, Submission CFV 107. See also CAALAS, Submission CFV 78.}
\footnote{167 ADFVC, Submission CFV 71. The availability of financial counselling was also encouraged by:
CAALAS, Submission CFV 78.}
\footnote{168 Commonwealth Ombudsman, Correspondence, 28 October 2011.}
\footnote{169 Aboriginal & Torres Strait Islander Women’s Legal & Advocacy Service, Submission CFV 103,}
The Ombudsman, for example, commented that ‘[i]t is evident that more analysis and understanding is required to better inform the development of policies in this field’.\textsuperscript{170}

10.111 Considerable research and evaluation has already been undertaken and this provides a foundation upon which further evaluations may be conducted.

10.112 In May 2010 Jumbunna Indigenous House of Learning responded to the proposed introduction of the Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009. In doing so, it provided a detailed outline of government identified sources and other relevant reports prepared between June 2008 and November 2009. It noted the ‘absence of any baseline data when the NTER commenced, and the limits to data collected during its operation’.\textsuperscript{171}

10.113 As outlined in FaHCSIA’s submission, in September 2010 ORIMA Research released a report following evaluation of the trials of two income management measures in the metropolitan area of Perth—CPSIM; and voluntary IM. The three overarching research objectives of the evaluation were to assess the impact of income management in improving child wellbeing, on financial capability of individuals and to assess the effectiveness of implementation.\textsuperscript{172} The evaluation found that income management ‘has generally had positive impacts on the wellbeing of individuals, children and families’.\textsuperscript{173} In particular it found that:

\begin{itemize}
  \item 6 in 10 income managed clients thought that income management had made their lives better.
  \item Generally stakeholders though that CPSIM and voluntary IM has positive impacts on the wellbeing of children. However some also reported negative impacts.
  \item In the 12 months prior to income management, 74\% of respondents indicated that they had been unable to pay for at least one essential item (such as food, utilities, rent) in the previous 12 months, this decreased to around 50\% during the income management period.
  \item Stakeholders tended to report that income management had had a positive impact on family relationships.\textsuperscript{174}
\end{itemize}

10.114 In its submission, the Equality Rights Alliance referred to its own contribution to developing an evidence base—their report based on data gathered

\begin{flushright}
\textsuperscript{170} Commonwealth Ombudsman, \textit{Correspondence}, 28 October 2011.
\textsuperscript{172} ORIMA Research, \textit{Evaluation of the Child Protection Scheme of Income Management and Voluntary Income Management Measures in Western Australia} (2010), prepared for FaHCSIA, 8.
\textsuperscript{173} Ibid, 9.
\textsuperscript{174} Ibid. See also FaHCSIA, \textit{Submission CFV 162}.
\end{flushright}
during May and June 2011. The report sample group included over 180 women on income management—the largest number of women on Income Management in any study of which they were aware. What this report concluded was that the qualitative data indicates that compulsory Income Management is ‘not improving the safety of some women experiencing family violence’. An example from the report is quoted:

A domestic violence crisis worker said that some general stores still allow women to book up an account, including alcohol and cigarettes under pressure from an abusive partner, and pay it off once a fortnight using their BasicsCard. Some women in abusive relationships are asked by their partner to trade their BasicsCard for cash at a much lower value that what is on their card. She says these women say they are reluctant to talk to Centrelink about getting help to leave the relationship because they know they have broken the rules for using the BasicsCard, and don’t want to be in even more trouble with Centrelink. Administrative problems with rent payments made by Centrelink to NT Housing also affect the women's access to NT Housing crisis support services.

‘Women needing crisis accommodation can’t get on the priority housing list (at NT Housing) if their rent is in arrears. Affects domestic violence crisis situations if Centrelink are not getting the rent paid. In a recent situation, a woman had to go back to the community where her abuser lives because of this’ — Quote from a domestic violence crisis support worker.

