



Submission

Senate Inquiry: Social Security (Administration) Amendment (Income Management to Cashless Debit Card Transition) Bill 2019

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About Financial Counselling Australia and Financial Counselling

Financial counsellors provide advice to people with money and debt issues. Working in community organisations, their services are free, confidential and independent.

Financial Counselling Australia (FCA) is the peak body for financial counsellors in Australia. FCA's members are the State and Territory financial counselling associations.

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1 Introduction

Financial Counselling Australia (FCA) welcomes the Senate Inquiry into the Social Security (administration) Amendment (Income Management to cashless Debit Card Transition) Bill 2019 (the “Cashless Debit Card Bill”).

Financial counsellors assist people in financial difficulty. They advise and assist people who are often on very low incomes. There are financial counsellors all over Australia. A number of financial counsellors and financial capability workers advise or assist Aboriginal and Torres Strait Islander people (including in rural and remote areas).

Financial counsellors are committed to working with their clients to resolve financial problems. Financial counsellors often do budgets or money plans with their client to prioritise debts and expenses depending on the client’s needs. Financial counsellors are committed to building the financial capability of their clients.

We are concerned about the impact of the cashless debit card on the wellbeing and financial capability of people forced to use it. A key part of wellbeing and financial capability is the ability to make choices and build confidence. The cashless debit card deprives people of choice and the basic freedoms around how we spend money to meet needs. The cashless debit card should be a service that is offered, but not imposed.

2 Summary

We do not support the continuation or expansion of the cashless debit card being compulsory for some people on Centrelink payments. We remain concerned that it deprives people of choice which negatively affects their wellbeing and financial capability.

3 Summary of recommendations

1. The proposed Cashless Debit Card Bill should only proceed on an opt-in basis. It must not be compulsory.
2. If the Cashless Debit Card Bill proceeds on a compulsory basis, some groups of people should be exempted from it (not as a discretion but as a strict requirement) to reduce harm. These groups are people who are:
 - a. homeless
 - b. affected by family violence
 - c. In receipt of sickness benefits or disability payments
3. Aboriginal and Torres Strait Islander people must be exempt from the cashless debit card but can opt-in if desired.
4. Indue or any other provider of a cashless debit card program must be a subscriber to the Banking Code of Practice or some other self-regulatory ASIC approved code that meets the same standards. This must be a requirement in the proposed laws and any contract with the provider.
5. Indue or any other cashless debit card provider must be a subscriber to the ePayments Code. This must be a requirement in the proposed laws and any contract with the provider.
6. Indue or any other provider of the cashless debit card program must be required to be a member of the Australian Financial Complaints Authority. This must be compulsory and be included in the proposed laws and any contract with the provider.
7. Indue or any other cashless debit card program must offer or be linked to an account that is a basic bank account to ensure that people do not incur unnecessary fees. This must be a requirement in the proposed laws and any contract with the provider.

4 The safety net

In our submission to the Senate Inquiry on Newstart and related income payments¹ we outlined the importance of working through the prism of fairness in making decisions about Centrelink payments. We maintain that position with the cashless debit card. The basic principle that must apply in all decisions is to make sure Australia has a fair social security safety net. People should not move into poverty and homelessness simply because they find welfare obligations too onerous or stressful.

In our view, there are five basic principles:

1. People are entitled to income support when they do not have an income. As a fair society we do not want people to live in poverty.
2. That income support cannot be linked to good behaviour or the requirement to fill out forms, attend meetings, or attend storytime with their children and so on. Regardless of whether people engage in such activities, they should not be placed into poverty. Instead, systems should encourage and support people.
3. Income support payments must meet basic needs. The payment rate must be independently set and reviewed. Leaving people living below the poverty line is not fair.
4. Strive to be non-judgmental and appreciate that people do not choose poverty.
5. Acknowledge that when people need Newstart or other income support they are often vulnerable. Vulnerability means that their decision-making and daily functioning can be very challenging. Extra care is needed when people are vulnerable.

The cashless debit card links Government-defined “good behaviour” by forcing people to spend a set percentage of their income on basic needs. It is unfair to deprive people of those basic freedoms and choices.

Recommendation

The proposed Cashless Debit Card Bill should only proceed on an opt-in basis. It must not be compulsory.

5 Wellbeing

There is no agreed definition of wellbeing but there is general agreement that it is not just the absence of disease or illness. It is a complex combination of a person’s physical, mental, emotional and social health factors.² We mention wellbeing because this is an

¹ Available at <https://www.financialcounselingaustralia.org.au/publications/submissions/>.