In November 2011, the report on the evaluation of the NTER conducted by the Australian Institute of Criminology, the Australian Institute of Health and Welfare, the Australian Institute of Family Studies, the Australian Council for Educational Research, Allen Consulting Group, Colmar Brunton Social Research, and KPMG was released. The report was ‘not intended to provide policy advice or suggest what should be done next; rather, it provides an assessment of outcomes to date’. The study aimed to examine whether the measures, both individually and collectively, have been effective and comprehensive and have led to improved and sustainable outcomes in safety, health, education and employment.

The evaluation found that ‘[i]ncome management was supported by many people in the communities who believed that it was bringing about positive outcomes, especially for children’. Under the [2010] changes, income management was extended across the Northern Territory and was focused on the long-term unemployed, disengaged youth, people considered vulnerable by a Centrelink social worker, and people referred by a child protection worker. NTER residents could be exempted from income management following the 2010 changes.

176 Equality Rights Alliance—Women’s Voices for Gender Equality, Submission CFV 143.
177 Ibid. The Alliance also referred to survey data that 70% of respondents did not feel safer since they had received BasicsCard, observing that ‘while further research is needed to better understand the relationship between safety and income management, there is clearly a link’.
179 Ibid, iii.
180 Ibid, 6.
After the change to the program, many people who had been forced onto income management were taken off it. Of those released from compulsory income management at least 59 per cent had chosen to go onto voluntary income management by the end of 2010. Some participants have been able to save for and purchase major household items, such as washing machines or new refrigerators. Some are using income management as the basis of a household saving program.181

10.117 The report notes however some difficulties with the limitations on available data.

While the report does have a strong focus on data, it is important to understand that there are only around 45,000 Indigenous Australians resident in the NTER communities. It can be difficult at times to observe trends in some outcome data for what is a relatively small population over a four-year period. It is also important to understand that the NTER is a very complex policy response that has many elements.

It is not always possible to identify the additional impact of individual measures because so many changes, both NTER and other measures, were introduced at a similar time.182

10.118 A number of stakeholders in this Inquiry pointed to a lack of empirical evidence about the impact of income management on people experiencing family violence.183 For example, the Welfare Rights Centre (NSW) highlighted its concern that:

The Government is pursuing financial control measures in the absence of clear evidence that either it will deliver positive benefits or that massive administrative costs of income management will be offset by significant improvements in the social and economic health of those targeted by this regime.184

10.119 It also emphasised the importance of further evidence-based research to identify and recommend any progressive improvements from amended income management policy.

The question of safety for people experiencing family violence, including children, is an issue that the evaluation into the extension of Compulsory Income Management ... there is no reliable evidence about whether income management per se, makes for safer families and children ... The question of whether income management has improved family safety is highly complex and controversial.185

10.120 The AASW suggested that, prior to further expanding and revising income management that research based on a robust evidence base for any model and to identify the intended and unintended consequences of income management.186 National Legal Aid added:

181 Ibid, 32.
182 Ibid, iii.
183 National Legal Aid, Submission CFV 164; ADFVC, Submission CFV 71; WRC (NSW), Submission CFV 70; WRC Inc (Qld), Submission CFV 66; Good Shepherd Youth & Family Service, McAuley Community Services for Women and Kildonan Uniting Care, Submission CFV 65; WEAVE, Submission CFV 58.
184 WRC (NSW), Submission CFV 70.
185 Ibid.
186 AASW (Qld) and WRC Inc (Qld), Submission CFV 138; AASW (Qld) and WRC Inc (Qld), Submission CFV 137.
there is a lack of evidence based research as to the effectiveness of current income management schemes including their impact on people experiencing or attempting to escape/escaping from family violence. We therefore suggest that there is a need for independent evaluation of the impact of income management schemes including on people experiencing family violence, and in particular the consequences for their safety.187

10.121 FaHCSIA indicated that the NTER evaluation, released in November 2011, just before the reporting date for this Inquiry, ‘will inform future consideration of policy and legislative issues related to domestic violence’.188 The ALRC considers that such evaluations provide an important contribution to developing an evidence base to inform future reforms in relation to income management. Further evaluations, particularly in relation to the ‘voluntary’ models should incorporate the active participation of the community and family violence service providers to identify and evaluate the effect of programs on people experiencing family violence, as well as key agencies. The ALRC notes in this regard that DHS in its submission stated that,

Should the Australian Government commission an independent assessment of voluntary income management on people experiencing family violence, DHS would participate and assist with any subsequent implementation.189

**Recommendation 10–2** The Australian Government should amend the Social Security (Administration) Act 1999 (Cth) to create an ‘opt-in and opt-out’ income management model that is voluntary and flexible to meet the needs of people experiencing family violence. The Guide to Social Security Law should reflect this amendment.

**Income management accounts—improving access**

10.122 Payment amounts subject to income management are paid into a separate, notional, account held by welfare recipients called ‘income management accounts’.190 In order to access funds in their income management account, a welfare recipient may be issued with a stored value card, vouchers, or receive other payments or credits for use in purchasing goods and services.191 The focus of this section is on stored PIN-protected stored value cards called ‘BasicsCards’ that may be used at approved merchants, and restricted and unrestricted direct payments.192 Stored value cards,
vouchers or other payments or credits may not be used to purchase excluded goods or services, which include alcoholic beverages, tobacco products, pornographic material and gambling services.\(^{193}\)

10.123 The ALRC considers that to reflect the underlying principles of accessibility and self-agency articulated in Chapter 2 of this Report, at the very minimum it is necessary to ensure that victims of family violence are able to access and control their income management account—whether through a BasicsCard, voucher or other form of payment or credit. In particular, the limited definition of ‘priority needs’ is contrary to these principles and poses particular difficulties for victims of family violence. The ALRC therefore recommends that the Australian Government should amend the definition of ‘priority needs’ in s 123TH of the *Social Security (Administration) Act 1999* to include travel or other crisis needs for people experiencing family violence. In light of difficulties with the income management account system and BasicsCards, the ALRC also suggests that the Government should review the existence and operation of these in the course of any introduction of an opt-in and opt-out income management model.

**Difficulties with the account system and BasicsCards**

10.124 There are a number of difficulties faced by welfare recipients in accessing funds in their income management account. These difficulties are exacerbated in rural and remote areas and, in many cases, where a welfare recipient is experiencing family violence.

**General difficulties**

10.125 In the course of an Inquiry by the Senate Standing Committee on Community Affairs into proposed welfare reform legislation in 2010, the NWRN identified a range of general difficulties and unintended consequences arising in the context of income management, including in relation to the account system. These included:

- difficulties accessing funds while interstate;
- delays in the transfer of funds; and
- assessment and reassessment of priority needs by Centrelink which can be time consuming, invasive and demeaning, because the recipient must seek permission to purchase goods and services not defined as priority needs.\(^{194}\)

\(^{193}\) Social Security (Administration) Act 1999 (Cth) s 123TI.

Such concerns were repeated in this Inquiry. In addition, in the course of this Inquiry many stakeholders raised additional issues with respect to the operation of BasicsCard, including:

- general lack of understanding or information about the operation of the system;
- difficulties in obtaining account balances, specifically due to limited access to appropriate balance reading facilities and technology—‘inability to readily access an account balance has obvious implications for victims of family violence, particularly those who require immediate and urgent access to funds’;
- reduced choice and convenience in purchasing goods and services due to limited BasicsCard merchants—impacting on, for example, ability to purchase traditional medicines or foods that meet ‘cultural dietary needs at better prices than those on offer in major supermarkets’;
- impact on cultural resource sharing practices involving monetary contributions—for example, for Indigenous communities during ‘sorry business’ where cash is contributed to the deceased’s family;

A quote from an Indigenous woman in Alice Springs provided in the Equality Rights Alliance’s submission captures some of these difficulties:

Basic Card no good. Hard to remember PIN. Don't understand how it works. Hard to understand how much money. People in shops not nice, no good, if not enough money to pay for food. Where the money goes, I don't know.