² Victorian State Government, Better Health Channel at <https://www.betterhealth.vic.gov.au/health/healthyliving/wellbeing>.

aim for everyone in Australia. It also should be a factor in the Government making decisions for the people of Australia.

Financial counsellors are non-judgmental and have long recognised that financial capability is affected by the wellbeing of their client. Financial counsellors work with clients and recognise that choice needs to be at the heart of building financial capability and overall wellbeing.

The cashless debit card however removes choice, negatively affects overall wellbeing and does not build financial capability.

6 Financial capability

The Commonwealth Government has a National Financial Capability Strategy³ and we strongly support that strategy. We believe that building financial capability is an absolutely essential part of improving the lives of all Australians. The slogan for the strategy is *Australians in control of their financial lives*. There are three parts of the strategy:

- 1) Manage money day to day
- 2) Make informed money decisions
- 3) Plan and save for the future

All three parts are essential. Focusing on managing money day to day there are four parts to building good money habits:

- 1) Track money in and out
- 2) Look at spending priorities
- 3) Manage debt and credit use
- 4) Get into a savings habit

The cashless debit card does not assist anyone with the above habits. Instead of practicing and learning the day to day habits of good money management, people on the cashless debit card are restricted on how they do this. Financial counsellors work with people to build the above good money habits. However, when a client is using the cashless debit card the flexibility to increase savings or repay debt is more difficult.

Another concern is that some people on the cashless debit card may have been managing their money successfully with those skills being possibly regressed with a requirement to use a cashless debit card.

We want people to have the opportunity and choice to build financial capability in accordance with the strategy.

³ National Financial Capability Strategy 2018 available at <https://financialcapability.gov.au/strategy/#home>.

7 Savings buffer

Having savings builds people's financial resilience⁴ and helps them in a multitude of ways, including being able to cover emergency costs, the psychological comfort of having a buffer, and building confidence about financial management.

In July 2016, FCA issued a consultation paper titled *Everyone needs a savings buffer*.⁵ The consultation paper covers the benefits of a savings buffer.

It is difficult or likely impossible to build any savings buffer if there is limited flexibility to manage expenses. The cashless debit card also makes it difficult to have a separate savings account to develop savings. We also remain concerned that after a person stops using a cashless debit card, they may find it difficult to develop the skills to build a savings buffer.

7 Prioritising payments and spending

A key skill in building financial capability is to make decisions on priorities. The cashless debit card sets those priorities regardless of the needs of the person receiving the income. Financial counsellors see many people in financial difficulty. An overriding theme is that what matters most in terms of spending varies widely between people. This not to say that the main needs are not shelter, utilities and food. It is just that the variation in spending on those needs can be marked.

Financial counsellors have seen people do amazing things with a budget on a low income for example, so they can save money to see a sick relative or make a donation to a church. For some people that expenditure is a need not a want. We remain concerned that the cashless debit card deprives people of the ability to make their own decisions about their priorities.

8 A two tier banking system

The cashless debit card removes the right of a person to choose their primary banking relationship. Instead, they must transact with a private company, Indue. This

- Removes the rights of participants to select and contract for their primary savings account; and
- Reduces or removes participants' rights to normal consumer and privacy

⁴ Financial Wellbeing- A Survey of Adults in Australia, ANZ, April 2018 p. 6 had a key finding that acting saving and not narrowing for everyday expenses were key to financial wellbeing. Available at: <https://www.anz.com/resources/2/f/2f348500-38a2-4cfe-8411-060cb753573d/financial-wellbeing-aus18.pdf>

⁵ Financial Counselling Australia, *Everyone needs a savings buffer: Why income and expenditure statements need a savings buffer* July 2016. Available at <https://www.financialcounsellingaustralia.org.au/docs/everybody-needs-a-savings-buffer/>.

protections enjoyed by every other Australian consumer.

Income management therefore puts in place a two-tier system of banking in Australia with those using the cashless debit card a banking underclass. Some people using the cashless debit card also report that it is stigmatising and they feel ashamed.

9 Banking and consumer protection

People using a cashless debit card must have a high standard of consumer protection. Those consumer protection standards must be benchmarked against the same standards that apply to a bank. People must not be exposed to regulatory loopholes and poor standards. We have recommended that the cashless debit card must be opt-in only. Those people that do opt-in must have consumer protection.

9.1 Self-regulation and Codes

Any provider of a cashless debit card under the proposed laws must meet the standards under the Banking Code of Practice. People using the cashless debit card should be entitled to the same protections as when dealing with a bank. There are numerous protections under the Banking Code of Practice that provide important protections including taking extra care with vulnerable customers, clear information, access to documents, rights to cancel direct debits and a compassionate approach to financial difficulty.