**Definition of ‘priority needs’**

‘Priority needs’ under s 123TH of the *Social Security (Administration) Act 1999* include:

- food and non-alcoholic beverages;

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196 National Legal Aid, *Submission CFV 164*.
197 CAALAS, *Submission CFV 78*.
198 Equality Rights Alliance—Women’s Voices for Gender Equality, *Submission CFV 143*. See also Aboriginal & Torres Strait Islander Women’s Legal Service North Queensland, *Submission CFV 99*.
199 Where family members have experienced family violence, an inability to contribute an amount of cash may exacerbate their vulnerability to the pressures of immediate and extended family, especially where family violence already exists; these socio-cultural practices can apply to other groups. See, eg, Northern Territory Council of Social Service, *Submission to Senate Standing Committee on Community Affairs, Inquiry into Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 and the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009 along with the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Restoration of Racial Discrimination Act) Bill 2009 (2010)*, 5.
200 Equality Rights Alliance—Women’s Voices for Gender Equality, *Submission CFV 143*. 
• clothing and footwear;
• basic personal hygiene items;
• housing, utilities and basic household items;
• health;
• child care and development;
• education, training and employment-related items; and
• public transport services and the maintenance, acquisition and repair of a car, motorbike or bicycle where used wholly or partly for purposes in connection with the above needs.

10.129 To the extent that a welfare recipient’s reasonably foreseeable priority needs have been met, they can seek access to unspent funds for other purposes, except for obtaining an excluded good or service.\(^{201}\) However, where there are unspent funds, and to the extent not already possible, s 123TH should be amended to provide for access to funds for the purposes of travel in order to leave a violent relationship, or to fund other needs arising in circumstances of crisis where a recipient is experiencing family violence. This approach was largely supported by stakeholders.\(^{202}\) CAALAS, for example, submitted that, for people experiencing family violence, the ability to manage and control their payments is vital and any restriction on the use of a person’s social security payment ‘may limit a victim’s ability to travel or find alternative accommodation’.\(^{203}\)

10.130 DHS noted in its submission that s 123TH already lists public transport services and the acquisition, repair, maintenance or operation of car, motorbike or bike as priority needs.\(^{204}\) However, as highlighted by the Equality Rights Alliance, ‘not all service stations accept BasicsCard, and women do not always have the capacity to check which service stations on their route accept BasicsCard before they need to leave home’.\(^{205}\) Similarly, the Indigenous Law Centre emphasised that current arrangements, including the BasicsCard may inhibit the ability of women in a violent relationship to leave the situation due to restrictions on funds to purchase petrol or to cover other expenses necessary to escape violent situations including funds for temporary accommodation particularly on weekends.\(^{206}\)

10.131 National Legal Aid provided a useful case study illustrating the difficulties arising from the current restrictions for a person fleeing family violence:

\(^{202}\) National Legal Aid, Submission CFV 164; National Welfare Rights Network, Submission CFV 150.
\(^{203}\) CAALAS, Submission CFV 78.
\(^{204}\) DHS, Submission CFV 155.
\(^{205}\) Equality Rights Alliance—Women’s Voices for Gender Equality, Submission CFV 143.
\(^{206}\) Indigenous Law Centre, Submission CFV 144.
Case Study

R was a 24 year old woman born to an Aboriginal mother. R lived with her mum in a town camp in Central Australia. R had a three year old toddler (J) to N. R was on parenting payments and was compulsorily income managed under the 2007 Northern Territory Emergency Response measures. R and N had broken up when J was 11 months old.

N had become increasingly jealous of R and seriously physically assaulted her on several occasions. At one stage he hurt her so badly that she had to stay in hospital for three nights. He also stalked her and sent her extremely disturbing text messages from public payphones. Several complex court matters including breaches of Domestic Violence Orders, major indictable offences and Family Court matters resulted from N’s actions. He was imprisoned as a result of the offences.

One day R’s family members warned her that N was about to be released from prison. R decided that she needed leave the Northern Territory with J urgently as she was convinced that N would find her and kill her. A domestic violence support agency worked to find R a place in a secure women’s shelter in another State. So urgent was the matter that no consideration was given to the effect of moving interstate on her income managed social security benefits.

R arrived at her secure location and discovered that she could not use her Basics Card at the shops. It took several days of liaising with Centrelink to reverse her income management. R was frightened to tell Centrelink about her exact circumstances as she was still worried that N might find out what she had been saying.

The funds in her income management account were not automatically released, but paid out in instalments over several weeks. During that time R found it very difficult to buy her groceries and the other items needed to set up her new life. She felt significant shame when she tried to buy some new clothes from a shop and her Basics Card did not work. She couldn’t buy phone credit to call her mother which was distressing for her. The workers at the shelter did not know anything about income management and couldn’t assist her.

10.132 The Ombudsman observed that the extension of the definition of priority needs to include travel or other crisis needs ‘is in keeping with the broader objectives of IM as detailed in s 123TB of the Social Security (Administration) Act 1999’. 208

10.133 The ALRC does not make a specific recommendation in relation to BasicsCard, as the ALRC anticipates that if an opt-in and opt-out voluntary IM system is developed in line with Recommendation 10–2, then the BasicsCards will be reviewed in due course as part of that implementation process. However, the ALRC does recommend that the Australian Government amend the definition of ‘priority needs’ to include travel and other crisis needs for people experiencing family violence.

Other issues

Making of restricted and unrestricted direct transfers

10.134 In the course of the Inquiry, some stakeholders expressed the view that restricted and unrestricted direct transfers should be made in circumstances where a

207 National Legal Aid, Submission CFV 164.
208 Commonwealth Ombudsman, Correspondence, 28 October 2011.
welfare recipient is experiencing family violence in order to allow improved access to funds. For example, CAALAS suggested that rather than using such transfers as a ‘means of last resort’, they should be utilised to ‘facilitate the immediate transfer of income managed funds to a person’s bank account or in cash in situations of crisis’.\(^{209}\) The ALRC suggests that this matter could be considered in the course of any Government moves to introduce an opt-in and opt-out voluntary IM system.

**Residual funds**

10.135 In the case of a deceased welfare recipient, several issues arise in relation to disbursement of the balance of their income management account. There are a number of ways in which the residual amount of the deceased’s account can be paid.\(^{210}\) For welfare recipients who die without a will (intestate), or who have not identified a person to administer and distribute the residual funds in their income management account, the funds may remain in the person’s account.\(^{211}\)

10.136 However, in such circumstances, the disbursement of the deceased’s funds may provide ongoing safety and protection to their children or other family members.\(^{212}\)

10.137 Where possible, disbursement of the balance of an income management account held by a deceased welfare recipient should be paid to their surviving children, particularly in circumstances involving family violence. The ALRC considers that a review of the relevant laws and processes in respect of disbursement of income management accounts, including nominee authority and will arrangements, may assist in ensuring this occurs.

**Recommendation 10–3** ‘Priority needs’, for the purposes of s 123TH of the *Social Security (Administration) Act 1999* (Cth) are goods and services that a welfare recipient is not excluded from purchasing. The Australian Government should amend the definition of ‘priority needs’ in s 123TH to include travel or other crisis needs for people experiencing family violence. The *Guide to Social Security Law* should reflect this amendment.

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209 CAALAS, Submission CFV 78.
212 This is particularly so given evidence suggests that in drafting their will, Indigenous people often nominate their children, either biological or under Aboriginal customary law of kinship, rather than their spouse, as their beneficiary. See, eg, R Ayres, ‘Indigenous Wills Project, Indigenous Law Bulletin ’ (2011) 7(22):5.