Recommendation

Indue or any other provider of a cashless debit card program must be a subscriber to the Banking Code of Practice or some other self-regulatory ASIC approved code that meets the same standards. This must be a requirement in the proposed laws and any contract with the provider.

9.2 ePayments Code

The cashless debit card is a payments system. The ePayments Code provides important consumer protections for people using epayments. Indue is not a subscriber to the ePayments Code (checked on 18 October 2019). It is essential that people using the cashless debit card have adequate rights in the event of fraud, misuse or mistaken payments.

Recommendation

Indue or any other cashless debit card provider must be a subscriber to the ePayments Code. This must be a requirement in the proposed laws and any contract with the provider.

9.3 Australian Financial Complaints Authority (AFCA)

It is noted that Indue is currently a member of AFCA. It is extremely important that people have access to AFCA if they have a dispute with Indue. It must be compulsory that Indue or any other provider of the cashless debit card is and remains a member of AFCA.

Recommendation

Indue or any other provider of the cashless debit card program must be required to be a member of the Australian Financial Complaints Authority. This must be compulsory and be included in the proposed laws and any contract with the provider.

9.4 Basic bank account

The Banking Code of Practice provides access for low income people to a basic bank account. We are now urging the banks to make sure that everyone that is entitled to this account actually gets one. Bank fees on a normal account can mean that a person on Centrelink struggles to afford basic living expenses. Access to a basic bank account can profoundly change the budget to enable low income people to pay for basic expenses.

Recommendation

Indue or any other cashless debit card program must offer or be linked to an account that is a basic bank account to ensure that people do not incur unnecessary fees. This must be a requirement in the proposed laws and any contract with the provider.

10 Cashless Debit Card Bill

If the Cashless Debit Card Bill proceeds as it is (or proceeds with minor amendment) we recommend that exemptions apply for homeless people, disabled people, people on sickness benefits and people experiencing or recovering from family violence. These exemptions must be legislated to ensure they are applied and are not a matter of discretion.

The reasoning behind the exemptions:

- a) Homeless people can have expenses finding a place to sleep, travelling to find a place to sleep and paying people for temporary accommodation. The cashless debit card is impractical for these expenses.
- b) Disabled people and people on sickness benefits can have significant medical expenses which are not covered by the cashless debit card.

- c) People affected by family violence can often have expenses related to escaping violence or rehabilitating financially after significant financial harm.

Recommendations

If the Cashless Debit Card Bill proceeds on a compulsory basis, some groups of people should be exempted from it (not as a discretion but as a strict requirement) to reduce harm. These groups are people who are:

- a. Homeless
- b. affected by family violence
- c. In receipt of sickness benefits or disability payments

11 Aboriginal and Torres Strait Islander people

Aboriginal and Torres Strait Islander people have particular needs that must be taken into consideration when forcing the use of a cashless debit card. We consider these issues below.

11.1 Social and cultural issues

Aboriginal and Torres Strait Islander people have a sharing culture that is governed by kinship. This culture means that money and resources are shared with kin. We remain concerned that the cashless debit card may cause further disadvantage because there is limited flexibility to buy goods to be shared.

11.2 Administrative control

Aboriginal and Torres Strait Islander people have been subject to generations of legislative and administrative control by successive Australian Governments, including stolen wages and stolen children. This type of control has been repeatedly judged harshly in history and we believe the cashless debit card will also prove to be another example of this type of harmful control. The issue here is that even with good intentions this type of control will not work and is paternalistic.

11.3 Targeting Aboriginal and Torres Strait Islander people

The existing trials and the proposed expansion of the cashless debit card disproportionately affect Aboriginal and Torres Strait Islander people. The existing trials were set up in communities with significant populations of Aboriginal and Torres Strait Islander people. This type of targeted approach raises concerns of racial discrimination.

This issue is considered in detail in the Social Justice and Native Title Report 2016⁶ and argues that the cashless debit card may amount to a breach of the *Racial Discrimination Act (Cth) 1975*.⁷

Recommendation

Aboriginal and Torres Strait Islander people must be exempt from the cashless debit card but can opt-in if desired.

⁶ Australian Human Rights Commission, *Social Justice and Native Title Report 2016* available at <https://www.humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/publications/social-justice-and-2>.

⁷ Australian Human Rights Commission, *Social Justice and Native Title Report 2016* p. 99 available at <https://www.humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/publications/social-justice-and-2>.